

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-16-0029
RULE 31, RULES OF THE SUPREME)
COURT)
)
) **FILED: 09/02/2016**
)
)
_____)

ORDER

CIRCULATING FOR COMMENT PROPOSED AMENDMENTS TO THE OATH OF ADMISSION TO THE BAR, A LAWYER'S CREED OF PROFESSIONALISM OF THE STATE BAR OF ARIZONA, RULE 31, RULES OF THE ARIZONA SUPREME COURT, AND RULE 41, RULES OF THE ARIZONA SUPREME COURT

A petition having been filed proposing to amend The Oath of Admission to the Bar and A Lawyer's Creed of Professionalism of the State Bar of Arizona, Rule 31, Rules of the Arizona Supreme Court, and a comment having been received,

IT IS ORDERED that consideration of the proposed amendments is continued.

IT IS FURTHER ORDERED that the proposed amendments to The Oath of Admission to the Bar, A Lawyer's Creed of Professionalism of the State Bar of Arizona, Rule 31, Rules of the Arizona Supreme Court, and Rule 41, Rules of the Arizona Supreme Court, as provided in the attachment hereto, be circulated for comment until October 28, 2016. The proposed amendments will be considered by the Court at its December 2016 Rules Agenda.

DATED this 2nd day of September, 2016.

_____/s/_____
SCOTT BALES
Chief Justice

TO:

Rule 28 Distribution

John A Furlong

Carol Mitchell

ATTACHMENT*

RULES OF THE ARIZONA SUPREME COURT

Rule 31. Regulation of the Practice of Law

...

The Oath of Admission to the Bar

I, (state your name), do solemnly swear (or affirm) that I will support the ~~C~~constitution of the United States and the ~~C~~constitution and laws of the State of Arizona;

I will maintain the respect due ~~to the~~ courts of justice and judicial officers;

I will not counsel or maintain any ~~suit action, or proceeding, or defense~~ that ~~shall~~ appears to me to ~~lack a reasonable basis in fact or law~~ be without merit or to be unjust; I will not assert any defense except such as I honestly believe to be ~~debatable under the laws of the land~~;

I will be honest in my dealings with others and not make false or misleading statements of fact or law ~~employ for the purpose of maintaining the causes confided in me such means only as are consistent with truth and honor~~; I will never seek to mislead the judge or jury by any ~~misstatement or false statement of fact or law~~;

I will fulfill my duty of confidentiality to my client and not accept any compensation for representation without my ~~maintain the confidence and preserve inviolate the secrets of my client~~; I will accept no compensation in connection with my client's business except from my client or with my client's knowledge and approval;

I will avoid engaging in unprofessional ~~abstain from all offensive~~ conduct; I will not advance any fact prejudicial to the honor or reputation of a party or witness; unless required by my duties to my client or the tribunal ~~the justice of the cause with which I am engaged~~;

I will support the fair administration of justice, professionalism among lawyers, and legal representation for those unable to afford counsel ~~never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, nor will I delay any person's cause for greed or malice~~;

I will at all times faithfully and diligently adhere to the rules of professional responsibility and Aa Llawyer's Cereed of Professionalism of the State Bar or Arizona.

* Additions to text are indicated by underscoring and deletions by ~~strikeout~~.

A LAWYER'S CREED OF PROFESSIONALISM OF THE STATE BAR OF ARIZONA

Preamble

As a lawyer, I must strive to make our system of justice work fairly and efficiently. ~~In order to~~ To carry out that responsibility, I will comply with the letter and spirit of the disciplinary standards applicable to all lawyers and I will conduct myself in accordance with the following Creed of Professionalism when dealing with my client, opposing parties, their counsel, tribunals and the general public.

A. With respect to my client:

1. I will be loyal and committed to my client's cause, but I will not permit that loyalty and commitment to interfere with my ability to provide my client with objective and independent advice;

2. I will endeavor to achieve my client's lawful objectives in business transactions and in litigation as expeditiously and economically as possible;

3. In appropriate cases, I will counsel my client with respect to ~~mediation, arbitration and other~~ alternative methods of resolving disputes;

4. I will advise my client against pursuing litigation (or any other course of action) that is without merit and I will not engage in tactics that are intended to delay the resolution of ~~the~~ a matter or to harass or drain the financial resources of the opposing party;

5. I will advise my client that civility and courtesy are not to be equated with weakness;

6. While I must abide by my client's decision concerning the objectives of the representation, I nevertheless will counsel my client that a willingness to initiate or engage in settlement discussions is consistent with effective and honorable representation.

B. With respect to opposing parties and their counsel:

1. I will be courteous and civil, both in oral and in written communication;

2. I will not knowingly make statements of fact or of law that are untrue;

3. In litigation proceedings, I will agree to reasonable requests for extensions of time or for waiver of procedural formalities when the legitimate substantive interests of my client will not be adversely affected;

4. I will endeavor to consult with opposing counsel before scheduling depositions and meetings and before rescheduling hearings, and I will cooperate with opposing counsel when scheduling changes are requested;

5. I will not utilize litigation or any other course of conduct to harass the opposing party;

6. I will not engage in excessive and abusive discovery, and I will advise my client to comply with all reasonable discovery requests;

7. I will not threaten to seek sanctions against any party or lawyer unless I believe that they have a reasonable basis in fact and law;

8. I will not ~~utilize delay tactics~~ resolution of a matter, unless delay is incidental to an action reasonably necessary to ensure the fair and efficient resolution of that matter;

9. In depositions and other proceedings, and in negotiations, I will conduct myself with dignity, avoid making groundless objections and not be rude or disrespectful;

10. I will not serve motions and pleadings on the other party or the party's counsel at such a time or in such a manner as will unfairly limit the other party's opportunity to respond;

11. In business transactions I will not quarrel over matters of form or style but will concentrate on matters of substance and content;

12. I will identify clearly, for other counsel or parties, all changes that I have made in documents submitted to me for review.

C. With respect to the courts and other tribunals:

1. I will be an honorable advocate on behalf of my client, recognizing, as an officer of the court, that unprofessional conduct is detrimental to the proper functioning of our system of justice;

2. Where consistent with my client's interests, I will communicate with opposing counsel in an effort to avoid litigation and to resolve litigation that has actually commenced;

3. I will voluntarily withdraw claims or defenses when it becomes apparent that they do not have merit;

4. I will not file frivolous motions;

5. I will make every effort to agree with other counsel, as early as possible, on a voluntary exchange of information and on a plan for discovery;

6. I will attempt to resolve, by agreement, my objections to matters contained in my opponent's pleadings and discovery requests;

7. When scheduled hearings or depositions have to be canceled, I will notify opposing counsel and, if appropriate, the court (or other tribunal) as early as possible;

8. Before dates for hearings or trials are set — or, if that is not feasible, immediately after such dates have been set — I will attempt to verify the availability of key participants and witnesses so that I can promptly notify the court (or other tribunal) and opposing counsel of any likely problem in that regard;

9. In civil matters, I will stipulate to facts as to which there is no genuine dispute;

10. I will endeavor to be punctual in attending court hearings, conferences and depositions;

11. I will at all times be candid with, and respectful to, the tribunal.

D. With respect to the public and to our system of justice:

1. I will remember that, in addition to commitment to my client's cause, my responsibilities as a lawyer include a devotion to the public good;

2. I will keep current in the areas in which I practice and, when necessary, will associate with, or refer my client to, counsel knowledgeable in another field of practice;

3. As a member of a self-regulating profession, I will be mindful of my obligations under the Rules of Professional Conduct to report violations of those Rules;

4. I will be mindful of the need to protect the integrity of the legal profession and will be so guided when considering methods and contents of advertising;

5. I will be mindful that the law is a learned profession and that among its desirable goals are devotion to public service, improvement or administration of justice, and the contribution of uncompensated time and civic influence on behalf of those persons who cannot afford adequate legal assistance.

Rule 41. Duties and Obligations of Members

The duties and obligations of members shall be:

(a) Those prescribed by the Arizona Rules of Professional Conduct adopted as ~~§~~Rule 42 of these rules.

(b) To support the constitution ~~and the laws~~ of the United States and the constitution and laws of ~~this state~~ the State of Arizona.

(c) To maintain the respect due to courts of justice and judicial officers.

(d) To counsel or maintain no other action, proceeding or defense than those which appear ~~to him~~ legal and just, excepting the defense of a person charged with a public offense.

(e) To be honest in dealings with others and not make false or misleading statements of fact or law ~~employ for the purpose of maintaining causes confided to him such means only as are consistent with truth, and never seek to mislead the judges by any artifice or false statement of fact or law.~~

(f) To fulfill the duty of confidentiality to a client ~~maintain inviolate the confidences and preserve the secrets of a client~~ and not accept any compensation for representation without a client's knowledge and approval.

(g) To avoid engaging in unprofessional conduct and to advance no fact prejudicial to the honor or reputation of a party or a witness unless required by the duties to a client or the tribunal ~~justice of the cause with which the member is charged.~~

(h) To support the fair administration of justice, professionalism among lawyers, and legal representation for those unable to afford counsel ~~Not to encourage either the commencement or continuation of an action or proceeding from any corrupt motive of passion or interest, and never to reject for any consideration personal to himself the cause of the defenseless or oppressed.~~

(i) To protect the interests of current and former clients ~~interests~~ by planning for the lawyer's termination of or inability to continue a law practice, either temporarily or permanently.