

A LAWYER'S "ETHICAL JUGGLE"

Many people are not aware of the numerous rules by which a Maryland attorney must abide as an admitted member of the State Bar. The requirement to be an officer of the court, a public servant, and a zealous advocate for your client can lead to some tricky situations. The decisions an attorney makes not only can affect the outcome of a specific case but also the future of his or her legal career. The Maryland Rules of Professional Conduct (RPC) provide guidance to attorneys in Maryland, however, it is not possible to develop rules for every situation a lawyer may encounter. Therefore, lawyers must use their experience, their colleagues, and their common sense to make the best decision.

Here is one of the areas with which lawyers always need to be concerned:

PART 1 – Lawyer-Client Relationship: Sadly, over the years lawyers have developed a bad reputation. Ironically, a lawyer is, at all times, concerned and committed to his/her relationship with a current client or a client with whom he/she dealt with in the past. Out of the gates, the Rules direct lawyers to do a good job. They “shall provide competent representation to a client” [RPC 1.1] and shall do so with “reasonable diligence and promptness” [RPC 1.3.] With every client, lawyers must use legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. With most professions, simply not doing a good job means there is less of a chance the customer will return in the future. However, if a lawyer does not live up to the standards set out in the RPC, he or she has more to worry about than losing a customer.

A lawyer focuses on creating a very trusting, compassionate, and reliable relationship with his clients. The RPC has several rules that help to assure that each lawyer builds and maintains this relationship. Our office keeps you reasonably updated, keeps you informed on important topics and answers any of the questions you may have.

Lawyers can keep secrets with the best of them. Communications between you and your lawyer are strictly confidential. The only time your lawyer breaks silence is when he reasonably believes it necessary to protect you from serious bodily or financial harm due to fraud or when a client attacks a lawyer and he/she must protect himself/herself. Otherwise, your lawyer cannot use information if it will hurt you.

A lawyer should never put your interest in the backseat for someone else. He/She cannot take on a new client if doing so will be directly adverse to you or even if the representation of a new client creates a risk of materially limiting your representation. A lawyer uses his knowledge and experience to identify such conflicts of interest and, if he is unsure, he can check with you. If you then give informed consent in writing, then he can proceed. No matter what, a lawyer will always have a responsibility to protect former and current clients.

As in every relationship, it is always a risk to mix business with pleasure. A lawyer is not to enter into a business transaction with a client unless plenty of checks and balances are performed. In any possible business relationship, a lawyer actually must advise the client

to seek outside counsel to discuss the transaction. This is another area where written informed consent must be made before he can proceed. We recommend that any business transaction between a lawyer and the client should be avoided. There are too many possibilities for a conflict of interest that is already present or that may arise. Lawyers have a responsibility to put their clients' interests first. Imagine you are the lawyer – in a business transaction where profit is your goal. Picture the difficulties of maximizing profit while placing the client's interest first as well. This scenario creates a very difficult situation that we recommend lawyers simply avoid.

People are often surprised by the fee a lawyer charges. What they do not recognize is that several things are considered when this fee is determined. Regardless of those things considered however, a lawyer cannot “make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses.” [RPC 1.5.] The obvious things to consider are those such as what time and labor will be required, the depth of the issue, and the skill necessary. However, people often forget other factors that must be considered, such as other work the lawyer may have to decline in order to take on this matter, the amount of money/damages/punishment possible and the results obtained, specific limitations of the client, relationship with the client, the lawyer's experience and reputation, and the type of fee being charged. (See the Lawyer Fees Blog Article on this website to read about the different fees structures.)

Lawyers may not accept gifts, client inheritance, and literary or media rights during representations. And unfortunately, lawyers are not allowed to financially assist their clients other than to advance some court costs and incidental case expenses. A third party can pay for the lawyer's services, but only after informed consent of the client and an understanding that the third person's only involvement would be the money they provide. They will have no involvement in strategy and decision making and they are not a client of the lawyer.

At our Columbia Law Offices located in Howard County, Maryland, we take these Rules and our clients very seriously. We are committed to each client and prospective client. Please come in and talk to us regarding any criminal defense matter, family law case, business law decision, or any other of the several areas in which we have over 30 years of practice experience.

Your initial consultation is FREE. Following the Maryland Rules of Professional Conduct, we will not use or reveal any information obtained from you in this consultation.

Call The Law Offices of Fredric G. Antenberg at 410-730-4404.

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