

**The Kentucky Bar Association  
Small Firm Practice & Management Section  
and Lawyers Mutual of Kentucky  
present:**

**Am I in Trouble? ...Naw, You're in  
Big Trouble! The Latest in Lawyers  
Misbehavin'**



**This program has been approved in  
Kentucky for 1 Ethics credit.**

**Compiled and Edited by:  
The Kentucky Bar Association  
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Kentucky Bar Association Small Firm Practice & Management Section**

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**Am I in Trouble? ...Naw, You're in Big Trouble! The Latest in Lawyers Misbehavin'  
Ethics Seminar**

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## **PRESENTER BIOGRAPHY**

**Courtney Risk, Esq.**  
**Education & Engagement Specialist**  
**Lawyers Mutual of Kentucky**  
**Louisville, KY**  
<https://lmick.com/>

Courtney Risk describes her role at Lawyers Mutual as a unicorn, where she gets to combine her skills in relationship building, risk management education, litigation, and organizational collaboration. She joined the Lawyers Mutual team after beginning her career handling litigation – both criminal and civil – as well as transactional work. Courtney has spoken across Kentucky and nationally about the connection between burnout, trauma, well-being, and lawyer liability. She attended Northern Kentucky University Salmon P. Chase College of Law and currently serves as the Mentorship Chair for the Fayette County Bar Association Women’s Law Association and as a member of the Women Leaders in Insurance Board.

**“AM I IN TROUBLE?” ...NAW, YOU’RE IN BIG TROUBLE!  
THE LATEST IN LAWYERS MISBEHAVIN’**

Courtney Risk, Esq.\*

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Our annual compilation of entertaining lawyer misbehavior features new, real-life fact patterns and the opportunity to discuss which ethical obligations are potentially implicated. The fact patterns – while extreme at times – provide attendees an opportunity to see how various rules can overlap and interact in the real world. Attendees will then be asked to determine what discipline, if any, should apply in each scenario. Being mindful of these potential ethical quagmires will hopefully help you avoid becoming the unwitting subject of a future ethics CLE!

This CLE presentation will step through several fact patterns based on actual lawyer (mis)behavior. For each fact pattern, attendees will discuss which ethical obligations are potentially implicated, including:

- Duties owed to clients
- Duties owed to opposing counsel
- Duties owed to the court
- Duties owed to third parties

Based on this discussion, attendees will determine what, if any, disciplinary action should be taken and learn what actual discipline was issued.

Section 1 of the written materials provides a narrative of each scenario discussed with space to jot down notes of implicated rules and resulting discipline in each. Section 2 provides the rules most relevant to these scenarios.

**Disclaimer:** *If you have a specific situation for which you need guidance, please seek a Hotline Opinion from the KBA Ethics Committee. Opinions are provided at no charge to licensed Kentucky lawyers about the lawyer’s own prospective conduct (and not that of another attorney). Obtaining an ethics hotline opinion can be a tool in avoiding disciplinary actions.*

*No lawyer shall be disciplined for any professional act performed by that lawyer who acts in compliance with an informal hotline opinion furnished by the Ethics Committee member pursuant to the lawyer’s written request, provided that the request clearly, fairly, accurately, and completely states such attorney’s contemplated professional act. (See [SCR 3.530\(5\)](#)).*

## **I. SECTION 1: SCENARIOS**

Section 1 of the written materials provides a narrative of each scenario discussed with space to jot down notes of implicated rules and resulting discipline in each. *Note: an answer key identifying the rules and discipline for each scenario will be made available to attendees after the session.*

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\* Lawyers Mutual of Kentucky, 10503 Timberwood Circle, Suite 213, Louisville, KY 40223, 502-568-6100, 502-568-6103 FAX, <https://lmick.com/>. Courtney may be reached at [risk@lmick.com](mailto:risk@lmick.com).

A. He Isn't the Ambulance Chaser – He's the Ambulance Driver

1. The scenario.

A Chicago lawyer took possession of a parked Chicago Fire Department ambulance in April 2022. He drove the ambulance from the firehouse to Gundy County, Illinois – approximately 60 miles. During the joy ride, he was pursued by Chicago and Illinois State Police. The lawyer ran over several spike strips during the pursuit but continued to drive on the rims of the ambulance. He was ultimately stopped on I-55 and apprehended.

The lawyer was initially charged with a felony for unlawful possession of a stolen motor vehicle. This was later reduced to a misdemeanor charge of "criminal trespass to a motor vehicle." The lawyer pled guilty to the reduced charge and was sentenced to 24 months conditional discharge 180 days in county jail (time served). He was ordered to pay restitution of approximately \$7,800 for the damage to the ambulance, to obtain a drug, alcohol, and mental health evaluation, and to complete treatment.

2. Ethical rules (allegedly) implicated?

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3. Discipline result?

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B. Walking a Fine (State) Line

1. The scenario.

In March 2022, an Illinois lawyer and former state prosecutor filed for a seat on the Williamson County (Illinois) Board, swearing under oath he had been a resident of that county since March 2021. This was problematic as the lawyer had served as a Bridgeton (Missouri) City Council member until April 2022. He was appointed to the Missouri city council position in 2018 and later elected to a two-year term. He never notified the City of Bridgeton or any other officials that he had moved to Illinois.

An opponent in the 2022 Illinois race challenged the candidacy based on residency – stating the lawyer could not have been a resident of Illinois. The challenge was successful. Additionally, the lawyer was charged in Missouri for stealing by deceit (Class D felony) and ultimately pled guilty to a misdemeanor. He returned the \$6,000 salary for the year he lived outside of Missouri and could not run for office during his one-year probation.

2. Ethical rules (allegedly) implicated?

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3. Discipline result?

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C. So, What's in It for Me?

1. The scenario.

An Assistant United States Attorney (AUSA) in Akron, Ohio sexually harassed an intern working in the office the summer after her 1L year. At the time, the AUSA had worked there for 10 years – making him a more senior member of the team even if he was not the intern's direct supervisor.

The AUSA discussed his marital sex life with the intern and asked her about hers – suggesting he could be her sexual partner. He asked her to send nude photos via Snapchat – she then later blocked him on all social media accounts and played ignorant when he confronted her as to why he could no longer see her on social media.

The two were in the library when the intern stated she needed a copy of the federal sentencing guidelines. He reached across her body as if he were going to retrieve the book and touched her breasts with the back of his hand, making and maintaining eye contact during the touching. He only removed his hand when another entered the library.

She reached out to the AUSA about who she could contact to return to the office for another internship. He responded by asking what she was willing to do in return. She did not pursue the matter with him any further and eventually sought placement at another office more than an hour away instead of working in his office in Akron.

In her 3L year, the intern asked the AUSA for a letter of recommendation. He responded by asking what he would receive in exchange for the recommendation. She abandoned her request and obtained recommendations from other attorneys.

Later that spring semester, he began texting in the middle of the night more explicit sexual texts which the intern ignored. She eventually informed a colleague of the interactions which triggered an investigation by the Office of the Inspector General (OIG). The OIG concluded that the AUSA had violated the Department of Justice sexual harassment policy and

recommended termination. The AUSA then resigned and reported his actions to the bar association; the DOJ also made a report to the bar.

During the OIG investigation the intern was asked why she had chosen not to report his actions. The disciplinary opinion provided this summary:

[It is because of] how she had been raised. '[T]his is what you have to deal with, and you don't say anything because then you're going to hurt your chances at a career.' She also stated, 'I can't put my foot down because I'm an intern and he would always be like, oh I play poker with judges every Thursday and I'm so well connected.'

2. Ethical rules (allegedly) implicated?

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3. Discipline result?

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D. Incompetent Representation but Competent to Stand Trial

1. The scenario.

Giardi Keese (GK) is a California law firm that specializes in mass tort cases. Most notably they were the large firm that took over the environmental tort case that Erin Brockovich pursued. GK continued to take on mass tort cases and in 2018 brought a lawsuit that would lead to the firm's unraveling.

Part 1: In 2018, GK engaged Illinois local counsel (Edelson P.C.) in a lawsuit against Boeing for the Lion Air Crash. The matter was settled for an undisclosed amount against Boeing. Edelson reached out to GK to obtain a status on settlement distribution. Eventually, Edelson realized that GK may not have the money available to pay clients what they are owed. Edelson filed a complaint in Illinois federal court alleging GK had mishandled money owed to clients. Litigation creditors were also named as defendants and the complaint alleged creditors were able to withdraw any new funds deposited into GK accounts, including client trust accounts.

Edelson also sought its share of the contingent fees from GK in the underlying case against Boeing. GK alleged the clients did not timely consent to the fee-sharing agreement and, therefore, GK owed Edelson nothing. Edelson prevailed on this count after the judge held Illinois fee sharing requirements applied – no specific timing for client consent to fee-sharing is required.



Part 2: Girardi failed to respond in his personal capacity or appear in the Edelson lawsuit. Girardi and the firm (GK) were sanctioned, and the judge referred the matter to federal prosecutors. As this unfolded, Girardi was placed in conservatorship following a diagnosis of dementia and Alzheimer's. He never directly responded to the Edelson lawsuit or the disciplinary proceedings that were initiated in California.

Part 3: GK was forced into Chapter 7 bankruptcy. Through this process, evidence of mishandling of funds was revealed and additional litigation and criminal charges were initiated.

Part 4: Edelson brought a separate RICO case in California. The major character in this suit is George Hatcher and his company, Wrongful Death Consultants. Hatcher is a non-lawyer and "case runner" used to funnel clients to GK. The suit alleges GK paid Hatcher \$50,000 a month for "consultation services" that boiled down to recruiting and referring clients. Hatcher's website contains a submission form for potential clients to receive a case evaluation.

Part 5: Due to the dementia diagnosis, the California federal court heard whether Girardi was competent to stand trial for the California federal indictment. The judge found him to be competent; the Illinois federal court is expected to follow suit.

2. Ethical rules (allegedly) implicated?

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3. Discipline result?

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E. Watch out for the Hot Mic

1. The scenario.

An Illinois lawyer faced an ethics complaint stemming from alleged misconduct in two matters where she represented criminal defendants.

- a. In the first matter, she was visibly upset on numerous occasions in front of the jury. The judge had directed her to control her reactions and emotions in front of the jury. Eventually, her microphone picked up her saying, "F\*\*king b\*\*\*sh\*\*!" in response to the judge's ruling on an objection.
- b. In a separate criminal matter, her client was charged with a double homicide. A third homicide was linked by DNA and method/ manner

of the crime. However, a different suspect was arrested for the third murder. A protective order was entered preventing discussion of evidence related to the third murder.

She filed a notice of intent to introduce the evidence at trial but the matter had not yet been heard. The lawyer made statements to local TV and print media that the DNA conclusively exonerates her client, and she expects a call from the county attorney dismissing the case at any time.

2. Ethical rules (allegedly) implicated?

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3. Discipline result?

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F. Robot, Esq.

1. The scenario.

A New York plaintiff's lawyer (Lawyer A) filed a lawsuit in state court asserting that his client was injured when a metal serving cart struck his left knee during a flight from El Salvador to JFK Airport. The case was removed to federal court. Lawyer A is not admitted to practice in that federal district so Lawyer B in the same firm filed the appearance. Lawyer A continued all substantive work on the case.

Defense filed a motion for dismissal alleging claims were time-barred. Lawyers A/B filed a motion requesting additional time to respond as Lawyer B would be "out of the office for a previously planned vacation" and cited a need for "extra time to properly respond to the extensive motion papers filed by the defendant." The extension was granted. It was later revealed that Lawyer B was not out of the office but Lawyer A was.

Lawyer B filed a response cited and quoted "from purported judicial decisions that were said to be published in the Federal Reporter, the Federal Supplement, and Westlaw." Lawyer B signed the response which included the statement: "I declare under penalty of perjury that the foregoing is true and correct."

Lawyer B was not the author. Lawyer A was. Lawyer B stated he reviewed for style but not substance; he did not review any of the citations or authorities. He relied on the assumption that the work of a colleague of more than 25 years would be reliable.

Defense filed a reply stating they could not find any of the authority cited. Lawyers A/B did not seek to withdraw the brief. The court required Lawyer

B to file an affidavit and provide all of the cases that the court and the plaintiffs could not locate. Lawyer A prepares and Lawyer B files.

It is later revealed that ChatGPT was used to draft the brief and the affidavit with the cases. Lawyer A stated he was “operating under the false perception that this website could not possibly be fabricating cases on its own.”

2. Ethical rules (allegedly) implicated?

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3. Discipline result?

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G. (Flaming) Hot Water and the Dreaded Hot Mic (Again)

1. The scenario.

A former Kentucky prosecutor found themselves in hot water for the way they handled a criminal case in which the defendant was charged with arson. The defendant testified that they were intoxicated and could not remember any of their actions. No other witness testified to the intoxication. It is worth noting that the defense did not illicit any testimony regarding the defendant’s intoxication from any of the investigators or other witnesses.

Defense asked for an involuntary intoxication instruction. The prosecutor objected as there was not enough evidence in the record. The court declined the instruction, and the defendant was convicted of arson.

Later, a hot mic conversation between the prosecutor and their lead detective demonstrates they knew the defendant was intoxicated but was strategically not eliciting that testimony.

2. Ethical rules (allegedly) implicated?

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3. Discipline result?

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H. Once You Pop, You Can't Stop (*The Update*)

1. The scenario.

An Ohio lawyer was representing a client charged with murder. The victim advocate on the case worked at a victim advocacy center near the courthouse. The lawyer throws something distinctive at the victim advocate's car just prior to a hearing in the case. He is charged with and pleads guilty to disorderly conduct and littering. Due to the nature of the substance thrown at the victim advocate, disciplinary proceedings were initiated. Can you guess what he threw?

2. Ethical rules (allegedly) implicated?

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3. Discipline result?

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I. There's Plenty of S\*\*\* to Go Around

1. The scenario.

An Oklahoma lawyer faces several bar complaints which were consolidated into a single action.

Count One: Lawyer is charged criminally for striking a pedestrian while driving his truck after a dispute in a parking lot. This appears to be the incident that opened the can of worms for Lawyer.

Count Two: Client accused Lawyer of charging a retainer and then completing no work on the case. After several rounds of complaints and failing to provide an accounting of the work, Lawyer agrees to refund \$700 of the \$2,500 retainer through the office of bar counsel.

When dropping off the check, he directed the refund check be delivered directly to the deputy bar counsel he had unsuccessfully sought to recuse from his case. "The \$700 check had a 'pinched indentation' and a smear of foreign matter." The check had an odor "like poop" or "a dirty diaper." Lab testing showed the check contained fecal matter.

A clean check was later provided but the bank refused to honor the check. Although a specific reason was not given, one reason for the rejection could have been insufficient funds.

2. Ethical rules (allegedly) implicated?

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3. Discipline result?

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## II. SECTION 2: VARIOUS RULES FOR DISCUSSION

*Throughout the presentation, we will be discussing various rules that are (allegedly) implicated by the lawyers' (mis)behavior. Below are several of the rules with some of the relevant comments, although this list is not exhaustive.*

### A. [SCR 3.130\(1.1\)](#) Competence

"A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation."

#### *SUPREME COURT COMMENTARY*

(1) In determining whether a lawyer employs the requisite knowledge and skill in a particular matter, relevant factors include the relative complexity and specialized nature of the matter, the lawyer's general experience, the lawyer's training and experience in the field in question, the preparation and study the lawyer is able to give the matter and whether it is feasible to refer the matter to, or associate or consult with, a lawyer of established competence in the field in question. In many instances, the required proficiency is that of a general practitioner. Expertise in a particular field of law may be required in some circumstances.

...

(6) To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

B. [SCR 3.130\(1.3\)](#) Diligence

“A lawyer shall act with reasonable diligence and promptness in representing a client.”

*SUPREME COURT COMMENTARY (Excerpts)*

(1) A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client...

(2) A lawyer's work load must be controlled so that each matter can be handled competently.

(3) Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed...

(4) Unless the relationship is terminated as provided in [Rule 1.16](#), a lawyer should carry through to conclusion all matters undertaken for a client... Doubt about whether a client-lawyer relationship still exists should be clarified by the lawyer, preferably in writing, so that the client will not mistakenly suppose the lawyer is looking after the client's affairs when the lawyer has ceased to do so...

C. [SCR 3.130\(1.4\)](#) Communication

(a) A lawyer shall:

(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;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(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.

D. [SCR 3.130\(1.5\)](#) 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:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(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. Such a fee must meet the requirements of [Rule 1.5\(a\)](#). 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:

(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, maintenance, support, or property settlement in lieu thereof, provided this does not apply to liquidated sums in arrearage; or

(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:

(1) the division is in proportion to the services performed by each lawyer, or, each lawyer assumes joint responsibility for the representation;

(2) the client agrees to the arrangement and the agreement is confirmed in writing; and

(3) the total fee is reasonable.

(f) A fee may be designated as an advance fee. An advance fee agreement shall be in a writing signed by the client evidencing the client's informed consent, and shall state the dollar amount of the fee, its application to the scope of the representation and the time frame in which the agreement will exist.

E. [SCR 3.130\(1.13\)](#) 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 in behalf of the organization as determined by applicable law.

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

(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

(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 reasonably believes that he or she has been discharged 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 assure 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.

F. [SCR 3.130\(1.15\)](#) 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, third person, or both in the event of a claim by each to the property. The separate account referred to in the preceding sentence shall be maintained in a bank which has agreed to notify the Kentucky Bar Association in the event that any overdraft occurs in the account. 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) Upon receiving funds or other property in which a client has an interest, a lawyer shall promptly notify the client. 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 any funds or other property that the client is entitled to receive and, upon request by the client, shall promptly render a full accounting regarding such property.

(c) When in the course of representation a lawyer is in possession of funds or other property in which the lawyer and client claim interests and are not in agreement regarding those interests, the funds or other property in dispute shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the funds or other property in which the interests are not in conflict.

(d) 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.

(e) Except for advance fees as provided in [1.5\(f\)](#), 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.

G. [SCR 3.130\(1.16\)](#) Termination of 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:

(1) the representation will result in violation of the Rules of Professional Conduct or other law; or

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

(3) the lawyer is discharged.

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

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

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

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

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

(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; or

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

(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 may retain papers relating to the client to the extent permitted by other law.

H. [SCR 3.130\(3.3\)](#) Candor toward the Tribunal

(a) A lawyer shall not knowingly:

(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;

(2) fail to disclose to the tribunal published 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

(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 which will enable the tribunal to make an informed decision, whether or not the facts are adverse.

I. [SCR 3.130\(5.1\)](#) 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 lawyers violation of the Rules of Professional Conduct if:

(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(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.

J. [SCR 3.130\(5.2\)](#) 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 an arguable question of professional duty.

K. [SCR 3.130\(5.3\)](#) Responsibilities of Nonlawyer Assistants

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 only if:

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(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.

## SUPREME COURT COMMENTARY

1. Lawyers generally employ assistants in their practice, including secretaries, investigators, law student interns, and para-professionals. Such assistants, whether employees or independent contractors, act for the lawyer in rendition of the lawyer's professional services. A lawyer must give such assistants appropriate instruction and supervision concerning the ethical aspects of their employment, particularly regarding the obligation not to disclose information relating to representation of the client, and should be responsible for their work product. The measures employed in supervising nonlawyers should take account of the fact that they do not have legal training and are not subject to professional discipline.

...

### L. [SCR 3.130\(8.4\)](#) 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) 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

(e) knowingly assist a judge or judicial officer in conduct that is a violation of applicable Rules of Judicial Conduct or other law.

### M. [ABA Model Rule 8.4](#), Misconduct

It is professional misconduct for a lawyer to:

...

...

(d) engage in conduct that is prejudicial to the administration of justice;

(g) engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct

related to the practice of law. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation in accordance with [Rule 1.16](#). This paragraph does not preclude legitimate advice or advocacy consistent with these Rules.