

## **DUTY TO THE COURTS—AN OFFICER AND A GENTLE(WO)MAN**

A LAWYER OWES CANDOR, FAIRNESS, AND GOOD FAITH TO THE COURT.

A lawyer is, first and foremost, an officer of the court. Accordingly, should there be a conflict between his duty to his client and that to the court, he should resolve the conflict against the former and in favor of the latter—his primary responsibility being to uphold the cause of justice.

A lawyer should not conceal the truth from the court, nor mislead the court in any manner—no matter how demanding his duties to clients may be. His duties to his client should yield to his duty to deal candidly with the court. For no client is entitled to receive from the lawyer any service involving dishonesty to the courts.

Candor is the very essence of honorable membership in the legal profession. It requires that a lawyer act with the highest standards of truthfulness, fair play, and nobility in the conduct of litigation and in her relations with her client, the opposing party and his counsel, and the court before which she pleads her client's cause.

♠ A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall she mislead, or allow the Court to be misled by any artifice or chicanery.

♠ A lawyer shall not knowingly misquote or misrepresent the contents of a paper, the language or the argument of opposing counsel, or the text of a decision or authority, or knowingly cite as law a provision already rendered inoperative by repeal or amendment, or assert as a fact that which she does not reasonably believe to be true.

A deliberate misreading or misinterpretation of the law by a lawyer impugns his reputation before the court.

♠ A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.

The legal profession demands that lawyers thoroughly go over pleadings, motions, and other documents dictated or prepared by them, typed or transcribed by their secretaries or clerks, before filing them with the court. If a client is bound by the acts of his counsel, with more reason should counsel be bound by the acts of his staff who merely follow his orders.

Filing of multiple petitions regarding the same subject matter constitutes abuse of the court's processes and improper conduct that tends to obstruct and degrade the administration of justice.

A lawyer should not abuse her right of recourse to the courts for the purpose of arguing a cause that had been repeatedly rebuffed.

A LAWYER SHALL OBSERVE AND MAINTAIN THE RESPECT DUE TO THE COURTS AND TO JUDICIAL OFFICERS AND SHOULD INSIST ON SIMILAR CONDUCT BY OTHERS.

Observing respect due to the courts means that a lawyer should conduct herself toward judges and judicial staff with the propriety and dignity required and expected by the courts.

♠ A lawyer shall appear in court properly attired. A lawyer who dresses improperly may be cited with contempt.

Respect begins with the lawyer's outward physical appearance in court. Sloppy or informal attire adversely reflects on the lawyer and demeans the dignity and solemnity of court proceedings.

♠ A lawyer shall punctually appear at court hearings.

Inexcusable absence from, or repeated tardiness in, attending a pre-trial conference or hearing may subject the lawyer to disciplinary action as his actions show disrespect to the court and are therefore considered contemptuous behavior.

♠ A lawyer shall abstain from scandalous, offensive, or menacing language or behavior before the courts.

A lawyer's language should be forceful but dignified, emphatic but respectful as befitting an advocate and in keeping with the dignity of the legal profession.

♠ A lawyer shall not attribute to a judge motives not supported by the record or having no materiality to the case.

Criticism is appropriate so long as it is supported by the record or it is material to the case. A lawyer's right to criticize the acts of courts and judges in a proper and respectful way and through legitimate channels is well-recognized. The cardinal condition of all such criticism is that it shall be bona fide, and shall not spill over the wall of decency and propriety.

♠ A lawyer shall submit grievances against a Judge to the proper authorities.

The duty to respect does not preclude a lawyer from filing administrative complaints against erring judges, or from acting as counsel for clients who have legitimate grievances against them.

A LAWYER SHALL EXERT EVERY EFFORT AND CONSIDER IT HIS DUTY TO ASSIST IN THE SPEEDY AND EFFICIENT ADMINISTRATION OF JUSTICE.

♠ A lawyer shall not appear for trial unless she has adequately prepared herself on the law and the facts of her case, the evidence she will adduce, and the order of its preference. She should also be ready with the original documents for comparison with the copies.

Without adequate preparation, the lawyer may not be able to effectively assist the court in the efficient administration of justice. Non-observance of this rule might result in:

1. The postponement of the pre-trial conference or hearing, which would thus entail delay in the early disposition of the case;

2. The judge considering the client non-suited or in default;
3. The judge considering the case deemed submitted for decision without client's evidence, to his prejudice.

♠ A lawyer shall not file multiple actions arising from the same cause.

Rationale: There is an affirmative duty of a lawyer to check against useless litigations. His signature in every pleading constitutes a certificate by him that to the best of his knowledge there is a good ground to support it and that it is not to interpose for delay. The willful violation of this rule may subject him to (1) appropriate disciplinary action or (2) render him liable for the costs of litigation.

Excessive delay causes:

- (1) hardships,
- (2) may force parties into unfair settlement,
- (3) nurture a sense of injustice and breed cynicism about the administration of justice

Forum Shopping:

- (1) Going from one court to another in the hope of securing a favorable relief in one court, which another court has denied;
- (2) Filing repetitious suits or proceeding in different courts concerning the same subject matter after one court has decided the suit with finality;
- (3) Filing a similar case in a judicial court after receiving an unfavorable judgment from an administrative tribunal.

There is forum shopping where there are identity of parties or interests represented, rights asserted, and relief sought in different tribunals.

♠ A lawyer shall not, after obtaining extensions of time to file pleadings, memoranda, or briefs, let the period lapse without submitting the same or offering an explanation for his failure to do so.

The court abhors the practice of counsellors who secure repeated extensions of time to file their pleadings and thereafter simply let the period lapse without submitting the pleading or even an explanation for their failure to do so. There exists a breach of duty not only to the court but also to the client and may result in the matter being decided to the client's detriment.

An attorney is bound to protect her client's interest to the best of her ability and with utmost diligence. A failure to file briefs or pleadings for her client may constitute inexcusable neglect on the part of the attorney.

♠ A lawyer shall refrain from talking to his witness during a break or recess in the trial, while the witness is still under examination.

Rationale: To prevent the suspicion that he is coaching the witness what to say during the resumption of the examination; to uphold and maintain fair play with the other party and to prevent the examining lawyer from being tempted to coach his own witness to suit his purpose.

♠ A lawyer shall not knowingly assist a witness to misrepresent himself or to impersonate another.

♠ A lawyer shall not badger, browbeat, or harass a witness.

A LAWYER SHALL RELY UPON THE MERITS OF HIS CAUSE AND REFRAIN FROM ANY IMPROPRIETY WHICH TENDS TO INFLUENCE OR GIVES THE APPEARANCE OF INFLUENCING THE COURT

♠ A lawyer shall not extend extraordinary attention or hospitality to, nor seek opportunity for cultivating familiarity with, judges.

A lawyer should avoid marked attention and unusual hospitality to a judge, uncalled for by the personal relations of the parties, which subjects her and the judge to misconceptions of motives.

The judge has the corresponding duty not to convey or permit others to convey the impression that they are in a special position to influence the judge.

♠ A lawyer shall not engage in improper ex parte communications.

♠ A lawyer shall not make public statements in the media regarding a pending case tending to arouse public opinion for or against a party.