Preamble: A Lawyer's Responsibilities.

[1] A lawyer is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice. Every lawyer is responsible to observe the law and the Rules of Professional Conduct, shall take the Attorney's Oath upon admission to the practice of law, and shall be subject to the Rules of Lawyer Discipline and Disability.

Attorney's Oath:

"I do solemnly swear that I will support, obey and defend the Constitution of the United States and the Constitution of Utah; that I will discharge the duties of attorney and counselor at law as an officer of the courts of this State with honesty, fidelity, professionalism, and civility; and that I will faithfully observe the Rules of Professional Conduct and the Standards of Professionalism and Civility promulgated by the Supreme Court of the State of Utah."

[2] As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealings with others. As an evaluator, a lawyer acts by examining a client's legal affairs and reporting about them to the client or to others. A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

[3] In addition to these representational functions, a lawyer may serve as a third-party neutral, a nonrepresentational role helping the parties to resolve a dispute or other matter. Some of these Rules apply directly to lawyers who are or have served as third-party neutrals. See, e.g., Rules 1.12 and 2.4. In addition, there are rules that apply to lawyers who are not active in the practice of law or to practicing lawyers even when they are acting in a nonprofessional capacity. For example, a lawyer who commits fraud in the conduct of a business is subject to discipline for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation. See Rule 8.4.

[4] In all professional functions a lawyer should be competent, prompt and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Rules of Professional Conduct or other law.

[5] A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.
As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. 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 and therefore, all lawyers should devote professional time and resources and use civic influence in their behalf 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.

Many of a lawyer's professional responsibilities are prescribed in the Rules of Professional Conduct, as well as substantive and procedural law. However, a lawyer is also guided by personal conscience and the approbation of professional peers. A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service.

A lawyer's responsibilities as a representative of clients, an officer of the legal system and a public citizen are usually harmonious. Thus, when an opposing party is well represented, a lawyer can be a zealous advocate on behalf of a client and at the same time assume that justice is being done. So also, a lawyer can be sure that preserving client confidences ordinarily serves the public interest because people are more likely to seek legal advice, and thereby heed their legal obligations, when they know their communications will be private.

In the nature of law practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living. The Rules of Professional Conduct often prescribe terms for resolving such conflicts. Within the framework of these Rules, however, many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the Rules. These principles include the lawyer's obligation zealously to protect and pursue a client's legitimate interests, within the bounds of the adversarial system, while maintaining a professional, courteous and civil attitude toward all persons involved in the legal system.

The legal profession is largely self-governing. Although other professions also have been granted powers of self-government, the legal profession is unique in this respect because of the close relationship between the profession and the processes of government and law enforcement. This connection is manifested in the fact that ultimate authority over the legal profession is vested largely in the courts.

To the extent that lawyers meet the obligations of their professional calling, the occasion for government regulation is obviated. Self-regulation also helps maintain the legal profession's
independence from government domination. An independent legal profession is an important force in preserving government under law, for abuse of legal authority is more readily challenged by a profession whose members are not dependent on government for the right to practice.

[12] The legal profession's relative autonomy carries with it special responsibilities of self-government. The profession has a responsibility to ensure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the Bar. Every lawyer is responsible for observance of the Rules of Professional Conduct. A lawyer should also aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves.

[13] Lawyers play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship to our legal system. The Rules of Professional Conduct, when properly applied, serve to define that relationship. Scope.

[14] The Rules of Professional Conduct are rules of reason. They should be interpreted with reference to the purposes of legal representation and of the law itself. Some of the Rules are imperatives, cast in the terms "shall" or "shall not." These define proper conduct for purposes of professional discipline. Others, generally cast in the term "may," are permissive and define areas under the Rules in which the lawyer has discretion to exercise professional judgment. No disciplinary action should be taken when the lawyer chooses not to act or acts within the bounds of such discretion. Other Rules define the nature of relationships between the lawyer and others. The Rules are thus partly obligatory and disciplinary and partly constitutive and descriptive in that they define a lawyer's professional role. Many of the Comments use the term "should." Comments do not add obligations to the Rules but provide guidance for practicing in compliance with the Rules.

[15] The Rules presuppose a larger legal context shaping the lawyer's role. That context includes court rules and statutes relating to matters of licensure, laws defining specific obligations of lawyers and substantive and procedural law in general. The Comments are sometimes used to alert lawyers to their responsibilities under such other law.

[16] Compliance with the Rules, as with all law in an open society, depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peer and public opinion and finally, when necessary, upon enforcement through disciplinary proceedings. The Rules do not, however, exhaust the moral and ethical considerations that should inform a lawyer, for no worthwhile human activity can be completely defined by legal rules. The Rules simply provide a framework for the ethical practice of law.

[17] Furthermore, for purposes of determining the lawyer's authority and responsibility, principles of substantive law external to these Rules determine whether a client-lawyer relationship exists. Most of the duties flowing from the client-lawyer relationship attach only after the client has requested the lawyer to render legal services and the lawyer has agreed to do so. But there are some duties, such as that of confidentiality under Rule 1.6, that attach when the lawyer agrees to consider whether a client-lawyer relationship shall be established. See Rule
1.18. Whether a client-lawyer relationship exists for any specific purpose can depend on the circumstances and may be a question of fact.

[18] Under various legal provisions, including constitutional, statutory and common law, the responsibilities of government lawyers may include authority concerning legal matters that ordinarily reposes in the client in private client-lawyer relationships. For example, a lawyer for a government agency may have authority on behalf of the government to decide upon settlement or whether to appeal from an adverse judgment. Such authority in various respects is generally vested in the attorney general and the state's attorney in state government, and their federal counterparts, and the same may be true of other government law officers. Also, lawyers under the supervision of these officers may be authorized to represent several government agencies in intragovernmental legal controversies in circumstances where a private lawyer could not represent multiple private clients. These Rules do not abrogate any such authority.

[19] Failure to comply with an obligation or prohibition imposed by a Rule is a basis for invoking the disciplinary process. The Rules presuppose that disciplinary assessment of a lawyer's conduct will be made on the basis of the facts and circumstances as they existed at the time of the conduct in question and in recognition of the fact that a lawyer often has to act upon uncertain or incomplete evidence of the situation. Moreover, the Rules presuppose that whether or not discipline should be imposed for a violation, and the severity of a sanction, depend on all the circumstances, such as the willfulness and seriousness of the violation, extenuating factors and whether there have been previous violations.

[20] Violation of a rule should not itself give rise to a cause of action against a lawyer nor should it create any presumption in such a case that a legal duty has been breached. In addition, violation of a rule does not necessarily warrant any other nondisciplinary remedy, such as disqualification of a lawyer in pending litigation. The Rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies. They are not designed to be a basis for civil liability. Furthermore, the purpose of the Rules can be subverted when they are invoked by opposing parties as procedural weapons. The fact that a rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the rule. Nevertheless, since the Rules do establish standards of conduct by lawyers, a lawyer's violation of a rule may be evidence of breach of applicable standard of conduct.

[21] The comment accompanying each rule explains and illustrates the meaning and purpose of the rule. The Preamble and this note on Scope provide general orientation. The comments are intended as guides to interpretation, but the text of each rule is authoritative.

**Rule 1.0. Terminology.**

(a) "Belief" or "believes" denotes that the person involved actually supposed the fact in question to be true. A person's belief may be inferred from circumstances.

(b) "Confirmed in writing," when used in reference to the informed consent of a person, denotes informed consent that is given in writing by the person or a writing that a lawyer promptly transmits to the person confirming an oral informed consent. See paragraph (f) for the
definition of "informed consent." If it is not feasible to obtain or transmit the writing at the time the person gives informed consent, then the lawyer must obtain or transmit it within a reasonable time thereafter.

(c) "Consult" or "consultation" denotes communication of information reasonably sufficient to permit the client to appreciate the significance of the matter in question.

(d) "Firm" or "law firm" denotes a lawyer or lawyers in a law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation or other organization.

(e) "Fraud" or "fraudulent" denotes conduct that is fraudulent under the substantive or procedural law of the applicable jurisdiction and has a purpose to deceive.

(f) "Informed consent" denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct.

(g) "Knowingly," "known" or "knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

(h) "Partner" denotes a member of a partnership, a shareholder in a law firm organized as a professional corporation, or a member of an association authorized to practice law.

(i) "Reasonable" or "reasonably" when used in relation to conduct by a lawyer denotes the conduct of a reasonably prudent and competent lawyer.

(j) "Reasonable belief" or "reasonably believes" when used in reference to a lawyer denotes that the lawyer believes the matter in question and that the circumstances are such that the belief is reasonable.

(k) "Reasonably should know" when used in reference to a lawyer denotes that a lawyer of reasonable prudence and competence would ascertain the matter in question.

(l) "Screened" denotes the isolation of a lawyer from any participation in a matter through the timely imposition of procedures within a firm that are reasonably adequate under the circumstances to protect information that the isolated lawyer is obligated to protect under these Rules or other law.

(m) "Substantial" when used in reference to degree or extent denotes a material matter of clear and weighty importance.

(n) "Tribunal" denotes a court, an arbitrator in a binding arbitration proceeding or a legislative body, administrative agency or other body acting in an adjudicative capacity. A legislative body, administrative agency or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party's interests in a particular matter.

(o) "Writing" or "written" denotes a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photostating, photography, audio or videorecording and electronic communications. A "signed" writing includes an electronic sound, symbol or process attached to or logically associated with a writing and executed or adopted by a person with the intent to sign the writing.
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 1.2. Scope of Representation and Allocation of Authority Between Client and Lawyer.
(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.
   (b) A lawyer’s representation of a client, including representation by appointment, does not constitute an endorsement of the client’s political, economic, social or moral views or activities.
   (c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.
   (d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

Rule 1.3. Diligence.
A lawyer shall act with reasonable diligence and promptness in representing a client.

Rule 1.4. Communication.
(a) A lawyer shall:
   (a)(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(e), is required by these Rules;
   (a)(2) reasonably consult with the client about the means by which the client’s objectives are to be accomplished;
   (a)(3) keep the client reasonably informed about the status of the matter;
   (a)(4) promptly comply with reasonable requests for information; and
   (a)(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.
   (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Rule 1.5. Fees.
(a) A lawyer shall not make an agreement for, charge or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:
(a)(1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly;
(a)(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
(a)(3) the fee customarily charged in the locality for similar legal services;
(a)(4) the amount involved and the results obtained;
(a)(5) the time limitations imposed by the client or by the circumstances;
(a)(6) the nature and length of the professional relationship with the client;
(a)(7) the experience, reputation and ability of the lawyer or lawyers performing the services; and
(a)(8) whether the fee is fixed or contingent.

(b) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client.

(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. A contingent fee agreement shall be in a writing signed by the client and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal; litigation and other expenses to be deducted from the recovery; and whether such expenses are to be deducted before or after the contingent fee is calculated. The agreement must clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(d) A lawyer shall not enter into an arrangement for, charge or collect:
(d)(1) any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony or support, or property settlement in lieu thereof; or
(d)(2) a contingent fee for representing a defendant in a criminal case.

(e) A division of a fee between lawyers who are not in the same firm may be made only if:
(e)(1) the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;
(e)(2) the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and(e)(3) the total fee is reasonable.

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).
(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:
(b)(1) to prevent reasonably certain death or substantial bodily harm;
(b)(2) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer’s services;

(b)(3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client’s commission of a crime or fraud in furtherance of which the client has used the lawyer’s services;

(b)(4) to secure legal advice about the lawyer’s compliance with these Rules;

(b)(5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer’s representation of the client;

(b)(6) to comply with other law or a court order; or

(b)(7) to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client.

(c) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

(d) For purposes of this rule, representation of a client includes counseling a lawyer about the need for or availability of treatment for substance abuse or psychological or emotional problems by members of the Utah State Bar serving on a Utah State Bar endorsed lawyer assistance program.

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:

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

(a)(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.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

(b)(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(b)(2) the representation is not prohibited by law;

(b)(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(b)(4) each affected client gives informed consent, confirmed in writing.


(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:

(a)(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;
(a)(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

(a)(3) the client gives informed consent, in a writing signed by the client, 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.

(c) A lawyer shall not solicit any substantial gift from a client, including a testamentary gift or prepare on behalf of a client an instrument giving the lawyer or a person related to the lawyer any substantial gift unless the lawyer or other recipient of the gift is related to the client. For purpose of this paragraph, related persons include a spouse, child, grandchild, parent, grandparent or other relative or individual with whom the lawyer or the client maintains a close, familial relationship.

(d) Prior to the conclusion of representation of a client, a lawyer shall not make or negotiate an agreement giving the lawyer literary or media rights to a portrayal or an account based in substantial part on information relating to the representation.

(e) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:

(e)(1) a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and

(e)(2) a lawyer representing an indigent client may pay court costs and expenses of litigation, and minor expenses reasonably connected to the litigation, on behalf of the client.

(f) A lawyer shall not accept compensation for representing a client from one other than the client unless:

(f)(1) the client gives informed consent;

(f)(2) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and

(f)(3) information relating to representation of a client is protected as required by Rule 1.6.

(g) A lawyer who represents two or more clients shall not participate in making an aggregate settlement of the claims of or against the clients or in a criminal case an aggregated agreement as to guilty or nolo contendere pleas, unless each client gives informed consent, in writing signed by the client. The lawyer’s disclosure shall include the existence and nature of all the claims or pleas involved and of the participation of each person in the settlement.

(h) A lawyer shall not:

(h)(1) make an agreement prospectively limiting the lawyer's liability to a client for malpractice unless the client is independently represented in making the agreement; or

(h)(2) settle a claim or potential claim for such liability with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel in connection therewith.

(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:

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

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

(j) A lawyer shall not engage in sexual relations with a client that exploit the lawyer-client relationship. For the purposes of this Rule:
(j)(1) "sexual relations" means sexual intercourse or the touching of an intimate part of another person for the purpose of sexual arousal, gratification, or abuse; and

(j)(2) except for a spousal relationship or a sexual relationship that existed at the commencement of the lawyer-client relationship, sexual relations between the lawyer and the client shall be presumed to be exploitive. This presumption is rebuttable.

(k) While lawyers are associated in a firm, a prohibition in the foregoing paragraphs (a) through (i) that applies to any one of them shall apply to all of them.

Rule 1.9. Duties to Former Clients.

(a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.

(b) A lawyer shall not knowingly represent a person in the same or a substantially related matter in which a firm with which the lawyer formerly was associated had previously represented a client

(b)(1) whose interests are materially adverse to that person; and

(b)(2) about whom the lawyer had acquired information protected by Rules 1.6 and 1.9(c) that is material to the matter; unless the former client gives informed consent, confirmed in writing.

(c) A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter:

(c)(1) use information relating to the representation to the disadvantage of the former client except as these Rules would permit or require with respect to a client, or when the information has become generally known; or

(c)(2) reveal information relating to the representation except as these Rules would permit or require with respect to a client.

Rule 1.10. Imputation of Conflicts of Interest: General Rule.

(a) While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7 or 1.9, unless the prohibition is based on a personal interest of the prohibited lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm.

(b) When a lawyer has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interests materially adverse to those of a client represented by the formerly associated lawyer and not currently represented by the firm, unless:

(b)(1) the matter is the same or substantially related to that in which the formerly associated lawyer represented the client; and

(b)(2) any lawyer remaining in the firm has information protected by Rules 1.6 and 1.9(c) that is material to the matter.

(c) When a lawyer becomes associated with a firm, no lawyer associated in the firm shall knowingly represent a person in a matter in which that lawyer is disqualified under Rule 1.9 unless:

(c)(1) the personally disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom, and
(c)(2) written notice is promptly given to any affected former client.
(d) A disqualification prescribed by this Rule may be waived by the affected client under the conditions stated in Rule 1.7.
(e) The disqualification of lawyers associated in a firm with former or current government lawyers is governed by Rule 1.11.
(f) An office of government lawyers who serve as counsel to a governmental entity such as the office of the Utah Attorney General, the United States Attorney, or a district, county, or city attorney does not constitute a “firm” for purposes of Rule 1.10 conflict imputation.

Rule 1.11. Special Conflicts of Interest for Former and Current Government Employees.
(a) Except as law may otherwise expressly permit, a lawyer who has formerly served as a public officer or employee of the government:
   (a)(1) is subject to Rule 1.9(c); and
   (a)(2) shall not otherwise represent a client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee, unless the appropriate government agency gives its informed consent, confirmed in writing, to the representation.

   (b) When a lawyer is disqualified from representation under paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter unless:

   (b)(1) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and
   (b)(2) written notice is promptly given to the appropriate government agency to enable it to ascertain compliance with the provisions of this Rule.

   (c) Except as law may otherwise expressly permit, a lawyer having information that the lawyer knows is confidential government information about a person acquired when the lawyer was a public officer or employee may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. As used in this Rule, the term "confidential government information" means information that has been obtained under governmental authority and which at the time the Rule is applied, the government is prohibited by law from disclosing to the public or has a legal privilege not to disclose and which is not otherwise available to the public. A firm with which that lawyer is associated may undertake or continue representation in the matter only if the disqualified lawyer is screened from any participation in the matter and is apportioned no part of the fee therefrom.

   (d) Except as law may otherwise expressly permit, a lawyer serving as a public officer or employee:

   (d)(1) is subject to Rules 1.7 and 1.9; and
   (d)(2) shall not:

   (d)(2)(i) participate in a matter in which the lawyer participated personally and substantially while in private practice or nongovernmental employment, unless the appropriate government agency gives its informed consent, confirmed in writing; or
   (d)(2)(ii) negotiate for private employment with any person who is involved as a party or as lawyer for a party in a matter in which the lawyer is participating personally and substantially, except that a lawyer serving as a law clerk to a judge, other adjudicative officer or arbitrator may
negotiate for private employment as permitted by Rule 1.12(b) and subject to the conditions stated in Rule 1.12(b).

(e) As used in this Rule, the term "matter" includes:

(e)(1) any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties; and

(e)(2) any other matter covered by the conflict of interest rules of the appropriate government agency.

**Rule 1.12. Former Judge, Arbitrator, Mediator or Other Third-Party Neutral.**

(a) Except as stated in paragraph (d) and in Rule 2.4(c), a lawyer shall not represent anyone in connection with a matter in which the lawyer participated personally and substantially as a judge or other adjudicative officer or law clerk to such a person, or as an arbitrator, mediator or other third-party neutral, unless all parties to the proceeding give informed consent, confirmed in writing.

(b) A lawyer shall not negotiate for employment with any person who is involved as a party or as lawyer for a party in a matter in which the lawyer is participating personally and substantially as a judge or other adjudicative officer or as an arbitrator, mediator or other third-party neutral. A lawyer serving as a law clerk to a judge or other adjudicative officer may negotiate for employment with a party or lawyer involved in a matter in which the clerk is participating personally and substantially, but only after the lawyer has notified the judge or other adjudicative officer.

(c) If a lawyer is disqualified by paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in the matter unless:

(c)(1) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee from that matter; and

(c)(2) written notice is promptly given to the parties and any appropriate tribunal.

(d) An arbitrator selected as a partisan of a party in a multimember arbitration panel is not prohibited from subsequently representing that party.

**Rule 1.13. Organization as a Client.**

(a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.

(b) If a lawyer for an organization knows that an officer, employee or other person associated with the organization is engaged in action, intends to act or refuses to act in a matter related to the representation that is a violation of a legal obligation to the organization, or a violation of law that reasonably might be imputed to the organization, and that is likely to result in substantial injury to the organization, then the lawyer shall proceed as is reasonably necessary in the best interest of the organization. Unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the circumstances, to the highest authority that can act on behalf of the organization as determined by applicable law.

(c) Except as provided in paragraph (d), if:

(c)(1) despite the lawyer's efforts in accordance with paragraph (b), the highest authority that can act on behalf of the organization insists upon or fails to address in a timely and appropriate manner an action, or a refusal to act, that is clearly a violation of law, and
(c)(2) the lawyer reasonably believes that the violation is reasonably certain to result in substantial injury to the organization, then the lawyer may reveal information relating to the representation whether or not Rule 1.6 permits such disclosure, but only if and to the extent the lawyer reasonably believes necessary to prevent substantial injury to the organization.

(d) Paragraph (c) shall not apply with respect to information relating to a lawyer’s representation of an organization to investigate an alleged violation of law or to defend the organization or an officer, employee or other constituent associated with the organization against a claim arising out of an alleged violation of law.

(e) A lawyer who has been discharged and reasonably believes the discharge was because of the lawyer’s actions taken pursuant to paragraphs (b) or (c), or who withdraws under circumstances that require or permit the lawyer to take action under either of those paragraphs, shall proceed as the lawyer reasonably believes necessary to ensure that the organization’s highest authority is informed of the lawyer’s discharge or withdrawal.

(f) In dealing with an organization's directors, officers, employees, members, shareholders or other constituents, a lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization’s interests are adverse to those of the constituents with whom the lawyer is dealing.

(g) A lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders or other constituents, subject to the provisions of Rule 1.7. If the organization's consent to the dual representation is required by Rule 1.7, the consent shall be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders.

(h) A lawyer elected, appointed, retained or employed to represent a governmental entity shall be considered for the purpose of this rule as representing an organization. The government lawyer's client is the governmental entity except as the representation or duties are otherwise required by law. The responsibilities of the lawyer in paragraphs (b) and (c) may be modified by the duties required by law for the government lawyer.


(a) When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.

(b) When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator or guardian.

(c) Information relating to the representation of a client with diminished capacity is protected by Rule 1.6. When taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized under Rule 1.6(a) to reveal information about the client, but only to the extent reasonably necessary to protect the client’s interests.

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. Funds shall be kept in
a separate account maintained in the state where the lawyer’s office is situated or elsewhere with the consent of the client or third person. The account may only be maintained in a financial institution that agrees to report to the Office of Professional Conduct in the event any instrument in properly payable form is presented against an attorney trust account containing insufficient funds, irrespective of whether or not the instrument is honored. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

(b) A lawyer may deposit the lawyer’s own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose.

(c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(e) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

**Rule 1.16. Declining or terminating representation.**

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

(a)(1) the representation will result in violation of the rules of professional conduct or other law;

(a)(2) the lawyer’s physical or mental condition materially impairs the lawyer’s ability to represent the client; or

(a)(3) the lawyer is discharged.

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

(b)(1) withdrawal can be accomplished without material adverse effect on the interests of the client;

(b)(2) the client persists in a course of action involving the lawyer’s services that the lawyer reasonably believes is criminal or fraudulent;

(b)(3) the client has used the lawyer’s services to perpetrate a crime or fraud;

(b)(4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;

(b)(5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer’s services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(b)(6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or

(b)(7) other good cause for withdrawal exists.
(c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.  
(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client’s interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer must provide, upon request, the client's file to the client. The lawyer may reproduce and retain copies of the client file at the lawyer's expense.

A lawyer or a law firm may sell or purchase a law practice or an area of practice, including good will, if the following conditions are satisfied:  
(a) The seller ceases to engage in the private practice of law, or in the area of practice that has been sold in the geographic area in which the practice has been conducted;  
(b) The entire practice, or the entire area of practice, is sold to one or more lawyers or law firms;  
(c) The seller gives written notice to each of the seller's clients regarding:  
(c)(1) the proposed sale and the identity of the purchaser;  
(c)(2) the client's right to retain other counsel or to take possession of the file; and  
(c)(3) the fact that the client's consent to the transfer of the client’s files will be presumed if the client does not take any action or does not otherwise object within ninety (90) days of sending written notice; and  
(d) The fees charged clients are not increased by reason of the sale.

Rule 1.18. Duties to Prospective Client.  
(a) A person who consults with a lawyer about the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.  
(b) Even when no client-lawyer relationship ensues, a lawyer who has learned information from a prospective client shall not use or reveal that information, except as Rule 1.9 would permit with respect to information of a former client.  
(c) A lawyer subject to paragraph (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to that person in the matter, except as provided in paragraph (d). If a lawyer is disqualified from representation under this paragraph, no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter, except as provided in paragraph (d).  
(d) When the lawyer has received disqualifying information as defined in paragraph (c), representation is permissible if:  
(d)(1) both the affected client and the prospective client have given informed consent, confirmed in writing, or;  
(d)(2) the lawyer who received the information took reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client; and
(d)(2)(i) the disqualified lawyer is timely screened from any participation in the matter and is
apportioned no part of the fee therefrom; and
(d)(2)(ii) written notice is promptly given to the prospective client.

**Rule 2.1. Advisor.**
In representing a client, a lawyer shall exercise independent professional judgment and render
candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations
such as moral, economic, social and political factors that may be relevant to the client's situation.

**Rule 2.2 REPEALED**

**Rule 2.3. Evaluation for use by third persons.**
(a) A lawyer may provide an evaluation of a matter affecting a client for the use of someone
other than the client if the lawyer reasonably believes that making the evaluation is compatible
with other aspects of the lawyer's relationship with the client.
(b) When the lawyer knows or reasonably should know that the evaluation is likely to affect
the client’s interests materially and adversely, the lawyer shall not provide the evaluation unless
the client gives informed consent.
(c) Except as disclosure is authorized in connection with a report of an evaluation,
information relating to the evaluation is otherwise subject to Rule 1.6.

**Rule 2.4. Lawyer Serving as Third-Party Neutral.**
(a) A lawyer serves as a third-party neutral when the lawyer assists two or more persons who
are not clients of the lawyer to reach a resolution of a dispute or other matter that has arisen
between them. Service as a third-party neutral may include service as an arbitrator, a mediator or
in such other capacity as will enable the lawyer to assist the parties to resolve the matter.
(b) A lawyer serving as a third-party neutral shall inform unrepresented parties that the
lawyer is not representing them. When the lawyer knows or reasonably should know that a party
does not understand the lawyer's role in the matter, the lawyer shall explain the difference
between the lawyer's role as a third-party neutral and a lawyer's role as one who represents a
client.
(c) A lawyer serving as a mediator in a mediation in which the parties have fully resolved all
issues:
   (c)(1) may prepare formal documents that memorialize and implement the agreement reached
   in mediation;
   (c)(2) shall recommend that each party seek independent legal advice before executing the
documents; and
   (c)(3) with the informed consent of all parties confirmed in writing, may record or may file
the documents in court, informing the court of the mediator's limited representation of the parties
for the sole purpose of obtaining such legal approval as may be necessary.

**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 the 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 3.2. Expediting Litigation.**
A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

**Rule 3.3. Candor toward the Tribunal.**
(a) A lawyer shall not knowingly:
(a)(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;
(a)(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
(a)(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.
(b) A lawyer who represents a client in an adjudicative proceeding and who 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 tribunal.
(c) The duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6.
(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

**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;
(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 an assertion that no valid obligation exists;
(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;
(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, 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; or
(f) request a person other than a client to refrain from voluntarily giving relevant information to another party unless:

(f)(1) the person is a relative or an employee or other agent of a client; and
(f)(2) the lawyer reasonably believes that the person’s interests will not be adversely affected by refraining from giving such information.

**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; or

(b) Communicate *ex parte* in an adversary proceeding as to the merits of the case with a judge, juror, prospective juror or court official during the proceeding, prior to full discharge of that person’s duties in the proceeding, unless authorized to do so by law, rule or court order;

(c) communicate with a juror or prospective juror after discharge of the jury if:

(c)(1) the communication is prohibited by law, rule or court order;

(c)(2) the juror has made known to the lawyer a desire not to communicate; or

(c)(3) the communication involves misrepresentation, coercion, duress or harassment; or

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

**Rule 3.6. Trial Publicity.**

A lawyer shall not:

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

(b) Communicate *ex parte* in an adversary proceeding as to the merits of the case with a judge, juror, prospective juror or court official during the proceeding, prior to full discharge of that person’s duties in the proceeding, unless authorized to do so by law, rule or court order;

(c) communicate with a juror or prospective juror after discharge of the jury if:

(c)(1) the communication is prohibited by law, rule or court order;

(c)(2) the juror has made known to the lawyer a desire not to communicate; or

(c)(3) the communication involves misrepresentation, coercion, duress or harassment; or

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

**Rule 3.6. Trial Publicity.**

(a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.

(b) Notwithstanding paragraph (a), a lawyer may state:

(b)(1) the claim, offense or defense involved and, except when prohibited by law, the identity of the persons involved;

(b)(2) information contained in a public record;

(b)(3) that an investigation of a matter is in progress;

(b)(4) the scheduling or result of any step in litigation;

(b)(5) a request for assistance in obtaining evidence and information necessary thereto;
(b)(6) 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; and
(b)(7) in a criminal case, in addition to subparagraphs (1) through (6):
(b)(7)(i) the identity, residence, occupation and family status of the accused;
(b)(7)(ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;
(b)(7)(iii) the fact, time and place of arrest; and
(b)(7)(iv) the identity of investigating and arresting officers or agencies and the length of the investigation.
(c) Notwithstanding paragraph (a), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. A statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.
(d) No lawyer associated in a firm or government agency with a lawyer subject to paragraph (a) shall make a statement prohibited by paragraph (a).

Rule 3.7. Lawyer as Witness.
(a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness unless:
(a)(1) the testimony relates to an uncontested issue;
(a)(2) the testimony relates to the nature and value of legal services rendered in the case; or
(a)(3) disqualification of the lawyer would work substantial hardship on the client.
(b) A lawyer may act as advocate in a trial in which another lawyer in the lawyer's firm is likely to be called as a witness unless precluded from doing so by Rule 1.7 or Rule 1.9.

Rule 3.8. Special Responsibilities of a Prosecutor.
The prosecutor in a criminal case shall:
(a) Refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;
(b) Make reasonable efforts to ensure that the accused has been advised of the right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel;
(c) Not seek to obtain from an unrepresented accused a waiver of important pretrial rights, such as the right to a preliminary hearing;
(d) Make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal; and
(e) Exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6.
A lawyer representing a client before a legislative body or administrative agency in a nonadjudicative proceeding shall disclose that the appearance is in a representative capacity and shall conform to the provisions of Rules 3.3(a) through (c), 3.4(a) through (c) and 3.5.

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, when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.

Rule 4.2. Communication with Persons Represented by Counsel.
(a) General Rule. 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. Notwithstanding the foregoing, an attorney may, without such prior consent, communicate with another’s client if authorized to do so by any law, rule, or court order, in which event the communication shall be strictly restricted to that allowed by the law, rule or court order, or as authorized by paragraphs (b), (c), (d) or (e) of this Rule.

(b) Rules Relating to Unbundling of Legal Services. A lawyer may consider a person whose representation by counsel in a matter does not encompass all aspects of the matter to be unrepresented for purposes of this Rule and Rule 4.3, unless that person’s counsel has provided written notice to the lawyer of those aspects of the matter or the time limitation for which the person is represented. Only as to such aspects and time is the person considered to be represented by counsel.

(c) Rules Relating to Government Lawyers Engaged in Civil or Criminal Law Enforcement. A government lawyer engaged in a criminal or civil law enforcement matter, or a person acting under the lawyer’s direction in the matter, may communicate with a person known to be represented by a lawyer if:
(c)(1) the communication is in the course of, and limited to, an investigation of a different matter unrelated to the representation or any ongoing, unlawful conduct; or
(c)(2) the communication is made to protect against an imminent risk of death or serious bodily harm or substantial property damage that the government lawyer reasonably believes may occur and the communication is limited to those matters necessary to protect against the imminent risk; or
(c)(3) the communication is made at the time of the arrest of the represented person and after that person is advised of the right to remain silent and the right to counsel and voluntarily and knowingly waives these rights; or
(c)(4) the communication is initiated by the represented person, directly or through an intermediary, if prior to the communication the represented person has given a written or recorded voluntary and informed waiver of counsel, including the right to have substitute counsel, for that communication.

(d) Organizations as Represented Persons.
(d)(1) When the represented person is an organization, an individual is represented by counsel for the organization if the individual is not separately represented with respect to the subject matter of the communication, and
(d)(1)(A) with respect to a communication by a government lawyer in a civil or criminal law
enforcement matter, is known by the government lawyer to be a current member of the control
group of the represented organization; or
(d)(1)(B) with respect to a communication by a lawyer in any other matter, is known by the
lawyer to be
(d)(1)(B)(i) a current member of the control group of the represented organization; or
(d)(1)(B)(ii) a representative of the organization whose acts or omissions in the matter may
be imputed to the organization under applicable law; or
(d)(1)(B)(iii) a representative of the organization whose statements under applicable rules of
evidence would have the effect of binding the organization with respect to proof of the matter.
(d)(2) The term "control group" means the following persons: (A) the chief executive
officer, chief operating officer, chief financial officer, and the chief legal officer of the
organization; and (B) to the extent not encompassed by Subsection (A), the chair of the
organization's governing body, president, treasurer, secretary, and a vice-president or vice-chair
who is in charge of a principal business unit, division or function (such as sales, administration
or finance) or performs a major policy-making function for the organization; and (C) any other
current employee or official who is known to be participating as a principal decision maker in the
determination of the organization's legal position in the matter.
(d)(3) This Rule does not apply to communications with government parties, employees or
officials unless litigation about the subject of the representation is pending or imminent.
Communications with elected officials on policy matters are permissible when litigation is
pending or imminent after disclosure of the representation to the official.
(e) Limitations on Communications. When communicating with a represented person
pursuant to this Rule, no lawyer may
(e)(1) inquire about privileged communications between the person and counsel or about
information regarding litigation strategy or legal arguments of counsel or seek to induce the
person to forgo representation or disregard the advice of the person's counsel; or
(e)(2) engage in negotiations of a plea agreement, settlement, statutory or non-statutory
immunity agreement or other disposition of actual or potential criminal charges or civil
enforcement claims or sentences or penalties with respect to the matter in which the person is
represented by counsel unless such negotiations are permitted by law, rule or court order.

Rule 4.3. Dealing with Unrepresented Person.
(a) In dealing on behalf of a client with a person who is not represented by counsel, a lawyer
shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably
should know 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.
(b) A lawyer may consider a person, whose representation by counsel in a matter does not
encompass all aspects of the matter, to be unrepresented for purposes of this Rule and Rule 4.2,
unless that person's counsel has provided written notice to the lawyer of those aspects of the
matter or the time limitation for which the person is represented. Only as to such aspects and
time is the person considered to be represented by counsel.
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.
(b) A lawyer who receives a document or electronically stored information relating to the representation of the lawyer’s client and knows or reasonably should know that the document or electronically stored information was inadvertently sent shall promptly notify the sender.

Rule 5.1. Responsibilities of Partners, Managers, and Supervisory Lawyers.
(a) A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.
(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.
(c) A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if:
   (c)(1) The lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or
   (c)(2) The lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Rule 5.2. Responsibilities of a Subordinate Lawyer.
(a) A lawyer is bound by the Rules of Professional Conduct notwithstanding that the lawyer acted at the direction of another person.
(b) A subordinate lawyer does not violate the Rules of Professional Conduct if that lawyer acts in accordance with a supervisory lawyer's reasonable resolution of a question of professional duty.

Rule 5.3. Responsibilities Regarding Nonlawyer Assistance.
With respect to a nonlawyer employed or retained by or associated with a lawyer:
(a) A partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;
(b) A lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and
(c) A lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:
   (c)(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or
   (c)(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the
conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

**Rule 5.4. Professional Independence of a Lawyer.**

(a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:

(a)(1) an agreement by a lawyer with the lawyer's firm, partner or associate may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons;

(a)(2)(i) a lawyer who purchases the practice of a deceased, disabled or disappeared lawyer may, pursuant to the provisions of Rule 1.17, pay to the estate or other representative of that lawyer the agreed-upon purchase price; and

(a)(2)(ii) a lawyer who undertakes to complete unfinished legal business of a deceased lawyer may pay to the estate of the deceased lawyer that proportion of the total compensation which fairly represents the services rendered by the deceased lawyer; and

(a)(3) a lawyer or law firm may include nonlawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement.

(b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.

(c) A lawyer shall not permit a person who recommends, employs or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.

(d) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:

(d)(1) a nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;

(d)(2) a nonlawyer is a corporate director or officer thereof or occupies the position of similar responsibility in any form of association other than a corporation; or

(d)(3) a nonlawyer has the right to direct or control the professional judgment of a lawyer.

(e) A lawyer may practice in a non-profit corporation which is established to serve the public interest provided that the nonlawyer directors and officers of such corporation do not interfere with the independent professional judgment of the lawyer.

**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:

(b)(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

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

(c) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:
(c)(1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;
(c)(2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;
(c)(3) are in or reasonably related to a pending or potential arbitration, mediation or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer’s practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission; or
(c)(4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably related to the lawyer’s practice in a jurisdiction in which the lawyer is admitted to practice.
(d) A lawyer admitted in another United States jurisdiction and not disbarred or suspended from practice in any jurisdiction may provide legal services through an office or other systematic and continuous presence in this jurisdiction without admission to the Utah State Bar if:
(d)(1) the services are provided to the lawyer’s employer or its organizational affiliates while the lawyer has a pending application for admission to the Utah State Bar and are not services for which the forum requires pro hac vice admission; or
(d)(2) the services provided are authorized by specific federal or Utah law or by applicable rule.

Rule 5.6. Restrictions on Right to Practice.
A lawyer shall not participate in offering or making:
(a) a partnership, shareholder, operating, employment, or other similar type of agreement that restricts the right of a lawyer to practice after termination of the relationship, except an agreement concerning benefits upon retirement; or
(b) an agreement in which a restriction on the lawyer's right to practice is part of the settlement of a client controversy.

Rule 5.7. Responsibilities Regarding Law-Related Services.
(a) A lawyer shall be subject to the Rules of Professional Conduct with respect to the provision of law-related services, as defined in paragraph (b), if the law-related services are provided:
(a)(1) by the lawyer in circumstances that are not distinct from the lawyer's provision of legal services to clients; or
(a)(2) in other circumstances by an entity controlled by the lawyer individually or with others if the lawyer fails to take reasonable measures to ensure that a person obtaining the law-related services knows that the services are not legal services and that the protections of the client-lawyer relationship do not exist.
(b) The term "law-related services" denotes services that might reasonably be performed in conjunction with and in substance are related to the provision of legal services, and that are not prohibited as unauthorized practice of law when provided by a nonlawyer.

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least 50 hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:
(a) provide a substantial majority of the 50 hours of legal services without fee or expectation of fee to:
   (a)(1) persons of limited means or
   (a)(2) charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the needs of persons of limited means; and
   (b) provide any additional services through:
       (b)(1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization’s economic resources or would be otherwise inappropriate;
       (b)(2) delivery of legal services at a substantially reduced fee to persons of limited means; or
       (b)(3) participation in activities for improving the law, the legal system or the legal profession.
   (c) A lawyer may also discharge the responsibility to provide pro bono publico legal services by making an annual contribution of at least $10 per hour for each hour not provided under paragraph (a) or (b) above to an agency that provides direct services as defined in paragraph (a) above.
   (d) Each lawyer is urged to report annually to the Utah State Bar whether the lawyer has satisfied the lawyer’s professional responsibility to provide pro bono legal services. Each lawyer may report this information through a simplified reporting form that is made a part of the Bar’s annual dues statement.
   (e) In addition to providing pro bono legal services, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.

A lawyer shall not seek to avoid appointment by a tribunal to represent a person except for good cause, such as:
   (a) Representing the client is likely to result in violation of the Rules of Professional Conduct or other law;
   (b) Representing the client is likely to result in an unreasonable financial burden on the lawyer; or
   (c) The client or the cause is so repugnant to the lawyer as to be likely to impair the client-lawyer relationship or the lawyer's ability to represent the client.

Rule 6.3. Membership in Legal Services Organization.
A lawyer may serve as a director, officer or member of a legal services organization, apart from the law firm in which the lawyer practices, notwithstanding that the organization serves persons having interests adverse to a client of the lawyer. The lawyer shall not knowingly participate in a decision or action of the organization:
   (a) If participation in the decision would be incompatible with the lawyer's obligations to a client under Rule 1.7; or
   (b) Where the decision could have a material adverse effect on the representation of a client of the organization whose interests are adverse to a client of the lawyer or on the representation of a client of the lawyer or the lawyer's firm.
Rule 6.4. Law Reform Activities Affecting Client Interests.
A lawyer may serve as a director, officer or member of an organization involved in reform of the law or its administration notwithstanding that the reform may affect the interests of a client of the lawyer. When the lawyer knows that the interests of a client may be materially benefited by a decision in which the lawyer participates, the lawyer shall disclose that fact but need not identify the client.

Rule 6.5. Nonprofit and Court-Annexed Limited Legal Services Programs.
(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:
   (a)(1) is subject to Rule 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and
   (a)(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.
(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

Rule 7.1. Communications Concerning a Lawyer's Services.
A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it:
   (a) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;
   (b) is likely to create an unjustified or unreasonable expectation about results the lawyer can achieve or has achieved; or
   (c) contains a testimonial or endorsement that violates any portion of this Rule.

Rule 7.2. Advertising.
(a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through written recorded or electronic communication, including public media
   (b) If the advertisement uses any actors to portray a lawyer, members of the law firm, or clients or utilizes depictions of fictionalized events or scenes, the same must be disclosed.
   (c) All advertisements disseminated pursuant to these Rules shall include the name and office address of at least one lawyer or law firm responsible for their content.
   (d) Every advertisement indicating that the charging of a fee is contingent on outcome or that the fee will be a percentage of the recovery shall set forth clearly the client’s responsibility for the payment of costs and other expenses.
   (e) A lawyer who advertises a specific fee or range of fees shall include all relevant charges and fees, and the duration such fees are in effect.
   (f) A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may pay the reasonable cost of advertising permitted by these Rules and may pay the usual charges of a lawyer referral service or other legal service plan.
Rule 7.3. Solicitation of Clients.
(a) A lawyer shall not by in-person, live telephone or real-time electronic contact solicit professional employment from a prospective client when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain, unless the person contacted:
   (a)(1) is a lawyer;
   (a)(2) has a family, close personal, or prior professional relationship with the lawyer, or
   (a)(3) is unable to make personal contact with a lawyer and the lawyer's contact with the prospective client has been initiated by a third party on behalf of the prospective client.
(b) A lawyer shall not solicit professional employment by written, recorded or electronic communication or by in-person, live telephone or real-time electronic contact even when not otherwise prohibited by paragraph (a), if:
   (b)(1) the target of the solicitation has made known to the lawyer a desire not to be solicited by the lawyer; or
   (b)(2) the solicitation involves coercion, duress or harassment.
(c) Every written, recorded or electronic communication from a lawyer soliciting professional employment from anyone known to be in need of legal services in a particular matter shall include the words "Advertising Material" on the outside envelope, if any, and at the beginning of any recorded or electronic communication, unless the recipient of the communication is a person specified in paragraphs (a)(1) or (a)(2). For the purposes of this subsection, "written communication" does not include advertisement through public media, including but not limited to a telephone directory, legal directory, newspaper or other periodical, outdoor advertising, radio, television or webpage.
   (d) Notwithstanding the prohibitions in paragraph (a), a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer that uses in-person or other real-time communication to solicit memberships or subscriptions for the plan from persons who are not known to need legal services in a particular matter covered by the plan.

Rule 7.4. Communication of Fields of Practice.
(a) A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law.
(b) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Attorney" or a substantially similar designation.
(c) A lawyer engaged in Admiralty practice may use the designation "Admiralty," "Proctor in Admiralty" or substantially similar designation.
(d) A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular field of law, unless:
   (d)(1) the lawyer has been certified as a specialist by an organization that has been approved by an appropriate state authority or that has been accredited by the American Bar Association; and
   (d)(2) the name of the certifying organization is clearly identified in the communication.

Rule 7.5. Firm Names and Letterheads.
(a) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a
connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.

(b) A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

(c) The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.

(d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.

Rule 7.6. Political contributions to obtain governmental legal engagements or appointments by judges.
The Utah Supreme Court has not adopted the model rule.

An applicant for admission to the Bar, or a lawyer in connection with a Bar admission application or in connection with a disciplinary matter, shall not:
(a) Knowingly make a false statement of material fact; or
(b) Fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6.

Rule 8.2. Judicial Officials.
(a) A lawyer shall not make a public statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or a candidate for election or appointment to judicial office.

(b) A lawyer who is a candidate for judicial office shall comply with the applicable provisions of the Code of Judicial Conduct.

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

(c) This Rule does not require disclosure of information otherwise protected by Rule 1.6 or information gained by a lawyer or judge while participating in an approved lawyers assistance program.
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;
(d) engage in conduct that is prejudicial to the administration of justice;
(e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or
(f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

Rule 8.5. Disciplinary Authority; Choice of Law.
(a) Disciplinary Authority. A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the lawyer’s conduct occurs. A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides or offers to provide any legal services in this jurisdiction. A lawyer may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.
(b) Choice of Law. In any exercise of the disciplinary authority of this jurisdiction, the rules of professional conduct to be applied shall be as follows:
(b)(1) for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; and
(b)(2) for any other conduct, the rules of the jurisdiction in which the lawyer’s conduct occurred, or, if the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall be applied to the conduct. A lawyer shall not be subject to discipline if the lawyer’s conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer’s conduct will occur.

Rule 14-301. Standards of Professionalism and Civility.
Preamble
A lawyer's conduct should be characterized at all times by personal courtesy and professional integrity in the fullest sense of those terms. In fulfilling a duty to represent a client vigorously as lawyers, we must be mindful of our obligations to the administration of justice, which is a truth-seeking process designed to resolve human and societal problems in a rational, peaceful, and efficient manner. We must remain committed to the rule of law as the foundation for a just and peaceful society.

Conduct that may be characterized as uncivil, abrasive, abusive, hostile, or obstructive impedes the fundamental goal of resolving disputes rationally, peacefully, and efficiently. Such conduct tends to delay and often to deny justice.

Lawyers should exhibit courtesy, candor and cooperation in dealing with the public and participating in the legal system. The following standards are designed to encourage lawyers to meet their obligations to each other, to litigants and to the system of justice, and thereby achieve the twin goals of civility and professionalism, both of which are hallmarks of a learned profession dedicated to public service.
Lawyers should educate themselves on the potential impact of using digital communications and social media, including the possibility that communications intended to be private may be republished or misused. Lawyers should understand that digital communications in some circumstances may have a widespread and lasting impact on their clients, themselves, other lawyers, and the judicial system.

We expect judges and lawyers will make mutual and firm commitments to these standards. Adherence is expected as part of a commitment by all participants to improve the administration of justice throughout this State. We further expect lawyers to educate their clients regarding these standards and judges to reinforce this whenever clients are present in the courtroom by making it clear that such tactics may hurt the client’s case.

Although for ease of usage the term “court” is used throughout, these standards should be followed by all judges and lawyers in all interactions with each other and in any proceedings in this State. Copies may be made available to clients to reinforce our obligation to maintain and foster these standards. Nothing in these standards supersedes or detracts from existing disciplinary codes or standards of conduct.

Cross-References: R. Prof. Cond. Preamble [1], [13]; R. Civ. P. 1; R. Civ. P. 65B(b)(5); R. Crim. P. 1(b); R. Juv. P. 1(b); R. Third District Court 10-1-306; Fed. R. Civ. P. 1; DUCivR 83-1.1(g).

1. Lawyers shall advance the legitimate interests of their clients, without reflecting any ill-will that clients may have for their adversaries, even if called upon to do so by another. Instead, lawyers shall treat all other counsel, parties, judges, witnesses, and other participants in all proceedings in a courteous and dignified manner.

   Comment: Lawyers should maintain the dignity and decorum of judicial and administrative proceedings, as well as the esteem of the legal profession. Respect for the court includes lawyers’ dress and conduct. When appearing in court, lawyers should dress professionally, use appropriate language, and maintain a professional demeanor. In addition, lawyers should advise clients and witnesses about proper courtroom decorum, including proper dress and language, and should, to the best of their ability, prevent clients and witnesses from creating distractions or disruption in the courtroom.

   The need for dignity and professionalism extends beyond the courtroom. Lawyers are expected to refrain from inappropriate language, maliciousness, or insulting behavior in depositions, meetings with opposing counsel and clients, telephone calls, email, and other exchanges. They should use their best efforts to instruct their clients and witnesses to do the same.

   Cross-References: R. Prof. Cond. 1.4; R. Prof. Cond. 1.16(a)(1); R. Prof. Cond. 2.1; R. Prof. Cond. 3.1; R. Prof. Cond. 3.2; R. Prof. Cond. 3.3(a)(1); R. Prof. Cond. 3.4; R. Prof. Cond. 3.5(d); R. Prof. Cond. 3.8; R. Prof. Cond. 3.9; R. Prof. Cond. 4.1(a); R. Prof. Cond. 4.4(a); R. Prof. Cond. 8.4(d); R. Civ. P. 10(h); R. Civ. P. 12(f); R. App. P. 24(k); R. Crim. P. 33(a); Fed. R. Civ. P. 12(f).

2. Lawyers shall advise their clients that civility, courtesy, and fair dealing are expected. They are tools for effective advocacy and not signs of weakness. Clients have no right to demand that lawyers abuse anyone or engage in any offensive or improper conduct.

   Cross-References: R. Prof. Cond. Preamble [5]; R. Prof. Cond. 1.2(a); R. Prof. Cond. 1.2(d); R. Prof. Cond. 1.4(a)(5).
3. Lawyers shall not, without an adequate factual basis, attribute to other counsel or the court improper motives, purpose, or conduct. Lawyers should avoid hostile, demeaning, or humiliating words in written and oral communications with adversaries. Neither written submissions nor oral presentations should disparage the integrity, intelligence, morals, ethics, or personal behavior of an adversary unless such matters are directly relevant under controlling substantive law.

Comment: Hostile, demeaning, and humiliating communications include all expressions of discrimination on the basis of race, religion, gender, sexual orientation, age, handicap, veteran status, or national origin, or casting aspersions on physical traits or appearance. Lawyers should refrain from acting upon or manifesting bigotry, discrimination, or prejudice toward any participant in the legal process, even if a client requests it.

Lawyers should refrain from expressing scorn, superiority, or disrespect. Legal process should not be issued merely to annoy, humiliate, intimidate, or harass. Special care should be taken to protect witnesses, especially those who are disabled or under the age of 18, from harassment or undue contention.

Cross-References: R. Prof. Cond. Preamble [5]; R. Prof. Cond. 3.1; R. Prof. Cond. 3.5; R. Prof. Cond. 8.4; R. Civ. P. 10(h); R. Civ. P. 12(f); R. App. P. 24(k); R. Crim. P. 33(a); Fed. R. Civ. P. 12(f).

4. Lawyers shall never knowingly attribute to other counsel a position or claim that counsel has not taken or seek to create such an unjustified inference or otherwise seek to create a “record” that has not occurred.

Cross-References: R. Prof. Cond. 3.1; R. Prof. Cond. 3.3(a)(1); R. Prof. Cond. 3.5(a); R. Prof. Cond. 8.4(c); R. Prof. Cond. 8.4(d).

5. Lawyers shall not lightly seek sanctions and will never seek sanctions against or disqualification of another lawyer for any improper purpose.

Cross-References: R. Prof. Cond. 3.1; R. Prof. Cond. 3.2; R. Prof. Cond. 8.4(c); R. Prof. Cond. 8.4(d); R. Civ. P. 11(c); R. Civ. P. 16(d); R. Civ. P. 37(a); Fed. R. Civ. P. 11(c)(2).

6. Lawyers shall adhere to their express promises and agreements, oral or written, and to all commitments reasonably implied by the circumstances or by local custom.

Cross-References: R. Prof. Cond. 1.1; R. Prof. Cond. 1.3; R. Prof. Cond. 1.4(a), (b); R. Prof. Cond. 1.6(a); R. Prof. Cond. 1.9; R. Prof. Cond. 1.13(a), (b); R. Prof. Cond. 1.14; R. Prof. Cond. 1.15; R. Prof. Cond. 1.16(d); R. Prof. Cond. 1.18(b), (c); R. Prof. Cond. 2.1; R. Prof. Cond. 3.2; R. Prof. Cond. 3.3; R. Prof. Cond. 3.4(c); R. Prof. Cond. 3.8; R. Prof. Cond. 5.1; R. Prof. Cond. 5.3; R. Prof. Cond. 8.3(a), (b); R. Prof. Cond. 8.4(c); R. Prof. Cond. 8.4(d).

7. When committing oral understandings to writing, lawyers shall do so accurately and completely. They shall provide other counsel a copy for review, and never include substantive matters upon which there has been no agreement, without explicitly advising other counsel. As drafts are exchanged, lawyers shall bring to the attention of other counsel changes from prior drafts.

Comment: When providing other counsel with a copy of any negotiated document for review, a lawyer should not make changes to the written document in a manner calculated to cause the opposing party or counsel to overlook or fail to appreciate the changes. Changes should be clearly and accurately identified in the draft or otherwise explicitly brought to the attention of
other counsel. Lawyers should be sensitive to, and accommodating of, other lawyers’ inability to make full use of technology and should provide hard copy drafts when requested and a redline copy, if available.

Cross-References: R. Prof. Cond. 3.4(a); R. Prof. Cond. 4.1(a); R. Prof. Cond. 8.4(c); R. Prof. Cond. 8.4(d); R. App. P. 11(f).

8. When permitted or required by court rule or otherwise, lawyers shall draft orders that accurately and completely reflect the court’s ruling. Lawyers shall promptly prepare and submit proposed orders to other counsel and attempt to reconcile any differences before the proposed orders and any objections are presented to the court.

Cross-References: R. Prof. Cond. 3.2; R. Prof. Cond. 8.4; R. Civ. P. 7(f); R. Third District Court 10-1-306(6).

9. Lawyers shall not hold out the potential of settlement for the purpose of foreclosing discovery, delaying trial, or obtaining other unfair advantage, and lawyers shall timely respond to any offer of settlement or inform opposing counsel that a response has not been authorized by the client.

Cross-References: R. Prof. Cond. 3.2; R. Prof. Cond. 3.4(a); R. Prof. Cond. 4.1(a); R. Prof. Cond. 8.4(c); R. Prof. Cond. 8.4(d).

10. Lawyers shall make good faith efforts to resolve by stipulation undisputed relevant matters, particularly when it is obvious such matters can be proven, unless there is a sound advocacy basis for not doing so.

Cross-References: R. Prof. Cond. 3.1; R. Prof. Cond. 3.2; R. Prof. Cond. 3.4(d); R. Prof. Cond. 8.4(d); R. Third District Court 10-1-306(1)(A); Fed. R. Civ. P. 16(2)(C).

11. Lawyers shall avoid impermissible ex parte communications.

Cross-References: R. Prof. Cond. 1.2; R. Prof. Cond. 2.2; R. Prof. Cond. 2.9; R. Prof. Cond. 3.5; R. Prof. Cond. 5.1; R. Prof. Cond. 5.3; R. Prof. Cond. 8.4(a); R. Prof. Cond. 8.4(d); R. Civ. P. 77(b); R. Juv. P. 2.9(A); Fed. R. Civ. P. 77(b).

12. Lawyers shall not send the court or its staff correspondence between counsel, unless such correspondence is relevant to an issue currently pending before the court and the proper evidentiary foundations are met or as such correspondence is specifically invited by the court.

Cross-References: R. Prof. Cond. 3.5(a); R. Prof. Cond. 3.5(b); R. Prof. Cond. 5.1; R. Prof. Cond. 5.3; R. Prof. Cond. 8.4(a); R. Prof. Cond. 8.4(d).

13. Lawyers shall not knowingly file or serve motions, pleadings or other papers at a time calculated to unfairly limit other counsel’s opportunity to respond or to take other unfair advantage of an opponent, or in a manner intended to take advantage of another lawyer’s unavailability.

Cross-References: R. Prof. Cond. 8.4(c); R. Juv. P. 19.

14. Lawyers shall advise their clients that they reserve the right to determine whether to grant accommodations to other counsel in all matters not directly affecting the merits of the cause or prejudicing the client’s rights, such as extensions of time, continuances, adjournments, and
admissions of facts. Lawyers shall agree to reasonable requests for extension of time and waiver of procedural formalities when doing so will not adversely affect their clients’ legitimate rights. Lawyers shall never request an extension of time solely for the purpose of delay or to obtain a tactical advantage.

Comment: Lawyers should not evade communication with other counsel, should promptly acknowledge receipt of any communication, and should respond as soon as reasonably possible. Lawyers should only use data-transmission technologies as an efficient means of communication and not to obtain an unfair tactical advantage. Lawyers should be willing to grant accommodations where the use of technology is concerned, including honoring reasonable requests to retransmit materials or to provide hard copies.

Lawyers should not request inappropriate extensions of time or serve papers at times or places calculated to embarrass or take advantage of an adversary.

Cross-References: R. Prof. Cond. 1.2(a); R. Prof. Cond. 2.1; R. Prof. Cond. 3.2; R. Prof. Cond. 8.4; R. Juv. P. 54.

15. Lawyers shall endeavor to consult with other counsel so that depositions, hearings, and conferences are scheduled at mutually convenient times. Lawyers shall never request a scheduling change for tactical or unfair purpose. If a scheduling change becomes necessary, lawyers shall notify other counsel and the court immediately. If other counsel requires a scheduling change, lawyers shall cooperate in making any reasonable adjustments.

Comment: When scheduling and attending depositions, hearings, or conferences, lawyers should be respectful and considerate of clients’ and adversaries’ time, schedules, and commitments to others. This includes arriving punctually for scheduled appointments. Lawyers should arrive sufficiently in advance of trials, hearings, meetings, depositions, and other scheduled events to be prepared to commence on time. Lawyers should also advise clients and witnesses concerning the need to be punctual and prepared. Lawyers who will be late for a scheduled appointment or are aware that another participant will be late, should notify the court, if applicable, and all other participants as soon as possible.

Cross-References: R. Prof. Cond. 3.2; R. Prof. Cond. 3.4; R. Prof. Cond. 5.1; R. Prof. Cond. 8.4(a); R. Juv. P. 20; R. Juv. P. 20A.

16. Lawyers shall not cause the entry of a default without first notifying other counsel whose identity is known, unless their clients’ legitimate rights could be adversely affected.


17. Lawyers shall not use or oppose discovery for the purpose of harassment or to burden an opponent with increased litigation expense. Lawyers shall not object to discovery or inappropriately assert a privilege for the purpose of withholding or delaying the disclosure of relevant and non-protected information.

Cross-References: R. Prof. Cond. 3.1; R. Prof. Cond. 3.2; R. Prof. Cond. 3.4; R. Prof. Cond. 4.1; R. Prof. Cond. 4.4(a); R. Prof. Cond. 8.4; R. Civ. P. 26(b)(1); R. Civ. P. 26(b)(8)(A); R. Civ. P. 37(a)(1)(A), (D); R. Civ. P. 37(c); R. Crim. P. 16(b); R. Crim. P. 16(c); R. Crim. P. 16(d); R. Crim. P. 16(e); R. Juv. P. 20; R. Juv. P. 20A; R. Juv. P. 27(b); Fed. R. Civ. P. 26(b)(1); Fed. R. Civ. P. 26(g)(1)(B)(ii), (iii).
18. During depositions lawyers shall not attempt to obstruct the interrogator or object to questions unless reasonably intended to preserve an objection or protect a privilege for resolution by the court. "Speaking objections" designed to coach a witness are impermissible. During depositions or conferences, lawyers shall engage only in conduct that would be appropriate in the presence of a judge.

Cross-References: R. Prof. Cond. 3.2; R. Prof. Cond. 3.3(a)(1); R. Prof. Cond. 3.4; R. Prof. Cond. 3.5; R. Prof. Cond. 8.4; R. Civ. P. 30(c)(2); R. Juv. P. 20; R. Juv. P. 20A; Fed. R. Civ. P. 30(c)(2); Fed. R. Civ. P. 30(d)(2); Fed. R. Civ. P. 30(d)(3)(A).

19. In responding to document requests and interrogatories, lawyers shall not interpret them in an artificially restrictive manner so as to avoid disclosure of relevant and non-protected documents or information, nor shall they produce documents in a manner designed to obscure their source, create confusion, or hide the existence of particular documents.

Cross-References: R. Prof. Cond. 3.2; R. Prof. Cond. 3.4; R. Prof. Cond. 8.4; R. Prof. Cond. 3.4; R. Civ. P. 26(b)(1); R. Civ. P. 37; R. Crim. P. 16(a); R. Juv. P. 20; R. Juv. P. 20A; Fed. R. Civ. P. 37(a)(4).

20. Lawyers shall not authorize or encourage their clients or anyone under their direction or supervision to engage in conduct proscribed by these Standards.

Adopted by Supreme Court order October 16, 2003.

**Comments to the Rules can be found at the following website:**
https://www.utcourts.gov/resources/rules/ucja/#Chapter_13