

THE 2016 ETHY AWARDS

The Best of the Worst Ethics Offenders

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Sean Carter is the founder of *Lawpsided Seminars*, a company devoted to solid legal continuing education with a healthy dose of laughter.

Mr. Carter graduated from Harvard Law School in 1992. His ten years of legal practice focused on corporate securities and mergers and acquisitions. During this time, he represented such clients as GNC, Experian, The Boston Beer Company, Homeside Lending, Safelite Auto Glass, J. Crew and many others, before eventually serving as in-house counsel to a publicly-traded finance company.

In 2002, Mr. Carter left the practice of law to pursue a career as the country's foremost Humorist at Law. Since then, Mr. Carter has crisscrossed the country delivering his Lawpsided Seminars for state and local bar associations, law firms, in-house corporate legal departments and law schools. Each year, he presents more than 100 humorous programs on such topics as legal ethics, stress management, constitutional law, legal marketing and much more.

Mr. Carter is the author of the first-ever comedic legal treatise -- *If It Does Not Fit, Must You Acquit?: Your Humorous Guide to the Law*. His syndicated legal humor column has appeared in general circulation newspapers in more than 30 states and his weekly humor column for lawyers appeared in the *ABA e-Report* from 2003 to 2006.

Finally, Sean lives in Mesa, Arizona with his wife and four sons.

The “Academy” has reviewed disciplinary reports from across the country to compile its list of the “Best of the Worst” in various categories of ethics violations. Awards will be given in categories that correspond with the most common ethical violations. While each of the nominees has violated an ethical rule in a grievous manner, they can serve as warnings for attorneys to avoid similar (although likely, far less flagrant) violations.

The Eager Beaver Award

While most ethical violations result from an attorney's misconduct in the practice of law, some lawyers are too eager to wait for admission to the bar to begin violating its ethics rules. Their misdeeds prevent them from ever becoming lawyers, particularly, when they violate the following rules:

Rule 5.5. Unauthorized Practice of Law; Multijurisdictional Practice Of Law.

- (b) A lawyer who is not admitted to practice in this jurisdiction shall not do either of the following:
 - (1) except as authorized by these rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law;
 - (2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

Rule 8.1 Bar Admission And Disciplinary Matters

In connection with a bar admission application or in connection with a disciplinary matter, a lawyer shall not do any of the following:

- (a) knowingly make a false statement of material fact;
- (b) in response to a demand for information from an admissions or disciplinary authority, fail to disclose a material fact or knowingly fail to respond, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

(1) The duty imposed by this rule applies to a lawyer's own admission or discipline as well as that of others. Thus, it is a separate professional offense for a lawyer to knowingly make a misrepresentation or omit a material fact in connection with a disciplinary investigation of the lawyer's own conduct. Rule I of the Supreme Court Rules for the Government of the Bar of Ohio addresses the obligations of applicants for admission to the bar.

NOMINEES

Mr. Wonderful (142 Ohio St.3d 1272, 2015-Ohio-1951): An Ohio lawyer was suspended upon his felony conviction for unauthorized practice of law in New York, where he practiced without a license for 12 years.

Return to Sender (Case No. 2014AP175-D): A Wisconsin lawyer received reciprocal discipline of a 60-day suspension imposed in Arizona, notwithstanding the fact that the attorney was not licensed in Arizona.

Purple Rain (143 Ohio St.3d 411, 2015-Ohio-3277): Bar applicant is forever precluded from sitting for the bar exam because of a felony conviction for preparing false tax returns and seven personal bankruptcy filings.

Office Space (Admonition 15-12): A Massachusetts lawyer was admonished for failing to obtain a Limited In-House Corporate Counsel License after her job was relocated to Pennsylvania in 2011.

LESSONS: A lawyer must be careful to follow the admissions rules to the letter. Furthermore, lawyers must realize that they will be accountable for actions that occur even prior to being admitted to the practice of law as they reflect on his/her “moral character.” And perhaps, the thing that reflects most on this character is the lawyer’s willingness to be candid about prior misdeeds in the bar application process, regardless of how “irrelevant” the lawyer may consider them.

The Outlawyer

As officers of the court, lawyers have an obligation to abide by the law. The nominees in this category have committed egregious acts of criminality resulting in the loss of their privilege to practice law; and in some cases, the loss of their freedom. In the process, they have violated the following rule:

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to do any of the following:

(b) commit an illegal act that reflects adversely on the lawyer's honesty or trustworthiness;

(2) Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving "moral turpitude." That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.

NOMINEES

Blues Brothers (No. 14PDJ105): A Colorado lawyer was suspended for two years, all but 90 days stayed, after being caught attempting to drive from California to Illinois with 7.25 pounds of marijuana in his car.

Sex, Lies & Videotape (Case No. 12-C-15595): A California lawyer received a two-year suspension for hiding a small video camera in a unisex public restroom on four occasions during a two-month period.

Grapes of Wrath (Slip Opinion No. 2015-Ohio-2488): An Ohio lawyer was suspended for two years, with one year stayed, for shoplifting pricey wines from a grocery store on seven occasions.

The Carpenter (Misc. Docket AG No. 28, September Term 2014): A Maryland lawyer was disbarred for working as an unlicensed home improvement contractor, which is a criminal offense in Maryland.

Dukes of Hazzard (Unfiled, as of yet): An Alabama lawyer is facing calls for his disbarment after removing confederate flags from a cemetery.

LESSON: In the case of the law, it's not enough to know it, but to follow it as well. And while most attorneys value their freedom too highly to commit serious crimes, we have an obligation to avoid "a pattern of repeated offenses, even ones of minor significance when considered separately" (i.e., the "little" crimes). This is the case even if the proscribed activity is unrelated to the practice of law.

Most Creative Billing

Under Rule 1.5, a lawyer is prohibited from charging or collecting “an unreasonable fee.” Of course, there is no bright line test to determine whether a fee is unreasonable. Instead, it is a balancing test. Yet, the attorney who crosses this fuzzy line may face disciplinary action. This same fate may also await those lawyers who charge a fee that is “unreasonable” through over-billing or inflated expense reimbursements.

Rule 1.5 Fees and Expenses

- (a) A lawyer shall not make an agreement for, charge, or collect an illegal or clearly excessive fee. A fee is clearly excessive when, after a review of the facts, a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee. The factors to be considered in determining the reasonableness of a fee include the following:
- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
 - (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
 - (3) the fee customarily charged in the locality for similar legal services;
 - (4) the amount involved and the results obtained;
 - (5) the time limitations imposed by the client or by the circumstances;
 - (6) the nature and length of the professional relationship with the client;
 - (7) the experience, reputation, and ability of the lawyer or lawyers performing the services;
 - (8) whether the fee is fixed or contingent.
- (b) The nature and scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, unless the lawyer will charge a client whom the lawyer has regularly represented on the same basis as previously charged. Any change in the basis or rate of the fee or expenses is subject to division (a) of this rule and shall promptly be communicated to the client, preferably in writing.

- (c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by division (d) of this rule or other law.
 - (1) Each contingent fee agreement shall be in a writing signed by the client and the lawyer and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial, or appeal; litigation and other expenses to be deducted from the recovery; and whether such expenses are to be deducted before or after the contingent fee is calculated. The agreement shall clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party.
 - (2) If the lawyer becomes entitled to compensation under the contingent fee agreement and the lawyer will be disbursing funds, the lawyer shall prepare a closing statement and shall provide the client with that statement at the time of or prior to the receipt of compensation under the agreement. The closing statement shall specify the manner in which the compensation was determined under the agreement, any costs and expenses deducted by the lawyer from the judgment or settlement involved, and, if applicable, the actual division of the lawyer's fees with a lawyer not in the same firm, as required in division (e)(3) of this rule. The closing statement shall be signed by the client and lawyer.

Rule 1.8. Conflict of Interest: Current Client: Specific Rules

- (c) A lawyer shall not solicit any substantial gift from a client. A lawyer shall not prepare on behalf of a client an instrument giving the lawyer, the lawyer's partner, associate, paralegal, law clerk, or other employee of the lawyer's firm, a lawyer acting "of counsel" in the lawyer's firm, or a person related to the lawyer any gift unless the lawyer or other recipient of the gift is related to the client. For purposes of division (c) of this rule:
 - (1) "person related to the lawyer" includes a spouse, child, grandchild, parent, grandparent, sibling, or other relative or individual with whom the lawyer or the client maintains a close, familial relationship;
 - (2) "gift" includes a testamentary gift.

NOMINEES

Birdman (Commission No. 2012PR00155): The Illinois Hearing Board has recommended a six-month suspension for a lawyer who charged contingency fees that were not set forth in writing.

Perry Mason (No. E2014-01062-SC-R3-BP): A Tennessee lawyer was suspended one year for billing clients for the time she spent watching legal shows on TV.

Up in Smoke (Docket No. 15-DB-001): A Louisiana lawyer received a deferred suspension of one year and one day for accepting marijuana as payment of his retainer.

Get On Up (No. 15-0859): An Iowa lawyer was suspended upon pleading guilty to fraud charges for overbilling the State Public Defenders Office.

Shanghai Surprise (No. 15-1391): An Iowa lawyer was suspended for 30 days for failing to notify clients of a 33% increase in her hourly rate.

Pretty Woman (No. 49S00-1402-DI-118): An Indiana lawyer was suspended for at least one year for attempting to trade legal services for sex.

LESSON: In addition to being scrupulously honest, it's important for lawyers to be meticulous and timely with billing matters. Overbilling that results from failure to keep timely records will be nonetheless punished, as will failure to *immediately* return excess funds to the client. Likewise, failure to meet any applicable written disclosure requirements may subject the attorney to discipline. And finally, any fee arrangement must be legal.

The Houdini Award

Unfortunately, some lawyers have an almost “magical” way of causing money to disappear from the accounts of their clients and even law partners. The nominees in this category worked their “magic” in spectacular fashion, violating the following ethics rules:

Rule 1.15. Safekeeping Property.

- (a) A lawyer shall hold property of clients or third persons that is in a lawyer’s possession in connection with a representation separate from the lawyer’s own property. Funds shall be kept in a separate interest-bearing account in a financial institution authorized to do business in Ohio and maintained in the state where the lawyer’s office is situated. The account shall be designated as a “client trust account,” “IOLTA account,” or with a clearly identifiable fiduciary title. Other property shall be identified as such and appropriately safeguarded. Records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of seven years after termination of the representation or the appropriate disbursement of such funds or property, whichever comes first. For other property, the lawyer shall maintain a record that identifies the property, the date received, the person on whose behalf the property was held, and the date of distribution....
- (b) A lawyer may deposit the lawyer’s own funds in a client trust account for the sole purpose of paying or obtaining a waiver of bank service charges on that account, but only in an amount necessary for that purpose.
- (c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

[3] Lawyers often receive funds from which the lawyer’s fee will be paid. The lawyer is not required to remit to the client funds that the lawyer reasonably believes represent fees owed. However, a lawyer may not hold funds to coerce a client into accepting the lawyer’s contention. The disputed portion of the funds must be kept in a trust account and the lawyer should suggest means for prompt resolution of the dispute, such as arbitration. The undisputed portion of the funds shall be promptly distributed.

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to do any of the following:

- (b) commit an illegal act that reflects adversely on the lawyer’s honesty or trustworthiness;
- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

NOMINEES

Not Suitable for Children (Case No. 11-O-15647): A California lawyer received a two-year stayed suspension for using a client's child support payments to pay his legal fees.

Petty Crimes (Appellate Case No. 2014-002459): A South Carolina lawyer was disbarred for misappropriating \$4,000 in legal fees from his firm.

American Gigolo (2015 OK 16, 348 P.3d 204, Case Number: SCBD-6235): An Oklahoma lawyer resigned after receiving numerous gifts from a wealthy elderly client.

Trust (Misc. Docket AG No. 73, September 2013 Term): A Maryland lawyer was disbarred after his paralegal stole money from the client trust account.

Even Money (S15Y1050): A Georgia lawyer surrender his his license after admitting to improperly withdrawing \$275,000 from the client trust account, despite later replacing the funds.

LESSON: Attorneys must *always* keep separate their funds and those belonging to clients. Any commingling (regardless of the amount, frequency or eventual replacement) will be punished harshly by disciplinary authorities. It's important to note that lawyers will become involved in these behaviors after decades of honorable legal service. This should serve as a reminder that *any* lawyer could fall prey to greed and financial mismanagement. Furthermore, lawyers have an obligation to protect client funds from theft by others.

Best Supporting Actor (In a Criminal Activity)

While a lawyer has an obligation to provide zealous representation to a client, a lawyer must not cross the line to providing *illegal* representation. Specifically, a lawyer may not aid or abet a client in their criminal actions. This admonition applies to both the lawyer's role as an advisor and advocate. Therefore, a lawyer should not advise the client to commit a crime nor should the lawyer actively assist the client in doing so. Nor may a lawyer assist another lawyer in the unauthorized practice of law.

Rule 1.2 Scope Of Representation And Allocation Of Authority Between Client And Lawyer

(d)

- (1) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is illegal or fraudulent. A lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client in making a good faith effort to determine the validity, scope, meaning, or application of the law.

Rule 3.4 Fairness to Opposing Party and Counsel

A lawyer shall not do any of the following:

- (a) unlawfully obstruct another party's access to evidence; unlawfully alter, destroy, or conceal a document or other material having potential evidentiary value; or 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 a good faith assertion that no valid obligation exists;
- (d) in pretrial procedure, intentionally or habitually make a frivolous motion or 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 or by a good-faith belief that such evidence

may exist, 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;

- (g) advise or cause a person to hide or to leave the jurisdiction of a tribunal for the purpose of becoming unavailable as a witness.

Rule 5.5 Unauthorized Practice of Law; Multijurisdictional Practice of Law

- (a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to do any of the following:

- (a) violate or attempt to violate the Ohio Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit an illegal act that reflects adversely on the lawyer's honesty or trustworthiness;
- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of the Ohio Rules of Professional Conduct, the applicable rules of judicial conduct, or other law;

NOMINEES

Witness (Slip Opinion No. 2015-Ohio-2020.): An Ohio lawyer received an indefinite suspension for paying a witness to leave the state.

Forrest Gump (15PDJ035.): A Colorado lawyer received a public censure for advising his criminal defendant client to flee the jurisdiction.

A Civil Action (A14-0570): A Minnesota lawyer was suspended for 30 days for negotiating a settlement in a civil case that required his client to forego testifying against the defendant in the underlying criminal matter.

The Rainmaker (2014 OK 44, Case Number: SCBD-6130): A New York lawyer resigned was suspended for two years for assisting a disbarred lawyer in the unauthorized practice of law by hiring him as a "legal assistant."

Incognito (Case No. 65705): A Nevada disciplinary panel has recommended a five-year suspension for a lawyer who forged certificates of completion of court-ordered counseling and community service for his clients.

LESSON: A lawyer's advice or assistance in subverting the judicial process will be dealt with harshly because it goes to the heart of the lawyer's function in society. A lawyer who demonstrates blatant disrespect for the proper administration of justice will often be seen to have forfeited the privilege of being a member of this learned profession.

The AT&T Award

In years past, AT&T encouraged us to “reach out and touch someone.” The nominees in this category were in dire need of such encouragement, either failing to make necessary contact with clients or making such contact but failing to be candid in such interactions. In the process, they engaged in the most common ethical violation – failure to communicate. In some cases, this duty to communicate requires the lawyer to report improper behavior to authorities within an organization; and if necessary, those outside of the organization.

RULE 1.4 Communication

- (a) A lawyer shall do all of the following:
 - (1) promptly inform the client of any decision or circumstance with respect to which the client’s informed consent is required by these rules;
 - (2) reasonably consult with the client about the means by which the client’s objectives are to be accomplished;
 - (3) keep the client reasonably informed about the status of the matter;
 - (4) comply as soon as practicable with reasonable requests for information from the client;
 - (5) consult with the client about any relevant limitation on the lawyer’s conduct when the lawyer knows that the client expects assistance not permitted by the Ohio Rules of Professional Conduct or other law.
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

NOMINEES

Ice Age (15PDJ034): A Colorado lawyer received a stayed 90-day suspension for failing to adequately advise his client about \$235,000 of penalties that were assessed against her in a contested probate matter)

The Paper (Slip Opinion No. 2016-Ohio-535): An Ohio lawyer was suspended for six months for failing to advise two clients that their cases had been dismissed.

Waiting for Forever (D-61-15): A New York lawyer was suspended for 90 days for falsely telling that his client’s appeal was pending two years after it had been dismissed.

Charlie's Angels: A D.C. Hearing Committee has charged a lawyer with, among other things, filing a Chapter 13 bankruptcy petition for a client with whom she had never communicated directly (she had only communicated with the client's wife).

LESSON: Many lawyers fail to communicate with clients when they have failed to achieve the desired result (or have neglected to take action in the first place). Some lawyers will then proceed to make the problem worse by making false reports to the client. This foolish pride almost always exacerbates the problem because as the old Watergate saying goes, "It's not the crime. It's the cover-up."

The Joan Rivers Award

Lawyers have an obligation to keep client confidences. This obligation is at the heart of the lawyer's ability to provide zealous representation for the client. Without the assurance of confidentiality, clients will be less likely to provide their lawyers with all of the facts necessary to properly access the client's case. Notwithstanding the foregoing, an attorney's confidentiality obligation is not absolute as there are situations in which the disclosure of client confidences is not only proper but also required. The nominees in this category had no such justifications for "spilling the beans."

Rule 1.6 Confidentiality of Information.

- (a) A lawyer shall not reveal information relating to the representation of a client, including information protected by the attorney-client privilege under applicable law, unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by division (b) or required by division (c) of this rule.
- (b) A lawyer may reveal information relating to the representation of a client, including information protected by the attorney-client privilege under applicable law, to the extent the lawyer reasonably believes necessary for any of the following purposes:
 - (1) to prevent reasonably certain death or substantial bodily harm;
 - (2) to prevent the commission of a crime by the client or other person;
 - (3) to mitigate substantial injury to the financial interests or property of another that has resulted from the client's commission of an illegal or fraudulent act, in furtherance of which the client has used the lawyer's services;
 - (4) to secure legal advice about the lawyer's compliance with these rules;
 - (5) 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, including any disciplinary matter, concerning the lawyer's representation of the client;
 - (6) to comply with other law or a court order.
- (c) A lawyer shall reveal information relating to the representation of a client, including information protected by the attorney-client privilege under applicable law, to the extent the lawyer reasonably believes necessary to comply with Rule 3.3 or 4.1.

NOMINEES

Porky's Revenge (2015 NY Slip Op 06483 [132 AD3d 1]): A New York lawyer was suspended for one year for making false statements about a former client in an effort to have the client deported in retaliation for discharging the lawyer.

From Hell (Docket No. DRB 14-105): A New Jersey lawyer was reprimanded for criticizing her client's conduct in a letter that she forwarded to the opposing party.

Annie Hall (PRB File No. 2014.115): A Vermont lawyer was admonished for leaving a former client's file in the hallway outside of his office.

Old Yeller (15PDJ040): A Colorado lawyer was suspended for 18 months for posting highly confidential client information online in retaliation for a negative client review.

One Hour Photo: An Illinois lawyer was sanctioned \$5,000 for tweeting photos of evidence while observing a federal trial.

LESSON: The duty to preserve client confidences is so important that lawyers will be sanctioned for disclosures, unless such disclosures are necessary to prevent substantial harm to the interests of the client or others.

Least Competent in a Legal Representation

In some cases, lawyers will fail to fulfill their duty of competent representation due to either a lack of expertise or diligence. In either case, the lawyer does a great disservice to the client and violates one or more of the following ethics 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.

Rule 1.3. Diligence.

A lawyer shall act with reasonable diligence and promptness in representing a client.

(1) A lawyer should pursue a matter on behalf of a client despite opposition, obstruction, or personal inconvenience to the lawyer. A lawyer also must act with commitment and dedication to the interests of the client.

(2) A lawyer must control the lawyer's work load so that each matter can be handled competently.

(3) Delay and neglect are inconsistent with a lawyer's duty of diligence, undermine public confidence, and may prejudice a client's cause. Reasonable diligence and promptness are expected of a lawyer in handling all client matters and will be evaluated in light of all relevant circumstances. The lawyer disciplinary process is particularly concerned with lawyers who consistently fail to carry out obligations to clients or consciously disregard a duty owed to a client.

NOMINEES

The Help (Case No. 12-O-12279): A California lawyer who failed to comply with the terms of his disciplinary probation can not cure the defect by hiring another attorney to file his probation reports for him.

My Cousin Vinny (S15Y0904): A Georgia lawyer was disbarred for “an alarming lack of familiarity with fundamental legal procedure.”

Waiting to Exhale (2015 NY Slip Op 06097 [131 AD3d 171]): A New York lawyer received a public censure for a 20-year delay in completing a divorce filing.

An Innocent Man (2015 WY 112): A Wyoming lawyer received a public censure for negotiating a DUI guilty plea for a client who had 0.0% BAC.

Race Against Time (Commission No. 2015PR00074): A complaint has been filed against an Illinois lawyer who failed to deliver trust documents prior to the death of the 86-year-old testator.

LESSON: While there is no clear definition of what constitutes “competent representation,” disciplinary authorities are not afraid to impose sanctions for legal work that falls below a certain level of proficiency. This is particularly true when a lawyer’s delay adversely affects the interests of the client.

Best Use of Deception in Legal Marketing

In an increasingly competitive legal market, many lawyers are eager to find a way to distinguish themselves from the competition. Yet, in doing so, they run the risk of violating the following ethics rules governing the communication of a lawyer's services:

Rule 7.1. Communications Concerning a Lawyer's Service.

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

(2) Truthful statements that are misleading are also prohibited by this rule. A truthful statement is misleading if it omits a fact necessary to make the lawyer's communication considered as a whole not materially misleading. A truthful statement is also misleading if there is a substantial likelihood that it will lead a reasonable person to formulate a specific conclusion about the lawyer or the lawyer's services for which there is no reasonable factual foundation.

Rule 7.2 Advertising and Recommendation of Professional Employment

- (a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through written, recorded, or electronic communication, including public media.
- (b) A lawyer shall not give anything of value to a person for recommending the lawyer's services except that a lawyer may pay any of the following:
 - (1) the reasonable costs of advertisements or communications permitted by this rule;
 - (2) the usual charges of a legal service plan;
 - (3) the usual charges for a nonprofit or lawyer referral service that complies with Rule XVI of the Supreme Court Rules for the Government of the Bar of Ohio;
 - (4) for a law practice in accordance with Rule 1.17.

Rule 7.4. Communication of Fields of Practice and Specialization.

- (a) A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law or limits his or her practice to or concentrates in particular fields of law.

- (b) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation “Patent Attorney” or a substantially similar designation.
- (c) A lawyer engaged in trademark practice may use the designation “Trademarks,” “Trademark Attorney,” or a substantially similar designation.
- (d) A lawyer engaged in Admiralty practice may use the designation “Admiralty,” “Proctor in Admiralty,” or a substantially similar designation.
- (e) A lawyer shall not state or imply that a lawyer is a specialist in a particular field of law, unless both of the following apply:
 - (1) the lawyer has been certified as a specialist by an organization approved by the Supreme Court Commission on Certification of Attorneys as Specialists;
 - (2) the name of the certifying organization is clearly identified in the communication.

Rule 7.5. Firm Names and Letterheads

- (a) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government, government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1. If otherwise lawful a firm may use as, or continue to include in, its name, the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession.
- (d) Lawyers shall not state or imply that they practice in a partnership or other organization unless that is the fact.

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to:

- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

NOMINEES

Papillon (No. 13-0491): A West Virginia lawyer received a reprimand for placing funds into prison inmate accounts to incentivize them to refer clients for new cases.

Steve Jobs (2015 Formal Ethics Opinion 3): The North Carolina State Bar opined that a lawyer may not offer a computer tablet to a prospective client in a direct mail solicitation letter.

Win Win (Advisory Opinion #15-04768-A): The Connecticut Grievance Committee opined that a proposed logo of “We listen. We care. We win” would be a violation of ethics rules.

Family Business (Commission No. 2012PR00176): An Illinois lawyer was suspended for 60 days for submitting a false letter of recommendation as part of a job application.

LESSON: As lawyers, we are held to a higher standard of candor in our marketing communications. It isn't enough to simply avoid committing consumer fraud. We must actually be sure not to mislead our prospective clients in *any* manner. As Dr. Martin Luther King once said, “A fact is the absence of contradiction but the truth is the presence of coherence.” As lawyers, we are not only obligated to tell prospective clients the facts, but the truth as well.

And this does not only apply to our dealings with clients in private practice, but also in the context of full-time employment. Lawyers must avoid representations on resumes and job applications that either embellish or diminish a lawyer's skill and training.

Worst Love Scene

While it is admirable for a lawyer to show love for clients and even opposing counsel and parties, there are obviously limits to such expressions. Unfortunately, some lawyers ignore such limits and, in the process, create conflicts of interests.

Rule 1.7 Conflict of Interest: Current Clients

- (a) A lawyer's acceptance or continuation of representation of a client creates a conflict of interest if either of the following applies:
 - (1) the representation of that client will be directly adverse to another current client;
 - (2) there is a substantial risk that the lawyer's ability to consider, recommend, or carry out an appropriate course of action for that client will be materially limited by the lawyer's responsibilities to another client, a former client, or a third person or by the lawyer's own personal interests.

Rule 1.8. Conflict of Interest: Current Clients: Specific Rules.

- (j) A lawyer shall not solicit or engage in sexual activity with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced.

(17) The relationship between lawyer and client is a fiduciary one in which the lawyer occupies the highest position of trust and confidence. The relationship is almost always unequal; thus, a sexual relationship between lawyer and client can involve unfair exploitation of the lawyer's fiduciary role, in violation of the lawyer's basic ethical obligation not to use the trust of the client to the client's disadvantage. In addition, such a relationship presents a significant danger that, because of the lawyer's emotional involvement, the lawyer will be unable to represent the client without impairment of the exercise of independent professional judgment. Moreover, a blurred line between the professional and personal relationships may make it difficult to predict to what extent client confidences will be protected by the attorney-client evidentiary privilege, since client confidences are protected by privilege only when they are imparted in the context of the client-lawyer relationship. Because of the significant danger of harm to client interests and because the client's own emotional involvement renders it unlikely that the client could give adequate informed consent, this rule prohibits the lawyer from engaging in sexual activity with a client regardless of whether the relationship is consensual and regardless of the absence of prejudice to the client, unless the sexual relationship predates the client-lawyer relationship. A lawyer also is prohibited from soliciting a sexual relationship with a client.

NOMINEES

My Best Friend's Wife (No. 14PDJ097): A Colorado lawyer was suspended for 60 days for sleeping with his client's wife.

Sugar Daddies (Misc. Docket AG No. 64, September Term 2013): A Maryland lawyer was disbarred for sending explicit text messages to an opposing pro se litigant.

52 Pick-Up (No. 14-1708): An Iowa lawyer was suspended for 30 months for making advances towards five women who were either clients or employees.

9½ Weeks (PDJ 2014-9104): An Arizona lawyer was suspended for 30 days for borrowing \$10,000 from a client with whom he had an intimate relationship.

Shallow Hal (143 Ohio St.3d 1287, 2015-Ohio-3265): An Ohio lawyer resigned after being accused of hypnotizing female clients for his own sexual gratification.

Jailhouse Rock: A Florida lawyer is facing felony charges and has been banned from all Broward County jails for allegedly having sex with a client during a jailhouse visit.

LESSON: Even the most private of relationships are subject to public scrutiny when the lawyer is professionally involved with clients, their loved ones, opposing parties or employees.

The Hitchcock Award

While most disciplinary cases are based on obvious violations of the canons of ethics, there are some cases that are brought to the absolute shock and horror of the respondent. These lawyers had engaged in some wrongful activity that, on its face, did not rise to the level warranting a bar investigation. However, it should be noted that the ethics rules are designed to ensure that lawyers don't act in *any* manner that reflects adversely on our honesty, trustworthiness or fitness as a lawyer in other respects.

NOMINEES

Picture Perfect: A Wisconsin lawyer is facing possible sanctions after posting a selfie of himself and a client after winning the client a new trial.

Extra Ordinary Barry: A D.C. lawyer was suspended for one year for failing to pay chiropractors who provided services for his personal injury clients.

Spies Like Us (144 Ohio St.3d 113, 2015-Ohio-3420): An Ohio lawyer received a public reprimand for using law enforcement computers to get information about men she and her friends were dating.

Deadbeat (14PDJ020): A Colorado lawyer was suspended for one year and one day for failing to pay child support.

Cuba (2015 NY Slip Op 06098 [131 AD3d 49]): A New York lawyer was disbarred for making false statements on customs forms.

LESSON: A lawyer is accountable to the disciplinary authorities for even actions that occur outside of the practice of law. Furthermore, the disciplinary authorities will consider transgressions without regard to whether they are technically "crimes" or even acts that are *malum per se*. Even a technical infraction of the law can give rise to a disciplinary action under certain circumstances.

Most Creative Tale

Lawyers have an obligation to tell the truth. The pursuit of justice depends upon it. As a result, the ethics rules contain several prohibitions against misrepresenting the truth:

Rule 3.3. Candor Toward the Tribunal.

- (a) A lawyer shall not knowingly do any of the following:
 - (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;
 - (2) 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;
 - (3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable measures to remedy the situation, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.
- (b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person, including the client, intends to engage, is engaging, or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable measures to remedy the situation, including, if necessary, disclosure to the tribunal.
- (c) The duties stated in divisions (a) and (b) of this rule continue until the issue to which the duty relates is determined by the highest tribunal that may consider the issue, or the time has expired for such determination, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6.
- (d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

Rule 4.1. Truthfulness in Statements to Others.

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

- (a) make a false statement of material fact or law to a third person;
- (b) fail to disclose a material fact when disclosure is necessary to avoid assisting an illegal or fraudulent act by a client.

Rule 8.1 Bar Admission And Disciplinary Matters

In connection with a bar admission application or in connection with a disciplinary matter, a lawyer shall not do any of the following:

- (a) knowingly make a false statement of material fact;
- (b) in response to a demand for information from an admissions or disciplinary authority, fail to disclose a material fact or knowingly fail to respond, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to do any of the following:

- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

NOMINEES

Ransom (2015 WY 59): A Wyoming lawyer was publicly censured for misrepresentations in an appellate brief.

European Vacation (A14-0995): A Minnesota lawyer was suspended for 120 days for claiming that she was hospitalized while she was actually on vacation in Paris.

Throw Momma from the Train (M.R. 27422): An Illinois lawyer resigned after it was discovered that he falsely claimed that his mother had died in a car accident to excuse his failure to timely respond to a discovery request.

Presumed Innocent (SC94418): A Missouri lawyer was disbarred for stealing client funds and then blaming the thefts on his wife.

All the President's Men (Misc. Docket AG No. 0067, September Term 2014): A Maryland lawyer was disbarred for lying to the client for five years about the status of her case before finally concocting a bogus settlement, which the lawyer attempted to pay from his own pocket.

LESSON: Disciplinary authorities will severely punish transgressions that demonstrate a lawyer's dishonesty. There are several rules that require lawyers to be honest in their dealings with the court, clients and third parties. And when such a rule is not implicated specifically, lawyers are still subject to discipline for violations of Rule 8.4(c), which is a "catch-all" rule for dishonest behavior.

Best Original Excuse

There may be a thousand good reasons why a lawyer will violate his or her ethics duties, but there is seldom a single good *excuse*. That being said, there are some factors that may mitigate the sanction imposed upon the lawyer. The nominees in this category were particularly creative in their quest for absolution/leniency. Unfortunately, their creativity may have caused them to run afoul of the following ethics rule:

Rule 8.1 Bar Admission And Disciplinary Matters

In connection with a bar admission application or in connection with a disciplinary matter, a lawyer shall not do any of the following:

- (a) knowingly make a false statement of material fact;
- (b) in response to a demand for information from an admissions or disciplinary authority, fail to disclose a material fact or knowingly fail to respond, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

NOMINEES

The Jerk (Appellate Case No. 2014-002762, Opinion No. 27533): A South Carolina lawyer was disbarred for several acts of malfeasance despite evidence that he was homeless for much of his legal career.

Sister Act (142 Ohio St.3d 35, 2015-Ohio-476): An Ohio lawyer received a one-year stayed suspension for misappropriating client funds because the client was her very disagreeable sister.

The Taming of the Shrew (2015 OK 22, 350 P.3d 108, Case Number: SCBD-6103): An Oklahoma lawyer was suspended for 18 months for stealing client funds to satisfy his discontent wife.

Shame (144 Ohio St.3d 257, 2015-Ohio-2724.): An Ohio lawyer was suspended for two years (six months stayed) for sleeping with four clients despite his claim of sex addiction.

LESSON: Most disciplinary authorities consider unpersuasive excuses as an *aggravating* factor in meting out sanctions. As a result, lawyers should be willing to accept full responsibility when warranted by the circumstances. In fact, this same principle should apply in all situations in which the lawyer is at fault and not just in the context of a disciplinary hearing.

Most Over-Animated Courtroom Outburst

While attorneys are encouraged to zealously represent their clients, it's possible to cross the line in zealotry. Each of the nominees in this category has done just that and, in the process, has violated the following ethics rules:

A LAWYER'S CREED

As to opposing parties and their counsel, I shall aspire:

- (b) To treat opposing counsel in a manner consistent with his or her professional obligations and consistent with the dignity of the search for justice. I should:
 - (4) Avoid rudeness and other acts of disrespect in all meetings, including depositions and negotiations;

As to the courts and other tribunals, and to those who assist them, I shall aspire:

- (b) To model for others the respect due to our courts. I should:
 - (5) Avoid unfounded, unsubstantiated, or unjustified public criticism of members of the judiciary;
 - (6) Show respect by attire and demeanor;

As to our profession, I shall aspire:

- (b) To promote the understanding of and an appreciation for our profession by the public. I should:
 - (2) Conduct myself always with an awareness that my actions and demeanor reflect upon our profession.

NOMINEES

Judge Joe Brown (No. W2014-00825-COA-R3-JV): A Tennessee lawyer was found guilty of contempt for statements made to the court on behalf of a pro se litigant.

Django Unchained (2015 NY Slip Op 06301 [131 AD3d 268]): A New York lawyer was suspended for three-months for making racist, sexist, homophobic and threatening remarks to lawyers and judges.

The French Connection (No. 303, 2015): A Delaware prosecutor was suspended for six months and a day for demeaning comments made towards a pro se death penalty defendant.

The Howling (No. 201, 352-0): A Washington lawyer was suspended for one year for slamming objects on a table and making loud noises that “sounded like an animal being killed.”

Shoot to Kill (Case Nos.: 14-O-01867-LMA): The California Bar is attempting to disbar a lawyer who threatened opposing counsel with pepper spray and a stun gun at a deposition.

LESSON: While most lawyers will not cross these lines of acceptable behavior, some lawyers will flirt with it by engaging in acts of “minor” disrespect. Furthermore, lawyers must be mindful that their obligation to respect the judicial process (and its participants) doesn’t simply extend to the judicial setting. Lawyers have a continuing obligation to show deference to the court and respect for opposing parties and counsel.

The Pit Bull Award

In general, persistence is a great quality for a lawyer to possess. However, just as in everything, there are limits. And while lawyers are obligated to provide our clients with zealous representation, we should not become zealots in the process.

Rule 3.1 Meritorious Claims And Contentions

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue in a proceeding, 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 3.5 Impartiality And Decorum Of The Tribunal

- (a) A lawyer shall not any of the following:
 - (5) engage in conduct intended to disrupt a tribunal;

Rule 4.4 Respect for the Rights of Third Persons

- (a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, harass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

NOMINEES

Frozen (2015 NY Slip Op 01951 [127 AD3d 99]): A New York lawyer was censured for threatening communications to the foreman of a jury that ruled against his client.

In the Name of the Father (A13-2350): A Minnesota lawyer was suspended for 90 days for using overly aggressive tactics to collect legal fees.

The Water Boy (15 DHC 20): A North Carolina lawyer was admonished for taking a water battle from the home of a suspect and using the DNA evidence to secure the release of her innocent client who served 40 years in prison for a crime he didn't commit.

Hamilton (Commission No. 2014PR00161): A complaint has been filed against an Illinois lawyer who challenged a client to a duel in an attempt to collect legal fees.

The Hangover (SC14-1052, SC14-1054, SC14-1056): Three Florida lawyers were permanently disbarred for setting up opposing counsel for a DUI arrest in an attempt to gain an advantage at trial.

Worst Legal Strategy

When the going gets tough, some tough lawyers get ridiculous. This is certainly the case with the nominees in this category, who decided to take a bad situation and make it *much* worse by employing desperate (and unethical) legal strategies in violation of the following rules:

Rule 4.4 Respect for the Rights of Third Persons

- (a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, harass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

Rule 8.1 Bar Admission And Disciplinary Matters

In connection with a bar admission application or in connection with a disciplinary matter, a lawyer shall not do any of the following:

- (a) knowingly make a false statement of material fact;
- (b) in response to a demand for information from an admissions or disciplinary authority, fail to disclose a material fact or knowingly fail to respond, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to do any of the following:

- (a) violate or attempt to violate the Ohio Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit an illegal act that reflects adversely on the lawyer's honesty or trustworthiness;
- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;

NOMINEES

Pulp Fiction (Case No. 15-14-AI): A Michigan lawyer was disbarred for attempting to hire a hitman to murder opposing counsel before a bankruptcy hearing.

Trolls (Commission No. 2015PR00068): The Illinois Disciplinary Commission has charged an attorney with ethics violations for attempting to extract settlements from defendants in copyright infringement cases by threatening to reveal that they visited adult websites.

Dead Men Don't Wear Plaid (Commission No. 2015PR00100): The Illinois Disciplinary Commission has charged an attorney with ethics violations for attempting to settle a personal injury without informing the defendant that the plaintiff was dead.

Persecution (Misc. Docket AG No. 40, Sept. Term 2014): A Maryland lawyer was suspended indefinitely after unsuccessfully attempting to portray himself as a victim of bar counsel persecution and refusing to fully cooperate with bar counsel.

LESSON: The lawyer who employs a “win at all costs” attitude will invariably find out that the costs of violating the ethics rules are simply too high. Not only will the lawyer usually fail in obtaining the desired outcome for the client but the lawyer will also fail to retain the privilege of practicing law.

Miss (Mister) Uncongeniality

In the course of litigation, some lawyers behave as if civility and decency is optional. Increasingly, such lawyers are being subject to discipline for their lack of decorum. Here are some examples:

Rule 4.4 Respect for the Rights of Third Persons

- (a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, harass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to do any of the following:

- (a) violate or attempt to violate the Ohio Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit an illegal act that reflects adversely on the lawyer's honesty or trustworthiness;
- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;

NOMINEES

To Kill a Mockingbird (13-DB-042): A Louisiana lawyer was suspended for one year and one day for failing to meet his registration, MCLE and dues requirements.

Deliverance (PDJ 2015-9011): An Arizona lawyer was admonished for making threats about the unpleasantness of prison to a client who had failed to pay his legal fees.

Fighting Words (No. 112,658): A Kansas lawyer was given three years probation for challenging lawyers and judges to fist fights.

Snakes on a Plane (Commission No. 2015PR00082): An Illinois disciplinary commission has filed a complaint against a lawyer who used profanity and made threats against a police officer and his wife after being arrested for DUI.

LESSON: Lawyers may be subject to disciplinary action for incivility, even if such incivility does not occur in the presence of the judge. In fact, such behavior may be punished even if it occurs outside of any legal (or quasi legal) forum. So long as a lawyer is acting in a professional capacity or in a private capacity is interacting with the legal system, the lawyer has an obligation to be at least minimally polite.

The Archie Bunker Award

Increasingly, disciplinary authorities are taking action against lawyers for words and deeds that indicate prejudice with regards to race, national origin, religion, age, gender, disability and sexual orientation. In some cases, lawyers have been found to engage in conduct prejudicial to the administration of justice. In other instances, lawyers run afoul of applicable civility creeds.

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to do any of the following:

- (g) engage, in a professional capacity, in conduct involving discrimination prohibited by law because of race, color, religion, age, gender, sexual orientation, national origin, marital status, or disability;

NOMINEES

Dirty Rotten Scoundrels (No. 112,923): A Kansas lawyer received a stayed three-year suspension for calling opposing counsel a derogatory name (that rhymes with “witch”).

Body Double (SC14-700): A Florida assistant public defender was fired and publicly reprimanded for using Photoshop to create an obscene image of a female co-worker.

The Lady and the Tramp: A California lawyer was ordered to make a \$250 donation to the Women Lawyers of Los Angeles Foundation for warning opposing counsel that her behavior at a deposition was “not becoming of a woman.”

Monkey Business (S15Y1852): A Georgia lawyer was disbarred for calling an African-American court staffer a “little monkey.”

A Million to Juan: A Massachusetts bias commission has ordered a lawyer to pay \$233,000 for targeting Hispanic clients in ads for mortgage modifications and then providing them with substandard representation.

Critic's Choice Award

While lawyers often find it tempting to criticize a judge who has ruled against them, we must be careful to avoid that temptation. Such criticisms only serve to diminish the esteem of our judicial system and create animosities that impede our search for justice.

Rule 3.1 Meritorious Claims And Contentions

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue in a proceeding, 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 8.2 Judicial Officials

- (a) A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judicial officer, or candidate for election or appointment to judicial office.
- (b) A lawyer who is a candidate for judicial office shall not violate the provisions of the Ohio Code of Judicial Conduct applicable to judicial candidates.

NOMINEES

10 Things I Hate About You (Commission No. 2013PR00001): An Illinois patent lawyer received a three-year suspension for impugning the integrity of those working in the Cook County Probate Courts on her blog.

Twins (Case No. 12-O-15242): A California lawyer was publicly reprovved for implicating that his opponent in a judicial election was implicated in bribery.

Yankee Doodle Dandy (15 DHC 47): A North Carolina lawyer was charged with ethics violations for making disparaging remarks about judges in court pleadings.

Dinner for Schmucks (CPC Docket No. 2015-090): An Arkansas lawyer has been cautioned for making his case for appeal by citing an article in which the presiding judge is called a "schmuck" (among other things).

Bad Blood (2014 OK 1, 318 P.3d 1114, Case Number: SCBD-5775; 6009): An Oklahoma lawyer was disbarred for stalking a judge's wife.

Worst Temper in a Non-Legal Setting

Some lawyers carry the contentious nature of litigation into the personal lives and their interactions with others in society. And while this can be simply annoying in some contexts, it can be criminal when taken to the extreme, causing the lawyer to violate Rule 8.4(b).

NOMINEES

Unfaithful (No. 2015-B-1399): A Louisiana lawyer received an interim suspension for ramming into his wife's car after seeing her riding with another passenger.

Road Rage (Cause No. 56456): A Texas lawyer was disbarred, pending the appeal of her criminal conviction for brandishing a gun during a road rage incident.

The Cake Eaters (291 Neb. 566): A Nebraska lawyer was disbarred upon her conviction for stabbing her husband in bed, despite his assertions that his injuries were self-inflicted.

Arachnophobia: A West Virginia prosecutor was suspended from his job for pulling out a gun and waving it around in response to seeing fake spider Halloween decorations.

LESSON: Continued hostility in the practice of law will begin to manifest itself into an attorney's private life.

Most Impaired in a Legal Setting

Usually, a drug-related crime involving a lawyer occurs outside of the practice of law. However, in some cases, the lawyer can't keep these two activities separated. In these cases, the lawyer's physical and mental condition materially impairs his/her ability to provide competent representation in violation of Rule 1.16.

Rule 1.16 Declining or Terminating Representation

- (a) Subject to divisions (c), (d), and (e) of this rule, a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if any of the following applies:
 - (2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client;

NOMINEES

Animal House (14-051-098765): A Virginia lawyer was suspended for six months for becoming disruptive while intoxicated at a CLE program.

Half Baked (Case No. 13-C-11781 - RAH): A California lawyer was suspended for 90 days for showing up to court under the influence of methamphetamine and marijuana.

Clean & Sober (No. 1918 Disciplinary Docket No.3, No. 177 DB 2013): A Pennsylvania lawyer was suspended for a year and one day for failing to remain sober during his probationary period.

Pain & Gain (No. BD-2015-058): A Massachusetts assistant district attorney was disbarred after pleading guilty to trading confidential law enforcement information to a drug kingpin in exchange for pain killers.

LESSON: Some lawyers fall prey to the delusion that it is possible to separate their private and professional lives only to later learn that the two will invariably blend together, producing negative results in both areas.

Most Impaired in a Non-Legal Setting

Under the influence of drugs and alcohol, lawyers commit some of the most outrageous acts.

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to do any of the following:

- (b) commit an illegal act that reflects adversely on the lawyer's honesty or trustworthiness;

NOMINEES

Losing Bet (14 DHC 30): A North Carolina lawyer consented to disbarment after pledging trust accounts to cover casino bets.

Fatal Bond (PDJ-2015-9007): An Arizona lawyer was suspended for two years for succumbing to his sex addiction and having an intimate relationship with an indigent criminal defendant client.

Rumors of Wars: A D.C. lawyer who had an "alcoholic blackout" behind the wheel of his car and severely injured another motorist was given a two year and one day stayed suspension.

Airport (No. 2015-B-1373): A Louisiana lawyer received a suspension of one year and one day for a series of alcohol-related incidents, including causing a disturbance at an airport departure gate.

LESSON: The abuse of drugs and/or alcohol in an attorney's private life can become cause for disciplinary action.

Comeback of the Year

Disciplinary authorities will often attempt to help a lawyer return to active duty status by requiring that the lawyer complete a program sponsored by that jurisdiction's lawyers assistance program. Likewise, disciplinary authorities may place other conditions on an attorney's reinstatement when it is deemed necessary to ensure that the lawyer does not relapse into unethical behavior. Lawyers who comply with such conditions can increase their chances of reinstatement and even reduce the length of their suspensions from the practice of law. On the other hand, lawyers that fail to take advantage of such opportunities almost completely eliminate their chances for reinstatement.

Rule 8.1 Bar Admission And Disciplinary Matters

In connection with a bar admission application or in connection with a disciplinary matter, a lawyer shall not do any of the following:

- (a) knowingly make a false statement of material fact;
- (b) in response to a demand for information from an admissions or disciplinary authority, fail to disclose a material fact or knowingly fail to respond, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

NOMINEES

Mr. Deeds (Commission No. 2013PR00076): An Illinois lawyer was only suspended for 60 days for improper handling of trust account funds in four matters due to "extraordinary testimony regarding his efforts to provide pro bono representation."

Cloudy With a Chance of Meatballs (No. 1696 Disciplinary Docket No.3, No. 257 DB 2010): A Pennsylvania lawyer was reinstated to active status after serving a 30-month suspension for identity theft due to his successful recovery from gambling addiction.

First Wives Club (S15Y1787): A Georgia lawyer only received a reprimand for his ineffective representation of a client charged with murder in large part due to the favorable testimony of his current and ex-wife.

Green Acres (No. BD-2013-065): A Massachusetts lawyer was reinstated after a suspension during which he spent much of his time working on the family farm.

The Lifetime Achievement Award

The nominees in this category have amassed a lifetime of ethics violations. In some cases, they have done so in a very short period of time. In other cases, they have “earned” this award through a career dedicated to malfeasance and negligence. In either event, their contributions to the legal ethics lore are acknowledged.

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.

WINNER

Man of Thousand Faces (Case Nos. 09-C-12545; 11-O-17317): A California lawyer was disbarred for abandoning the 4,500 clients of his loan modification firm. More than 1,100 clients have filed complaints with the bar against him.

LESSON: It’s important for us to remember that none of these nominees set out to build a career of repeated ethics violations. In fact, it’s likely that each of these nominees began their careers with the best of intentions. However, they developed a set of bad habits that destroyed their intentions. The rest of us must be vigilant to avoid falling into these same traps.