

ETHICS! INTEGRITY!

PROFESSIONAL
RESPONSIBILITY! AND
THE WHAT NOT



IT HAS BEEN WRITTEN....

- **There is no good and evil.
There is only power... and
those too weak to seek it.**



THE ALABAMA RULES OF PROFESSIONAL CONDUCT

- [https://judicial.alabama.gov/
library/RulesBarConduct](https://judicial.alabama.gov/library/RulesBarConduct)

CALL THE BAR

- You can rely on their opinion (limited to the facts you disclosed to the Bar's attorney)

HYOPTHETICAL #1

- You represent Jean Claude. Jean Claude's mother, Susan Schizophrenic, is the victim. You call Susan Schizophrenic she tells you "DA Lason Filson called me and told me he will take away my other children if I didn't say Jean Claude hit last June. Also, Lason Filson told me that he is monitoring my communications using the covid vaccine coding in my medulla oblongata"
- Should you call the Bar?

RULE 8.3 AND RULE 8.4

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- Rule 8.3. Reporting Professional Misconduct. (a) A lawyer possessing unpr knowledge of a violation of Rule 8.4 shall report such knowledge to a trib other authority empowered to investigate or act upon such violation.
 - Rule 8.4. Misconduct. It is professional misconduct for a lawyer to: (a) Viol attempt to violate the Rules of Professional Conduct, knowingly assist or another to do so, or do so through the acts of another; (b) Commit a cri act that reflects adversely on the lawyer's honesty, trustworthiness or fitn lawyer in other respects; (c) Engage in conduct involving dishonesty, fraud or misrepresentation; (d) Engage in conduct that is prejudicial to the administration of justice;

HYOPTHETICAL #2

- Your client Bruce Wayne has a pretrial hearing before Judge Dent. Bruce is charged with assault. Minutes before the hearing, Bruce tells you “hey man, a few weeks ago I got arrested for beating up a circus clown outside of a night club, I made bond, and I am going to fight the charge, don’t tell anybody ok?”. During the hearing when you are requesting mercy from the court when discussing a plea, the Judge asks you “do you know if your client has any other pending cases?” What do you say to the Court?

RULE 1.6. CONFIDENTIALITY OF INFORMATION

- (a) A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraph (b).
- (b) A lawyer may reveal such information to the extent the lawyer reasonably believes necessary:
 - (1) To prevent the client from committing a criminal act that the lawyer believes is likely to result in imminent death or substantial bodily harm; or
 - (2) To establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client.

RULE 3.3. CANDOR TOWARD THE TRIBUNAL

- (a) A lawyer shall not knowingly:
 - (1) Make a false statement of material fact or law to a tribunal;
 - (2) Fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client, unless the lawyer has first advised the tribunal of the client's conduct and the tribunal consents; or
 - (3) Offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall take reasonable remedial measures.

RULE 3.3. CANDOR TOWARD THE TRIBUNAL

- (b) The duties stated in paragraph (a) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6.
- (c) A lawyer may refuse to offer evidence that the lawyer reasonably believes is false.
- (d) In an ex parte proceeding other than a grand jury 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.

HYPOTHETICAL #3

- You are visiting your client Stephen in the jail to discuss the witness testimony of Virginia the following day in court. Stephen tells you, “Don’t worry about Virginia, my lawyer Clyde is going to her house and take care of Virginia tonight at 937pm sharp”.
- Do you call the bar?

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HYPOTHETICAL #4

Your client Hans Gruber confesses to the crime of murdering Jo Takagi and is later identified by 6 Baptist preachers and an off-duty NYPD officer all of whom witnessed Hans commit the murder. The DA gives you a DVD that shows the 6 Baptist preachers and police officer identifying Hans, and the police follow all required procedures. You file a motion to suppress ID and plan to contest identity at trial at your client's behest as your client refuses to enter a plea. The DA threatens to file a bar complaint against you for bad faith, should you be fearful of this threat to file a bar complaint?

RULE 3.1. MERITORIOUS CLAIMS AND CONTENTIONS

- a) In his representation of a client, a lawyer shall not file a suit, assume a position, conduct a defense, delay a trial, or take other action on behalf of the lawyer's client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another person.
- b) A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless defend the proceeding as to require that every element of the case be established.

HYPOTHETICAL #5

You have advised your client not to testify in his jury trial. Your client tells he is going to deny he has a prior conviction for murder while on the stand. Further, your client gives a list of questions he wants you to ask the client. These questions aren't advantageous to your client's interest, what do you do?

RULE 1.2. SCOPE OF REPRESENTATION

a) A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (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 consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

RULE 1.2. SCOPE OF REPRESENTATION

(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.

(e) When a lawyer knows that a client expects assistance not permitted by the Rules of Professional Conduct or other law, the lawyer shall consult with the client regarding the relevant limitations on the lawyer's conduct.

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 - (3) Offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall take reasonable remedial measures.

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HYPOTHETICAL #6

While pending trial, your client Bruce Wayne, accused of assault, posts on Facebook that the victim in his case is “liar”, and Bruce writes on his Facebook page “after this I may dress up like a giant bat, and go bust out that lying victim’s windows”. What should you advise your client about facebook?

DON'T ASK WHY

<https://www.alabar.org/assets/2015/07/2016-AM-MCLE-Materials-15-Ethics-in-Social-Media.pdf>

You may advise client to change his or her privacy settings but may not INSTRUCT destroy, alter, or conceal content on social media.

Provided your conduct does **not constitute spoliation**, you may instruct client to delete damaging info from their social media pages

But you must take appropriate steps to **preserve information** for discovery purposes!!!

