

## Ethical Dilemmas for Lawyers working in animal welfare

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### Format:

Below are five dilemmas lawyers who are passionate about animal rights and animal welfare might encounter. An overview of the dilemma is presented, followed by a hypothetical situation designed to prompt discussion of the issues. The materials also include a few of the ABA Model Rules of Professional Conduct that may be useful in a discussion of these dilemmas.

### Dilemma 1

A lawyer is passionate about helping animals, but given the current state of American jurisprudence, she seldom has the opportunity to represent animals directly. She works around this by representing human clients interested in helping animals. From time to time though, the best interests of the human client and the best interest of the animal involved are not the same. The lawyer is conflicted because she cares far more about the animals than the humans she represents.

### Hypothetical situation

Billie Miller is a lawyer who is passionate about helping feral cats. She even uses a caricature of a cat as her profile photo on her Facebook page and for her business card. She belongs to half a dozen organizations that promote the welfare of feral cats and is a caregiver of a feral cat colony.

Billie received a call from Sally Summers, the owner of Max, an indoor / outdoor cat. Sally took Max in when her aunt died. Sally also has three friendly labradoodles that are the center of her life.

Max was outside and leaped off of a lawn chair in the back yard and caught a songbird in flight. The songbird was swooping in to steal some of Max's food, or so he thought. Max killed the bird and triumphantly looked for approval to Sally who was also outside pruning her butterfly bush.

Unfortunately for Max, a neighbor, Audrey Avery, is the president of Northwest Song Bird Protection Society. Audrey witnessed Max's prowess and called animal control.

In their county there is an ordinance that would declare a domestic animal who kills another animal as a dangerous animal. Audrey and her non-profit lawyer argue to the county that this ordinance applies to cats as well as dogs. This is a plausible reading of the law, though the law has never been applied to cats in the past. Sally is charged with owning a dangerous animal.

Sally hires Billie to represent her in the first ever “dangerous cat” hearing in the county. Billie is making progress on her defense that the law does not apply to cats. Then, Sally, Max’s owner, receives a notice from her homeowner’s insurance company that if Sally is convicted of harboring a dangerous animal, her policy will be cancelled unless she gives up all of her animals, including her three beloved pit bulls.

Sally asks Billie if she thinks the prosecutor would drop the charges if she voluntarily euthanizes her cat, Max. This would protect her innocent pit bulls, a trade Sally would take in a heart beat.

Billie’s motivation is to save Max, the cat, and not have the dangerous dog ordinance interpreted to apply to cats. Billie wants to continue the fight and try to win the case, which she is confident she can do.

## **Dilemma 2**

A lawyer hates animal abusers and wants them prosecuted. In fact, she would like to make their lives as miserable as possible. The attorney, however, does not want to violate any rules of professional responsibility.

### **Hypothetical situation**

Billie Miller is a lawyer who just hates animal abusers. Down the street lives Joe Sampson, a person she views as cruel and sadistic to animals. Joe often times traps feral, and even owned, neighborhood cats with illegal leg hold traps, then lets them die in the traps. He is also building a shed to house his leg hold traps that is 12 feet by 12 feet and has not applied for a building permit. The city allows residents to build sheds up to 10 by 10 feet without a permit.

Billie has complained to animal control, but nothing has happened. What she wants to do is put Joe into a leg hold trap and give him a dose of his own cruelty, but instead decides to start a campaign against him. She is thinking about putting up posters around the neighborhood with his face on it with the words “sadistic cat killer” with a warning to residents to keep their cats inside and try to protect the feral cats in the area as well.

Billie is contemplating calling Joe's employer to tell them that he is mentally unstable, engages in criminal behavior, and eats animals that are on the list of endangered species. (She made up the part about eating endangered species, but does think he is mentally unstable and engages in criminal behavior.)

For good measure, Billie wants to turn Joe in to the building inspector for building the unpermitted shed. She is also thinking about suing him for a nuisance caused by the crying of cats in the traps. She can't really hear the cats, but just the thought of it makes her sick.

Billie has come to us for advice about whether any of these ideas would violate the rules of professional conduct. For the moment, do not concern yourself with any other potential civil or criminal liabilities that may result.

### **Dilemma 3**

An in house lawyer finds she is spending most of her free time as a volunteer to help animals. The lawyer is single and wants to date, but the only people she meets are related to her employer client or to the non-profit for which she volunteers and provides pro bono legal advice. She wants to date the people she meets in these settings, but does not want to violate rules of professional responsibility.

#### **Hypothetical situation**

Billie Miller was just hired as a staff attorney for a large outdoor equipment retailer. In her job she travels around the country answering general business questions raised by individual store managers and HR departments. She is also involved in at least three animal welfare non-profits and often gives general advice to the small boards of directors of these non-profits.

Billie is currently not in a long term personal relationship. She is frustrated that because of her work and non-profit volunteer activities, the only people she meets are related to the non-profits and her employer.

Billy wants to share a tent with Will Willmont on the next squirrel watching weekend scheduled with the non-profit Friends of Forest Wildlife. Will is the volunteer treasurer for the group, and Billie is now doing some pro bono work for the organization by helping with the filing of the organization's lobbying reports.

She also has thought about asking Sam, the HR manager in Boise, out for a tandem bike ride on her next trip to Idaho.

## Dilemma 4

A lawyer finds she is in a group setting where someone suggests doing something to help animals that the lawyer believes is illegal. The lawyer does not feel responsible for advising against the activities being discussed. The attorney, however, does not want to run afoul of any ethics rules.

### Hypothetical situation

Billie Miller went to a party at the house of Will Willmont, a noted radical animal activist who is known to throw a great party. The party is to celebrate the gathering of enough signatures to place a measure on the ballot that would end the use of battery cages for egg laying hens. With the margaritas flowing, the partygoers began discussing the idea of breaking into an egg production facility where the hens are warehoused in battery cages and freeing the hens. Two of the partygoers are on the board of the Oregon Farm Animal Protection League, a non profit for which Billie does pro bono legal work. Everyone agreed this would be a great way to bring attention to the upcoming ballot initiative.

Personally, Billie would have no ethical issue in doing this. And secretly she would love to participate. But she could think of at least three crimes that would be committed in freeing the hens. At first she thought the discussion was just “the tequila talking,” but then the discussion became a little more serious as members of the group pulled out their smart phones to find good dates for the liberation.

She knew she would never participate in this illegal activity but did not doubt some in the group, including one of the Oregon Farm Animal Protection League board members might “let the birds fly.” She started wondering what kind of ethical obligation, if any, she had to point out the proposed actions were illegal and describe the consequences. She wanted to sit and listen to the discussion but instead got a fresh margarita and went to the deck to feed peanuts from the snack table to the squirrels living in the backyard.

## Dilemma 5

A lawyer involved with a local animal welfare non-profit wants to participate fully in the organization’s policy discussions. The lawyer, however, does not want to create inadvertently an attorney-client relationship.

### Hypothetical situation

Billie Miller is an immigration lawyer who volunteers at several animal welfare non-profits. One organization she volunteers for and supports financially is Friends of Forest Wildlife. This group works to raise awareness about the loss of wildlife habitat in the Pacific Northwest. Billie has been asked to serve on the board of directors next term. In his offer letter to Billie, the current chairperson added “It will be good to have a lawyer back on the board.”

One Tuesday evening during a meeting of Friends of Forest Wildlife, one of the members brought up the subject of the logging of “tract 729-5000”. The logging of this tract involves clear cutting an old growth Douglas fir stand that is also home to the Douglas Squirrel. Billie just loves Douglas Squirrels. (She even has one tattooed on her shoulder so the squirrel is always watching over her.)

The discussion moved to ways the group could try to stop the clear cutting to save the squirrels. The Executive Director of Friends of Forest Wildlife turned to Billie and asked, “Billie, you’re a lawyer, can we use the Endangered Species Act to stop the logging of tract 729-5000 to save these squirrels?”

While she has practiced immigration law extensively, Billie has only a basic understanding of the Endangered Species Act and other laws relating to wildlife. But as a lover of Douglas Squirrels, she knows they are not anywhere close to “endangered” or “threatened” as required for protection under the Act. Billie wanted to say that she did not think the Endangered Species Act would be of much help because the Douglas Squirrel is very common. But she caught herself and did not want to give legal advice. She was concerned such advice would make her an attorney for the organization.

## Select ABA Model Rules

### *Rule 1.1 Competence*

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

### *Client-Lawyer Relationship Rule 1.13 Organization As 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

(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.

#### ***Client-Lawyer Relationship 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:

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

- (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;
  - (2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;
  - (3) the client has used the lawyer's services to perpetrate a crime or fraud;
  - (4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;
  - (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;
  - (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.

***Client-Lawyer Relationship Rule 1.18 Duties To Prospective Client***

- (a) A person who discusses with a lawyer 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 had discussions with a prospective client shall not use or reveal information learned in the consultation, 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:

- (1) both the affected client and the prospective client have given informed consent, confirmed in writing, or:
- (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
  - (i) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and
  - (ii) written notice is promptly given to the prospective client.

***Client-Lawyer Relationship 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.

***Client-Lawyer Relationship 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:
  - (1) the representation of one client will be directly adverse to another client; or
  - (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:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law;
- (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
- (4) each affected client gives informed consent, confirmed in writing.

***Client-Lawyer Relationship Rule 1.8 Conflict Of Interest: Current Clients: Specific Rules***

(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:

- (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;
- (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
- (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 purposes 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 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:

- (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
- (2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.

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

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

(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 a 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:

(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

(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:

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

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

**(j) A lawyer shall not have sexual relations with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced.**

(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 1.10 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

(1) the prohibition is based on a personal interest of the disqualified lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm; or

(2) the prohibition is based upon Rule 1.9(a) or (b) and arises out of the disqualified lawyer's association with a prior firm, and

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

(ii) written notice is promptly given to any affected former client to enable the former client to ascertain compliance with the provisions of this Rule, which shall include a description of the screening procedures employed; a statement of the firm's and of the screened lawyer's compliance with these Rules; a statement that review may be available before a tribunal; and an agreement by the firm to respond promptly to any written inquiries or objections by the former client about the screening procedures; and

(iii) certifications of compliance with these Rules and with the screening procedures are provided to the former client by the screened lawyer and by a partner of the

firm, at reasonable intervals upon the former client's written request and upon termination of the screening procedures.

(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:

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

(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) A disqualification prescribed by this rule may be waived by the affected client under the conditions stated in Rule 1.7.

(d) The disqualification of lawyers associated in a firm with former or current government lawyers is governed by Rule 1.11.

#### ***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:

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

(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;

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

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

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

(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;

(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.

#### ***Counselor 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.

#### ***Advocate 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 3.4 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:
  - (1) the person is a relative or an employee or other agent of a client; and
  - (2) the lawyer reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.

#### ***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:

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

(2) information contained in a public record;

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

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

(5) a request for assistance in obtaining evidence and information necessary thereto;

(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

(7) in a criminal case, in addition to subparagraphs (1) through (6):

(i) the identity, residence, occupation and family status of the accused;

(ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;

(iii) the fact, time and place of arrest; and

(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:

(1) the testimony relates to an uncontested issue;

(2) the testimony relates to the nature and value of legal services rendered in the case; or

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

***Rule 4.3 Dealing With Unrepresented Person***

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.

***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 relating to the representation of the lawyer's client and knows or reasonably should know that the document was inadvertently sent shall promptly notify the sender.

***Public Service Rule 6.1 Voluntary Pro Bono Public Service***

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 public 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:

(1) persons of limited means or

(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:

(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;

(2) delivery of legal services at a substantially reduced fee to persons of limited means; or

(3) participation in activities for improving the law, the legal system or the legal profession.

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.

***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 benefitted by a decision in which the lawyer participates, the lawyer shall disclose that fact but need not identify the client.

***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.