

CODE OF MORAL AND PROFESSIONAL ETHICS

**THE LAWYER'S DUTY TO THE COURTS**

Part 1. It shall be unprofessional for any lawyer to advise, initiate or otherwise participate directly or indirectly in any act that tends to undermine or impugn the authority, dignity, integrity of the courts or judges thereby hindering the effective administration of justice.

Part 2. It is the duty of every lawyer to maintain towards the courts a respectful attitude, not only towards the judge temporarily presiding, but for the purpose of maintaining the supreme importance of his judicial office. Whenever there is proper ground for complaint against judicial officer, it is the right and duty of the lawyer to submit his grievance promptly and fairly.

It is unprofessional and highly criminal for a lawyer in a case to converse privately with the judge presiding in connection with the case either on trial or pending trial, or in any way communicate with the judge in an attempt to unduly influence his judgment, and for the judge himself to allow or encourage such conversation or receive perquisite for his judicial duties or for him to assume an attitude as would unreasonably delay the hearing of the case in the hope of receiving perquisite directly or indirectly, for his judicial service.

Part 3. Usual hospitality and attention to a judge by a lawyer interested in a case, which attention or favor is uncalled for by the customary relations of the parties, subject both the judge and the lawyer to misconstruction of motives, and should be avoided as indecent and unprofessional. A lawyer should not communicate or argue with the judge on any hearing, and he deserves rebuke and denunciation for any device or attempt to gain from a judge special personal consideration or favor during a case hearing or in connection with any case hearing. A self-respecting independence in the discharge of professional duty, without denial or diminution of the courtesy and respect due to the judge's station, is the only proper foundation for cordial personal and official relations between bench and bar.

Part 4. **Waiver of Lawyer's Immunity by virtue of office**

No lawyer, occupying a public office in which he enjoys immunity by law shall be entitled to or be accorded any such immunity, when he voluntarily takes up employment of a private client and submits himself to the jurisdiction of any Court in the Republic in the private practice of law.

## **THE LAWYER'S DUTY TO HIS CLIENT**

- Rule 5. A lawyer assigned as counsel for an indigent person, or a prisoner, ought not to ask to be excused for any trivial reason; nor should money unduly influence his decision to represent or determine the quality of his representation. He should always exert his very best professional effort on behalf of such client.
- Rule 6. Having undertaken the defense of a person accused of crime, regardless of his personal opinion as to the acquittal of the accused, the lawyer shall exert his very best professional effort; otherwise innocent persons, victims only of suspicious circumstances, might be denied proper legal defense.
- Rule 7. The primary duty of the lawyer engaged in public prosecution is not to convict, but to see that justice is done. The suppression of facts or the secreting of witnesses capable of establishing the innocence of the accused is highly reprehensible and utterly unprofessional.
- Rule 8. It is the duty of the lawyer at the time of retainer to disclose to the client all of the circumstances of his relations to the parties, if there be any, and any interest in or connection with the controversy, which might influence the client in the selection of counsel. It is unprofessional to represent conflicting interests.
- Rule 9. Within the meaning of this Rule, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose. The obligation to represent the client with undivided fidelity, and not to divulge his secrets or confidences, forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed.

- Rule 10. A client's offer of assistance of additional counsel should not be regarded as evidence of want of confidence, but the right to employ additional counsel with the knowledge of the original counsel, is the right of every client. A lawyer should decline association as a colleague in a case, if his employment is objectionable to the original counsel; but if the lawyer first retained is relieved, a brother-lawyer may be retained without question. Efforts to direct or indirect, which in any way encroach upon the professional employment of another lawyer, are unworthy of those who should be brethren at the Bar.
- Rule 11. A lawyer should endeavor to obtain full knowledge of his client's cause before advising thereon, and he is bound to give a candid opinion of the merits and probable result of pending contemplated litigation. Whenever the controversy will not admit of fair judgment, the client should be advised to avoid or to end litigation, and it is unprofessional for a lawyer to advise the institution or continuation of an unmeritorious suit.
- Rule 12. A lawyer should not in any circumstance communicate upon the subject of controversy with a party represented by counsel; much less should he undertake to negotiate or compromise the matter with him, but should deal only with his counsel. It is incumbent upon the lawyer most particularly to avoid everything that may tend to mislead a party not represented by counsel, and he should not undertake to advise him as to the law without being retained.
- Rule 13. No lawyer should acquire interest in the subject matter of a litigation which he is conducting, either by purchase or otherwise, which said interest he did not hold or own prior to the institution of the suit. This rule should not prevent a lawyer from agreeing with client to accept for this service a reasonable percentage of the sum sued for in an action of debt.
- Rule 14. It is unethical and highly criminal for a lawyer to extract money from a prospective client in a criminal prosecution to offer to a judge for the approval of an appearance bond contrary to statute and the Rules of Court. Any lawyer violating this rule shall be subject to disciplinary action thru the Ethics and Grievance Committee of the National Bar. And in case of a judge, thru the Judicial Inquiry Commission of the Supreme Court.

Rule 15. A lawyer should refrain from any act whereby for his personal benefit or gain he abuses or takes advantage of the confidence reposed in him by his client.

Money collected for his client, or other money or property of his said client coming into his possession as a result of his professional duty to his client, should be reported and accounted for promptly, and should not under any circumstances be commingled with his own or be used by him.

Rule 16. In fixing fees, a lawyer should avoid charges which overestimate his advice and services, as well as those which under-value them. A client's ability to pay cannot justify a charge in excess of the value of the service, though his property may require a less charge, or even none at all. The reasonable requests of brother-lawyers, and of their widows and orphans without ample means, should receive special and kindly consideration. In determining charges for services to a client, it is proper for a lawyer to consider a schedule of minimum charge prescribed by the Bar Association in such cases; and it is unprofessional for a lawyer to charge a fee lower than his brother-lawyer had charged a client, in an effort to court the client business.

Rule 17. Client, not lawyers, are the litigants. Whatever may be the ill feeling existing between clients, it should not be allowed to influence counsels in their demeanor toward each other or toward suitors in the case. All personalities between counsels should be scrupulously avoided. In the trial of a case it is indecent to allude to the personal history or the personal peculiarities and idiosyncrasies of counsel on the other side. Wrangling between lawyers on opposite sides in a case does not become members of the profession.

#### **LAWYER'S TREATMENT OF A WITNESS**

Rule 18. A lawyer should always treat adverse witnesses and suitors with fairness and due consideration, and he should never allow himself to be drawn into the malevolence of prejudice of a client in the trial or conduct of a case. Improper speech is indecent, and is not excusable on the ground that his client wills him to use it.

### **THE LAWYER AS A WITNESS**

- Rule 19. When a lawyer is a witness for his client, he should leave the conduct of the case to other counsel. Except when essential to the ends of justice, a lawyer should avoid testifying in court for his client.

### **THE LAWYER AND NEWSPAPER PUBLICATIONS**

- Rule 20. The lawyer should avoid publication of anything pertaining to pending or anticipated litigation, as such publication might interfere with a fair trial of the matter, and prejudice the due administration of justice. If the extreme circumstances of a particular case justify a statement to the public, it is unprofessional to make it anonymously. An ex parte reference to the facts should not go beyond quotation from the records and papers on file in court; but even in extreme cases it is better to avoid any ex-parte statement.

### **A LAWYER'S PUNCTUALITY**

- Rule 21. It is the duty of the lawyer to be punctual in his attendance to court, and to be prompt and faithful in answering assignments received by him, notifying the time for hearing of his client's case. It is also his duty to the public and to his profession to avoid tardiness in the performance of his professional duties.

### **THE LAWYER'S CANDOR AND FAIRNESS**

- Rule 22. The conduct of the lawyer before the court and with other lawyers should be characterized by candor and fairness. It is not candid or fair for the lawyer knowingly to misquote the contents of a paper, the testimony of a witness, the language of the argument of opposing counsel, or the language of a decision or a text book; or with knowledge of its invalidity, to cite as authority a decision that has been overturned or recalled, or a statute that has been repealed or in argument to assert as fact that which has not been proved, or in opening argument to mislead his opponent by concealing or withholding position upon which his side intends to rely.

It is unprofessional and dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in drawing affidavits and other documents, and in the presentation of causes. A lawyer should not offer evidence which he knows the court should reject, in order to get the same before the jury by argument for its admissibility, nor should he address to the judge arguments upon any point not properly calling for determination by him neither should he introduce into an argument addressed to the court, remarks or statement intended to influence the jury or bystanders. These practices are unprofessional and unworthy of an officer of the law charged as is the lawyer, with the duty of aiding in the administration of Justice.

### **THE LAWYER'S ATTITUDES TOWARD THE JURY**

Rule 23. All attempts to court the favor of the impaneled jury by fawning, flattery or pretended solicitude for their personal or collective comfort, during the trial of a case, are unprofessional. A lawyer should never converse privately with the panel or any member thereof, before the return of their verdict; and both before and during the trial he should avoid communicating with them, even as to matters foreign to the case.

A lawyer should avoid entertaining, or granting favors to members of a panel during the hearing of the case, or immediately after the jury has returned a verdict for his client; in which the case his said act is indecent, and in the latter case could be regarded with unprofessional suspicion.

Rule 24. A lawyer's word of honour is sacred and his dealings in all matters, and on all occasions, should be such as repugnant to his oath, and degrading to his profession.

Rule 25. A lawyer should always ensure the court records, minutes, precepts and other legal documents are legally prepared and handled. It is unprofessional, unethical and dishonorable for a lawyer to participate in, or initiate the illegal preparation or falsification of court records, minutes, precepts or other legal documents. A lawyer found guilty of this act is unfit to be a member of the bar and shall be subject to suspension for a period of one year for the first offense and for the second offense, disbarment from the practice of law.

### **THE LAWYERS AS ADVOCATE OTHER THAN BEFORE COURT**

Rule 26. A lawyer may render professional services before legislative or other bodies, regarding proposed legislation and in advocacy of claims before departments of Government, upon the same principles and ethics which justify and control his duties before courts; but it is unprofessional for a lawyer so engaged to conceal his profession, or to employ methods in his representation repugnant to those required of him by ethics of his profession and/or duties to the court and the legal profession.

Rule 27. It is unprofessional to solicit professional employment by circulars, advertisement, personal communications or interviews not warranted by usual personal relations. It is not improper however to hang up a shingle or signboard showing the counsel's office address and hours of work, simple professional cards are also in order.

It is therefore improper and unprofessional for a lawyer to advertise himself for retainer in a prospective case.

### **STIRRING UP LITIGATION**

Rule 28. It is unprofessional for a lawyer to volunteer advice to bring a lawsuit, except in rare cases where ties of blood, relation or interest make it his business or duty to do so. Stirring up strife and litigation is not only unprofessional, but is criminal.

A duty to the public and to the profession devolves upon every member of the Bar having knowledge of such practices on part of any lawyer, immediately to bring the information to the attention of the Bar Association, to the end that the offender may be disbarred.

### **UPHOLDING THE HONOUR OF THE PROFESSION**

Rule 29. (1) Lawyers should expose without fear or favor before the Bar Association, corrupt or dishonest conduct in the profession, and should accept without hesitation employment against a member of the Bar who has wronged his client, first giving notice to the said member of the Bar of the client's intention to seek redress, a copy of which said notice should also be furnished to the Bar Association.

(2) A conviction by the courts of a lawyer for any criminal act, or for conduct in violation of this code of ethics, is sufficient proof of the lawyer's unfitness to remain in the bar if found guilty of crime, and he may be penalized by disbarment or suspension from the Bar in case of violation of the code.

(3) Every lawyer should aid in guiding the Bar against the admission of the profession of candidate unfit or unqualified, because of deficiency in either moral character or education. It is the duty of every lawyer, and he should strive at all times, to uphold the honour and maintain the dignity of the profession, and to improve not only the law but the administration of justice.

Rule 30. Any lawyer who shall be addicted to such ungentlemanly conduct as rioting, drunkenness, and other act forbidden by the code of professional ethics, or shall be convicted of crime, shall be tried in keeping with rules controlling unprofessional conduct, and if adjudged guilty shall be refused practice before any court, directly or indirectly. Any lawyer who shall in any manner assist such defaulter by encouraging and aiding him in the practice of law, after having been tried and suspended or disbarred, and whilst serving said punishment, shall be held to answer for irregular conduct, and suspended from practice for a period of six months certain; for second offense one year suspension and shall be disbarred from practice of law for the third offense.

#### **JUSTIFIABLE AND UNJUSTIFIABLE LITIGATION**

Rule 31. The lawyer must decline to conduct a civil case, or make a defense when convinced that it is intended merely to harass or to injure the opposite party or to work oppression or wrong. But otherwise it is his right, and, having accepted retainer, it becomes his duty to insist upon the judgment of the court as to the legal merits of his client's claim.

His appearance in court should be deemed equivalent to an assertion on his honour that in his opinion his client's case is one proper for judicial determination.



### **RESPONSIBILITY FOR REPRESENTATION**

Rule 32. No lawyer is obliged to act either as adviser or advocate for every person who may wish to become his client. He has the right to decline employment. Every lawyer upon his own responsibility must decide what he will accept as counsel, what causes he will bring into court for plaintiffs, what causes he will contest in court for defendants.

The responsibility for advising as to questionable transactions, for bringing questionable suit, for urging questionable defenses is the lawyers' responsibility. He cannot escape it by contending that he is only following his client's instructions.

### **THE LAWYER'S DUTY IN ITS LAST ANALYSIS**

Rule 33. No client, corporate or individual however powerful, nor any cause, civil or political however important, is entitled to receive any advice involving disloyalty to the state, or to the law whose ministers we are. No lawyer should disrespect the judicial office which we are bound to uphold, or condone the corrupt and dishonest acts of any person or persons exercising public office or private trust. A lawyer will find his highest honour in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.

### **RETIREMENT FROM PUBLIC OR JUDICIAL EMPLOYMENT**

Rule 34. A lawyer should not accept employment as an advocate in any matter upon the merits of which he has previously acted in a judicial capacity. A lawyer, having once held public office or having been in public employ should not after his retirement accept employment in connection with any matter which he has investigated or passed upon while in such office or employ.

### **CONFIDENCES OF A CLIENT**

Rule 35. It is the duty of a lawyer to preserve his client's confidences. This duty outlasts the lawyer's employment and extends as well to his employees, and neither of them should accept employment which involves or may involve the disclosure or use of these confidences, either for the private advantage of the lawyer or his employees or to the disadvantage of the client, without his knowledge and consent, and even though there are other available sources of such information. A lawyer should not

continue employment when he discovers that his obligation prevents the performance of his full duty to his former or to his new client. If a lawyer is accused by his client, he is not precluded from disclosing the truth in respect to the accusation. The announced intention of a client to commit a crime is not included within the confidences which he is bound to respect. He may properly make such disclosures as may be necessary to prevent a criminal act, or protect those against whom it is threatened.

#### **WITHDRAWAL FROM CLIENT'S EMPLOYMENT**

- Rule 36. The right of a lawyer to withdraw from employment once assumed, arises not only from good cause. Even the desire or consent of the client is not always sufficient. The lawyer should not throw up the unfinished task to the detriment of his client, except for reasons of honour or self-respect. A client's insistence on a course which the professional duty and integrity of the lawyer does not permit, he may be warranted in withdrawing from, on due notice to the client, allowing him time to employ another lawyer. So also when a lawyer discovers that his client has no case and the client is determined to continue it, or even if the lawyer finds himself incapable of conducting the case effectively. Upon withdrawing from a case after a retainer has been paid, the lawyer should refund such part of the retainer as has not been clearly earned. Once counsel has withdrawn or the counsel services has been terminated the said counsel is barred from representing the adverse party on the same subject matter.

#### **AIDING THE UNAUTHORIZED PRACTICE OF LAW**

- Rule 37. No lawyer should permit his professional services, or his name, to be used in aid of or in connection with, or to make possible, the unauthorized practice of law by laymen or lay agencies, personal or corporate, or by persons who have failed to strictly comply with the rules controlling the admission of lawyers. Any lawyer found guilty of violating this rule shall be suspended for a period to be determined by the court.
- Rule 38. No lawyer shall accept to represent or be retained in any litigation in the courts of Liberia for less than the minimum charges fixed by the National Bar Association and approved by the Supreme Court, unless in cases of indigence of a client, or where a court of competent jurisdiction orders such representation in which case arrangement for payment for legal services will be in accordance with law administrative procedure. The test of the indigence of a client will be verified by oath of the particular client. Minimum charges for legal representation are as follows:

1. Ex Parte Cases before the Justice of the Peace (J.P.),  
Magistrate and Traffic Courts ..... \$ 300.00
2. Contested Cases before J.P., Magistrate  
and Traffic Courts ..... \$ 500.00
3. Ex Parte Cases before a Court of Record ..... \$ 750.00
4. Contested Cases before Court of Record ..... \$ 1,000.00
5. Minimum Charges for representation  
before the Supreme Court shall in no  
case be less than ..... \$ 1,500.00

Lawyers violating this Rule or charging less than their brother lawyers will be subject to professional disciplinary action through the Ethics and Grievance Committee.

The minimum charges as set out above shall be reviewed and updated from time to time by the National Bar Association and approved by the Supreme Court before becoming effective.

**COMMITMENT OF LAWYERS AND JUDGES TO THE ETHICS AND RULES OF THE LEGAL PROFESSION**

- Rule 39. It is expected of every member of the legal profession, be he a judge or a practicing lawyer, under the professional oath he has taken to support the Constitution of the Republic of Liberia, and uphold the laws of his country and the rules of all courts, to stand firm and committed to the enforcement of these rules through courts and the Ethics and Grievance Committee of the National Bar Association set by the Chief Justice of the Supreme Court of Liberia.

**A LAWYER'S DUTY TO HIS BROTHER LAWYER**

- Rule 40. The legal profession is a fraternity to which all lawyers are members; therefore a spirit of brotherhood should at all times characterize their treatment to, and consideration of each other.

## **OATH OF ADMISSION AS AN ATTORNEY-AT-LAW**

The following oath enumerates most, if not all of the general and universal principles which should control a lawyer in the practice of his profession, and set forth in the said oath which conforms to the general duties of his admission if strictly performed, entitles the said lawyer to perpetual membership of the profession in Liberia; a violation of any of the duties herein enumerated and sworn to, will subject the violator to answer in disbarment proceedings, as are provided for in the rules of moral and ethical conduct.

### **THE OATH**

(NAME IN FULL) DO SOLEMNLY SWEAR, THAT, I will always demean myself as a gentleman, and a respectable and honorable citizen of the Republic of Liberia, and will support and uphold the Constitution, and uphold the laws of my country; and the Rules of all courts of my country; and those governing the conduct of lawyers. I will at all times give that due respect to the courts of my country and will recognize the judicial and other offices thereof and their authority and will do nothing to impugn the dignity and undermine the authority of the courts. I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the laws of the land; I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honour, and will never seek to mislead a judge or jury by any artifice or false statement of fact or law; I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation or reward in connection with his business, except from him or with his knowledge and approval; I will abstain from all offensive personality, and will avoid connection or association with any shady, dishonest or dishonorable transaction; and will not obtain verdict, either by reward, hope of reward, threat, or other undue influence not in strict conformity with trial procedure in Liberia.

I will never reject, for any consideration personal to myself, the cause of the defenseless or oppressed, or delay ancient's cause for unjustifiable reason, or for money. **SO HELP ME GOD.**

A Modern Definition of a good Judge:

- (1) First, a good Judge must be honest;
- (2) Second, he must possess a reasonable amount of industry;
- (3) Third, he must have courage; and
- (4) Fourth, he must be a gentleman and then, if he has some knowledge of law it will help.

Justice Bernard Boteins  
TRIAL JUDGE

The Eight Cardinal Judicial Virtues

- (1) The virtue of independence;
- (2) The virtue of courtesy and patience;
- (3) The virtue of dignity, including the Judge's sense of honour;
- (4) The virtue of open-mindedness;
- (5) The virtue of impartiality;
- (6) The virtue of thoroughness and decisiveness;
- (7) The virtue of understanding heart; and
- (8) The virtue of social consciousness.

Barnard L. Shienog

Four things belong to a Judge

- (1) To hear courteously;
- (2) To answer wisely;
- (3) To consider soberly; and
- (4) To decide impartially.

Essential Qualities of a Judge

Judges ought to remember that their office is Jus Dicere and not Jus Dare, to interpret law and not to make law, or give law . . . judges ought to be more learned than witty, more reverend than plausible, and more advised than confident. Above all things, integrity is their portion and proper virtue.

Sir Francis Bacon

Essential of any definition of a true Judge

Three essentials stand out in any definition of a true Judge; they are:

- (1) Impartiality;
- (2) Independence; and
- (3) Immunity

Of these, impartiality is the most important; independence and immunity are the means of achieving impartiality. Judges should be free from every tie which may sway their judgment. They should be answerable to no one and immune from liability for judicial acts, to the end that justice may be administered without favor. The independence that judges must have to administer the law impartially was achieved only after the courts became separated from the government organs and only, as we have seen, when it was recognized that justice was a mockery and a force if the judges were dependent on other departments of government for their income or for the retention of their office. Without these all the personal qualification of the judge – the character, courage, honesty, wisdom and fearing – are of little import or value save in usual crisis, where the judge is called to stand up to a test that is not fair or wise to impose on any man.

Chief Justice Arthur F. Vanderbilt of New Jersey