



United States District Court
NORTHERN DISTRICT OF ILLINOIS

Settlement Assistance Program

Select Rules Governing Attorney Conduct

LR83.37.¹ Duties & Responsibilities of Assigned Counsel

Upon receiving notice of assignment, counsel shall forthwith file an appearance in accordance with LR83.12 in the action to which counsel is assigned. Promptly following the filing of an appearance, counsel shall communicate with the newly-represented party concerning the action or appeal.

Upon assignment for purposes of settlement assistance, the attorney will assist in preparing for the settlement conference, participate in the settlement conference on behalf of the pro se litigant, and draft a settlement agreement and corresponding motion to dismiss, if appropriate. Assistance under the Settlement Assistance Program will be limited only to the effort to settle the case and will not extend to any other part of the litigation process.

LR83.51.2. Scope of Representation

- (a) A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to sections (c), (d), and (e), and shall consult with the client as to the means by which they are to be pursued. A lawyer shall abide by a client's decision whether to accept an offer of settlement of a matter. In a criminal case, the lawyer shall abide by the client's decision, after disclosure by 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 objectives of the representation if the client consents after disclosure.
- (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.

¹ "LR" shall refer to the Local Rules of the United States District Court for the Northern District of Illinois

Select Rules Governing Attorney Conduct

(e) A lawyer shall not present, participate in presenting, or threaten to present criminal charges or professional disciplinary actions to obtain an advantage in a civil matter.

2

(f) In representation of a client, a lawyer shall not:

(1) file a suit, assert a position, conduct a defense, delay a trial or take other action on behalf of the client when the lawyer knows or reasonably should know that such action would serve merely to harass or maliciously injure another;

(2) advance a claim or defense the lawyer knows is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by a good-faith argument for an extension, modification, or reversal of existing law; or

(3) fail to disclose that which the lawyer is required by law to reveal.

(g) A lawyer who knows a client has, in the course of the representation, perpetrated a fraud upon a person or tribunal shall promptly call upon the client to rectify the same, and if the client refuses or is unable to do so, the lawyer shall reveal the fraud to the affected person or tribunal, except when the information is protected as a privileged communication.

(h) A lawyer who knows that a person other than the client has perpetrated a fraud upon a tribunal shall promptly reveal the fraud to the tribunal.

(i) When a lawyer knows that a client expects assistance not permitted by these rules of professional conduct or other law, the lawyer shall consult with the client regarding the relevant limitations on the lawyer's conduct.

LR83.51.4. Communication

(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

LR83.51.7. Conflict of Interest: General Rule

(a) A lawyer shall not represent a client if the representation of that client will be directly adverse to another client, unless:

(1) the lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and

(2) each client consents after disclosure.

(b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:

(1) the lawyer reasonably believes the representation will not be adversely affected; and

(2) the client consents after disclosure.

(c) When representation of multiple clients in a single matter is undertaken, the disclosure shall include explanation of the implications of the common representation and the advantages and risks involved.

Select Rules Governing Attorney Conduct

LR83.51.9. Conflict of Interest: Former Client

(a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which the person's interests are materially adverse to the interests of the former client unless the former client consents after disclosure.

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

- (1) whose interests are materially adverse to that person, and
- (2) about whom the lawyer had acquired information protected by LR83.51.6 and LR83.51.9(c) that is material to the matter, unless the former client consents after disclosure.

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

- (1) use information relating to the representation to the disadvantage of the former client except as LR83.51.6 or LR83.53.3 would permit or require with respect to a client, or when the information has become generally known; or
- (2) reveal information relating to the representation except as LR83.51.6 or LR83.53.3 would permit or require with respect to a client.

LR83.51.16. Declining or Terminating Representation

(a) A lawyer representing a client before a tribunal shall withdraw from employment (with permission of the tribunal if such permission is required), and a lawyer representing a client in other matters shall withdraw from employment, if:

- (1) the lawyer knows or reasonably should know that the client is bringing the legal action, conducting the defense, or asserting a position in the litigation, or is otherwise having steps taken, merely for the purpose of harassing or maliciously harming any person;*
- (2) the lawyer knows or reasonably should know that such continued employment will result in violation of these rules;*
- (3) the lawyer's mental or physical condition renders it unreasonably difficult for the lawyer to carry out the employment effectively; or*
- (4) the lawyer is discharged by the client.*

(b) Except as required in section (a), a lawyer shall not request permission to withdraw in matters pending before a tribunal, and shall not withdraw in other matters, unless such request or such withdrawal is because:

- (1) the client:
 - (A) insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by a reasonable argument for an extension, modification, or reversal of existing law;
 - (B) seeks to pursue an illegal course of conduct;
 - (C) insists that the lawyer pursue a course of conduct that is illegal or that is prohibited by these rules;

Select Rules Governing Attorney Conduct

(D) by other conduct renders it unreasonably difficult for the lawyer to carry out the employment effectively;

(E) insists, in a matter not pending before a tribunal, that the lawyer engage in conduct that is contrary to the judgment and advice of the lawyer although not prohibited by these rules; or

(F) substantially fails to fulfill an agreement or obligation to the lawyer as to expenses or fees;

(2) the lawyer's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;

(3) the client consents to termination of the lawyer's employment after disclosure; or

(4) the lawyer reasonably believes that a tribunal will, in a proceeding pending before the tribunal, find the existence of other good cause for withdrawal.

(c) If permission for withdrawal from employment is required by the rules of a tribunal, a lawyer shall not withdraw from employment in a proceeding before that tribunal without its permission.

(d) In any event, a lawyer shall not withdraw from employment until the lawyer has taken reasonable steps to avoid foreseeable prejudice to the rights of the client, including giving due notice to the client, allowing time for employment of other counsel, delivering to the client all papers and property to which the client is entitled, and complying with applicable laws and rules.

(e) A lawyer who withdraws from employment shall refund promptly any part of a fee paid in advance that has not been earned.

LR83.52.1. 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.

LR83.53.1. 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 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.

LR83.53.3. Conduct Before a Tribunal

(a) In appearing in a professional capacity before a tribunal, a lawyer shall not:

(1) make a statement of material fact or law to a tribunal which the lawyer knows or reasonably should know is false;

(2) fail to disclose to a tribunal a material fact known to the lawyer when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client;

Select Rules Governing Attorney Conduct

- (3) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel;
- (4) offer evidence that the lawyer knows to be false, or if the lawyer has offered material evidence and comes to know of its falsity, the lawyer shall take reasonable remedial measures;
- (5) participate in the creation or preservation of evidence when the lawyer knows or reasonably should know the evidence is false;
- (6) counsel or assist the client in conduct the lawyer knows to be illegal or fraudulent;
- (7) engage in other illegal conduct or conduct in violation of these rules;
- (8) fail to disclose the identities of the clients represented and of the persons who employed the lawyer unless such information is privileged or irrelevant;
- (9) intentionally degrade a witness or other person by stating or alluding to personal facts concerning that person which are not relevant to the case;
- (10) 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, but a lawyer may argue, on analysis of evidence, for any position or conclusion with respect to the matter stated herein;
- (11) refuse to accede to reasonable requests of opposing counsel that do not prejudice the rights of the client;
- (12) fail to use reasonable efforts to restrain and to prevent clients from doing those things that the lawyer ought not to do;
- (13) suppress any evidence that the lawyer or client has a legal obligation to reveal or produce;
- (14) advise or cause a person to become unavailable as a witness by leaving the jurisdiction or making secret their whereabouts within the jurisdiction; or
- (15) pay, offer to pay, or acquiesce in the payment of compensation to a witness contingent upon the content of the witness' testimony or the outcome of the case, but a lawyer may advance, guarantee, or acquiesce in the payment of expenses reasonably incurred in attending or testifying, and a reasonable fee for the professional services of an expert witness.

(b) The duties stated in section (a) are continuing duties and apply even if compliance requires disclosure of information otherwise protected by LR83.51.6.

(c) A lawyer may refuse to offer evidence that the lawyer reasonably believes is false.

(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.

LR83.54.1. Truthfulness in Statements to Others

In the course of representing a client a lawyer shall not knowingly:

Select Rules Governing Attorney Conduct

- (1) make a false statement of material fact or law to a third person; or
- (2) 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 LR83.51.6.