

# *Civility in the Legal Profession*

American Judges Association,  
National Association of State Judicial Education,  
and the Washington Judicial Conference

*Justice Mary Fairhurst*  
October 5, 2015



Civility Center for the Law

## About the Civility Center for the Law

The Civility Center for the Law aims to elevate the way we treat one another in the legal profession and to inspire acts of courtesy, kindness, and compassion among members of the profession. Increased civility demonstrably improves outcomes for legal professionals and the people that they serve. And because legal professionals profoundly influence society, even outside their formal work, their behavior often sets the tenor of corporate, political, and social interactions. Sponsored by Robert's Fund and housed at Seattle University School of Law, the Civility Center promotes civility through continuing education and consulting programs. For more information visit: <http://www.civilitycenterforlaw.org>.

Robert's Fund is a family foundation dedicated to promoting civility.

## Access to presentation resources and materials

To access materials for this program, visit: <http://www.robertsfund.org/past-programs/fostering-civility-in-the-legal-profession-5.html>

## About the presenter

**The Honorable Mary E. Fairhurst**  
Justice, Washington State Supreme Court  
Consultant, Robert's Fund

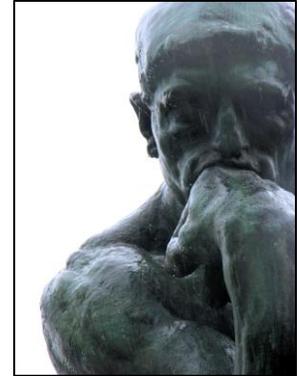
Elected in 2002, Mary Fairhurst began serving as a justice on the Washington Supreme Court in 2003. She started her legal career in the Supreme Court as a judicial clerk, working first with Chief Justice William H. Williams in 1984 and then with Justice William C. Goodloe until 1986. For the next 16 years, Justice Fairhurst served in the Washington Attorney General's Office, working with Attorneys General Christine Gregoire and Ken Eikenberry. She specialized in the areas of criminal justice, transportation, revenue, and labor. When she left, she was serving as the Division Chief of the Revenue, Bankruptcy, and Collections Division. In 1998, Attorney General Gregoire presented her Steward of Justice award to Justice Fairhurst.

Justice Fairhurst has been a leader in the legal profession throughout her career. She served as president of the Washington State Bar Association, becoming the second woman, first public sector attorney, and youngest attorney to hold the position. She also served on the WSBA Board of Governors, representing the Third Congressional District, and was president of the Washington Women Lawyers.

Justice Fairhurst is committed to public legal education and is active working for children and youth. She is the state chair of the iCivics program and involved with the YMCA Youth and Government Program and We the People Board. She served two years on the Girl Scouts Board of the Pacific Peaks Council. Justice Fairhurst speaks regularly to individuals and groups about the judiciary. She had been a consultant and presenter with Robert's Fund since 2010.

**How would you describe “civil” behavior?**

**How would you describe “uncivil” behavior?**



## Speed Networking

*Have you witnessed uncivil behavior in the courtroom?*

*What made the behavior uncivil?*

*What do you think contributed to the behavior?*

## You Make the Call:

Judge: If you drive like an idiot [‘]cause you’re late for work, you’re gonna have to pay for it. You can see your picture on the headlines of the Seattle Times, stupid young man who shouldn’t be driving.

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Judge: You know, that’s the problem with mature people, they think, I see my exit so I have to get ahead, imagine that, ahead of those other trucks, then what did you do, you probably slowed down to get off at the off-ramp making all those people behind you think you were an idiot.

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Judge: The wise person takes the little bitty [insurance] card...[a]nd you cut it out.

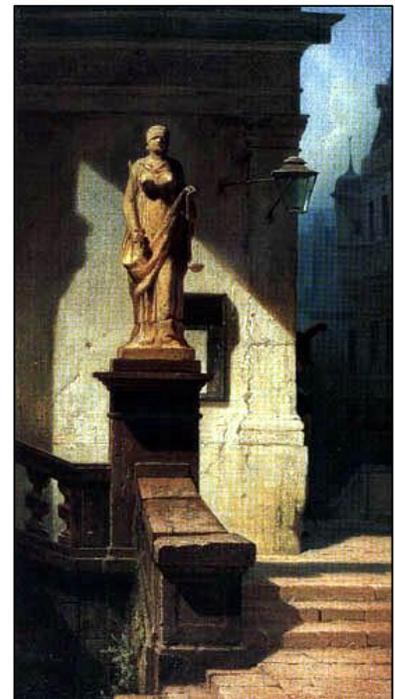
Defendant: Okay

Judge: It’s the same size as your driver’s license, you slide it behind it then you don’t have to come here.

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Dissenting opinion:

The [majority] opinion is couched in a style that is as pretentious as its content is egotistic. It is one thing for separate concurring or dissenting opinions to contain extravagances, even silly extravagances, of thought and expression; it is something else for the official opinion of the court to do so. Of course the opinion’s showy profundities are often profoundly incoherent.



## **Incivility impaired cognitive function:**

Targets suffered 20% reduction in recall ability  
61% of targets performed lower on verbal tasks  
50% had a fewer creative ideas

Witnesses of incivility also suffered impaired cognitive function. A 2009 study by Porath and Erez, found that while attempting to unscramble the anagram “remdue” to “demure,” those who had witnessed the minor incivility were seven times more likely to unscramble it to the word “murder.” Students exposed to minor incivility also generated less creative responses in the “brick test,” and displayed a higher level of dysfunctional ideation.



## **Incivility reduces volunteerism:**

In the same study, Porath and Erez found that 58% fewer students were willing to help pick up a dropped book when they had observed the person dropping the book engage in a mild incivility toward another student; 50% of the controls agreed to volunteer as compared to only 26% who witnessed the rude response; and that the controls were three times more likely to volunteer.

## **Incivility cost money:**

In a study cited by Porath and Pearson (2009), one large law firm estimated that one partner’s incivility cost the firm over \$2.8 million. Over the course of a few years, the firm lost six attorneys and two paralegals as a result of the partner’s actions.

## **Incivility impacts psychological well-being:**



Lawyers, in particular, seem to suffer personally as a profession. For example, in a study by Beck, Sales, and Benjamin, lawyers were found to be at much higher risk of alcohol related problems or other psychological concerns. For example, 71% of female lawyers in the study reported having issues with alcohol use whereas the prevalence rate in the general population is only 8%. Likewise, male attorneys reported at 67% compared to only 20% of males in the general population.

Lawyers are 3.6 times more likely to be depressed when compared to 104 other occupational groups. When compared to general population, lawyers suffer increased levels of depression, obsessive compulsive disorders, anxiety, and alcohol problems as well.

## The benefits of civility

In their 2015 article ----- Porath, et.al found that persons perceived to be more civil are more likely to be:

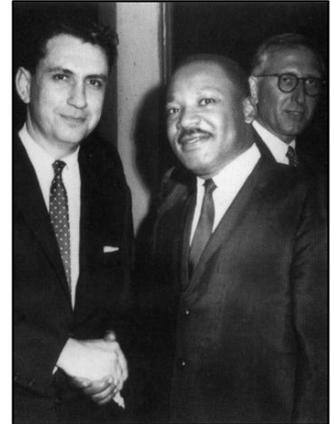
Seen as warm and competent

Sought out for advice

Top performers at work

Better connected to workplace networks

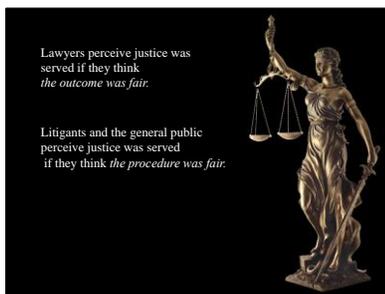
Seen as leaders



## What strategies might you use on an individual level to promote civility?

## How does listening foster civility and justice?

## Incivility impacts the administration of justice:



Lawyers and non-lawyers see justice differently. When asked whether justice was served, the majority of lawyers say yes if they believe the *outcome was fair* whereas the majority of non-lawyers consider justice being served where *the procedure was fair*.

In general, participants in the legal system want to give their views, tell their stories, and share in the discourse of the case. Thus, although they might not be pleased with the outcome when they lose, as long as they have been given the opportunity to provide their voice, they feel the system was fair.

## Think of a recent situation where as a judge you felt it was difficult to listen effectively. What factors contributed to making it difficult to listen?



## Pillars for Civility

**Consciousness**

**Creativity**

**Community**

### Consciousness fosters civility

- increases awareness of our feelings and triggers
- enhances awareness of our impact on others
- facilitates practice of discernment
- enables us to live with congruency



### Creativity fosters civility

- provides vehicle for mindfulness
- stimulates whole brain activity
- expands perspective
- supports effective problem solving

### Community fosters civility

- revives civic humanism
- promotes psychological well-being
- builds positive social skills



## Select Code of Judicial Conduct and Rules of Professional Conduct Provisions

### WA CJC: 2.8 Decorum, Demeanor, and Communication with Jurors.

- (A) A judge shall require order and decorum in proceedings before the court.
- (B) A judge shall be patient, dignified, and courteous...and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.

### WA RPC: FUNDAMENTAL PRINCIPLES OF PROFESSIONAL CONDUCT

The continued existence of a free and democratic society depends upon recognition of the concept that justice is based upon the rule of law grounded in respect for the dignity of the individual and the capacity through reason for enlightened self-government. Law so grounded makes justice possible, for only through such law does the dignity of the individual attain respect and protection. Without it, individual rights become subject to unrestrained power, respect for law is destroyed, and rational self-government is impossible. Lawyers, as guardians of the law, play a vital role in the preservation of society. To understand this role, lawyers must comprehend the components of our legal system, and the interplay between the different types of professionals within that system. To fulfill this role lawyers must understand their relationship with and function in our legal system. A consequent obligation of lawyers is to maintain the highest standards of ethical conduct. In fulfilling professional responsibilities, a lawyer necessarily assumes various roles that require the performance of many difficult tasks. Not every situation which a lawyer may encounter can be foreseen, but fundamental ethical principles are always present as guidelines. Within the framework of these principles, a lawyer must with courage and foresight be able and ready to shape the body of the law to the ever-changing relationships of society. The Rules of Professional Conduct point the way to the aspiring lawyer and provide standards by which to judge the transgressor. Each lawyer must find within his or her own conscience the touchstone against which to test the extent to which his or her actions should rise above minimum standards. But in the last analysis it is the desire for the respect and confidence of the members of the legal profession and the society which the lawyer serves that should provide to a lawyer the incentive for the highest possible degree of ethical conduct. The possible loss of that respect and confidence is the ultimate sanction. So long as its practitioners are guided by these principles, the law will continue to be a noble profession. This is its greatness and its strength, which permit of no compromise. [Originally effective September 1, 1985; amended effective September 1, 2006; April 14, 2015.] These Fundamental Principles of the Rules of Professional Conduct are taken from the former Preamble to the Rules of Professional Conduct as approved and adopted by the Supreme Court in 1985. Washington lawyers and judges have looked to the 1985 Preamble as a statement of our overarching aspiration to faithfully serve the best interests of the public, the legal system, and the efficient administration of justice. The former Preamble is preserved here to inspire lawyers to strive for the highest possible degree of ethical conduct, and these Fundamental Principles should inform many of our decisions as lawyers. The Fundamental Principles do not, however, alter any of the obligations expressly set forth in the Rules of Professional Conduct, nor are they intended to affect in any way the manner in which the Rules are to be interpreted or applied.

## **PREAMBLE AND SCOPE**

### **PREAMBLE: A LAWYER'S RESPONSIBILITIES**

[1] [Washington revision] A lawyer, as a member of the legal profession, is a representative of clients, an officer of the court and a public citizen having special responsibility for the quality of justice.

[2] [Washington revision] As a representative of clients, a lawyer performs various functions. As advisory, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer conscientiously and ardently asserts the clients position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealings with others. As an evaluator, a lawyer acts by examining a client's legal affairs and reporting about them to the client or to others.

[3] In addition to these representational functions, a lawyer may serve as a third-party neutral, a nonrepresentational role helping the parties to resolve a dispute or other matter. Some of these Rules apply directly to lawyers who are or have served as third-party neutrals. See, e.g., Rules 1.12 and 2.4. In addition, there are Rules that apply to lawyers who are not active in the practice of law or to practicing lawyers even when they are acting in a nonprofessional capacity. For example, a lawyer who commits fraud in the conduct of a business is subject to discipline for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation. See Rule 8.4.

[4] [Washington revision] In all professional functions a lawyer should be competent, prompt and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Rules of Professional Conduct.

[5] A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

[6] As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.

[7] Many of a lawyer's professional responsibilities are prescribed in the Rules of Professional Conduct, as well as substantive and procedural law. However, a lawyer is also guided by personal

conscience and the approbation of professional peers. A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service.

[8] [Washington revision] A lawyer's responsibilities as a representative of clients, an officer of the legal system and a public citizen are usually harmonious. Thus, when an opposing party is well represented, a lawyer can be a conscientious and ardent advocate on behalf of a client and at the same time assume that justice is being done. So also, a lawyer can be sure that preserving client confidences ordinarily serves the public interest because people are more likely to seek legal advice, and thereby heed their legal obligations, when they know their communications will be private.

[9] [Washington revision] In the nature of law practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living. The Rules of Professional Conduct often prescribe terms for resolving such conflicts. Within the framework of these Rules, however, many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the Rules. These principles include the lawyer's obligation conscientiously and ardently to protect and pursue a client's legitimate interests, within the bounds of the law, while maintaining a professional, courteous and civil attitude toward all persons involved in the legal system.

[10] The legal profession is largely self-governing. Although other professions also have been granted powers of self-government, the legal profession is unique in this respect because of the close relationship between the profession and the processes of government and law enforcement. This connection is manifested in the fact that ultimate authority over the legal profession is vested largely in the courts.

[11] To the extent that lawyers meet the obligations of their professional calling, the occasion for government regulation is obviated. Self-regulation also helps maintain the legal profession's independence from government domination. An independent legal profession is an important force in preserving government under law, for abuse of legal authority is more readily challenged by a profession whose members are not dependent on government for the right to practice.

[12] [Washington revision.] The legal profession's relative autonomy carries with it special responsibilities of self-government. The profession has a responsibility to assure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the bar. Every lawyer is responsible for observance of the Rules of Professional Conduct. A lawyer should also aid in securing their observance by other legal practitioners. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves. [Comment [12] amended effective April 14, 2015.]

[13] Lawyers play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship to our legal system. The Rules of Professional Conduct, when properly applied, serve to define that relationship.

## **SCOPE**

[14] The Rules of Professional Conduct are rules of reason. They should be interpreted with reference to the purposes of legal representation and of the law itself. Some of the Rules are imperatives, cast in

the terms "shall" or "shall not." These define proper conduct for purposes of professional discipline. Others, generally cast in the term "may" are permissive and define areas under the Rules in which the lawyer has discretion to exercise professional judgment. No disciplinary action should be taken when the lawyer chooses not to act or acts within the bounds of such discretion. Other rules define the nature of relationships between the lawyer and others. The Rules are thus partly obligatory and disciplinary and partly constitutive and descriptive in that they define a lawyer's professional role. Many of the Comments use the term "should." Comments do not add obligations to the Rules but provide guidance for practicing in compliance with the Rules.

[15] The Rules presuppose a larger legal context shaping the lawyer's role. That context includes court rules and statutes relating to matters of licensure, laws defining specific obligations of lawyers and substantive and procedural law in general. The Comments are sometimes used to alert lawyers to their responsibilities under such other law.

[16] Compliance with the Rules, as with all law in an open society, depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peer and public opinion and finally, when necessary, upon enforcement through disciplinary proceedings. The Rules do not, however, exhaust the moral and ethical considerations that should inform a lawyer, for no worthwhile human activity can be completely defined by legal rules. The Rules simply provide a framework for the ethical practice of law.

[17] [Washington revision] For purposes of determining the lawyer's authority and responsibility, principles of substantive law external to these Rules determine whether a client-lawyer relationship exists. Most of the duties flowing from the client-lawyer relationship attach only after the client-lawyer relationship is formed. But there are some duties, such as that of confidentiality under Rule 1.6, that may attach when the lawyer agrees to consider whether a client-lawyer relationship shall be established. See Rule 1.18 and Washington Comment [11] thereto. Whether a client-lawyer relationship exists for any specific purpose can depend on the circumstances and is a question of fact.

[18] Under various legal provisions, including constitutional, statutory and common law, the responsibilities of government lawyers may include authority concerning legal matters that ordinarily reposes in the client in private client-lawyer relationships. For example, a lawyer for a government agency may have authority on behalf of the government to decide upon settlement or whether to appeal from an adverse judgment. Such authority in various respects is generally vested in the attorney general and the state's attorney in state government, and their federal counterparts, and the same may be true of other government law officers. Also, lawyers under the supervision of these officers may be authorized to represent several government agencies in intragovernmental legal controversies in circumstances where a private lawyer could not represent multiple private clients. These Rules do not abrogate any such authority.

[19] Failure to comply with an obligation or prohibition imposed by a Rule is a basis for invoking the disciplinary process. The Rules presuppose that disciplinary assessment of a lawyer's conduct will be made on the basis of the facts and circumstances as they existed at the time of the conduct in question and in recognition of the fact that a lawyer often has to act upon uncertain or incomplete evidence of the situation. Moreover, the Rules presuppose that whether or not discipline should be imposed for a violation, and the severity of a sanction, depend on all the circumstances, such as the willfulness and seriousness of the violation, extenuating factors and whether there have been previous violations.

[20] Violation of a Rule should not itself give rise to a cause of action against a lawyer nor should it create any presumption in such a case that a legal duty has been breached. In addition, violation of a

Rule does not necessarily warrant any other nondisciplinary remedy, such as disqualification of a lawyer in pending litigation. The Rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies. They are not designed to be a basis for civil liability. Furthermore, the purpose of the Rules can be subverted when they are invoked by opposing parties as procedural weapons. The fact that a Rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the Rule. Nevertheless, since the Rules do establish standards of conduct by lawyers, a lawyer's violation of a Rule may be evidence of breach of the applicable standard of conduct.

[21] The Comment accompanying each Rule explains and illustrates the meaning and purpose of the Rule. The Preamble and this note on Scope provide general orientation. The Comments are intended as guides to interpretation, but the text of each Rule is authoritative. Additional Washington Comments (22 - 25).

[22] Nothing in these Rules is intended to change existing Washington law on the use of the Rules of Professional Conduct in a civil action. *See Hizey v. Carpenter*, 119 Wn.2d 251, 830 P.2d 646 (1992).

[23] The structure of these Rules generally parallels the structure of the American Bar Association's Model Rules of Professional Conduct. The exceptions to this approach are Rule 1.15A, which varies substantially from Model Rule 1.15, and Rules 1.15B, 5.8, 5.9, and 5.10, none of which is found in the Model Rules. In other cases, when a provision has been wholly deleted from the counterpart Model Rule, the deletion is signaled by the phrase "Reserved." When a provision has been added, it is generally appended at the end of the Rule or the paragraph in which the variation appears. Whenever the text of a Comment varies materially from the text of its counterpart Comment in the Model Rules, the alteration is signaled by the phrase "Washington revision." Comments that have no counterpart in the Model Rules are compiled at the end of each Comment section under the heading "Additional Washington Comment(s)" and are consecutively numbered. As used herein, the term "former Washington RPC" refers to Washington's Rules of Professional Conduct (adopted effective September 1, 1985, with amendments through September 1, 2003). The term "Model Rule(s)" refers to the American Bar Association's Model Rules of Professional Conduct. [Comment [23] amended effective April 14, 2015.]

[24] In addition to providing standards governing lawyer conduct in the lawyer's own practice of law, these Rules encompass a lawyer's duties related to individuals who provide legal services under a limited license. A lawyer should remember that these providers also engage in the limited practice of law and are part of the legal profession, albeit with strict limitations on the nature and scope of the legal services they provide. *See*, APR 28; LLLT RPC 1.2. [Comment [24] adopted effective April 14, 2015.]

[25] Rule 5.9 refers specifically to a lawyer's duties relating to business structures permitted between lawyers and LLLTs. Rule 5.10 refers to a lawyer's responsibilities when working with other legal practitioners operating under a limited license. Other rules have been amended to address a lawyer's relationship with and duties regarding LLLTs. In general, a lawyer should understand the authorized scope of the services provided by LLLTs, including the requirement that an LLLT must refer a client to a lawyer when that client requires services outside of that scope. *See* LLLT RP 1.2; APR 28(F). Lawyers should participate in the development of a robust system of cross-referral between lawyers and LLLTs to promote access to justice and the smooth and efficient provision of a complete range of legal services. In addition, a robust system of cross-referral will benefit the profession by supporting LLLTs in operating ethically within their limited licensure. *See* Preamble Comment [6]. [Comment

[25] adopted effective April 14, 2015.] [Originally effective September 1, 1985; amended effective September 1, 2006.]

### **WA RPC 3.3 CANDOR TOWARD THE TRIBUNAL**

(a) A lawyer shall not knowingly:

- (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 a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client unless such disclosure is prohibited by Rule 1.6;
- (3) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by the opposing party; or
- (4) offer evidence that the lawyer knows to be false.

(b) The duties stated in paragraph (a) continue to the conclusion of the proceeding.

(c) If the lawyer has offered material evidence and comes to know of its falsity, the lawyer shall promptly disclose this fact to the tribunal unless such disclosure is prohibited by Rule 1.6.

(d) If the lawyer has offered material evidence and comes to know of its falsity, and disclosure of this fact is prohibited by Rule 1.6, the lawyer shall promptly make reasonable efforts to convince the client to consent to disclosure. If the client refuses to consent to disclosure, the lawyer may seek to withdraw from the representation in accordance with Rule 1.16.

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

(f) 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.

[Originally effective September 1, 1985; amended effective September 1, 2006; April 14, 2015.]

### **WA RPC 3.4 FAIRNESS TO OPPOSING PARTY**

A lawyer shall not:

(a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not 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 an assertion that no valid obligation exists;

(d) in pretrial procedure, make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party; or

(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, assert personal knowledge of facts in issue except when testifying as a witness, or state 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.

(f) [Reserved.] [Originally effective September 1, 1985; amended effective September 1, 2006; April 15, 2015.]

### **WA RPC 3.5 IMPARTIALITY AND DECORUM OF THE TRIBUNAL**

A lawyer shall not:

- (a) seek to influence a judge, juror, prospective juror or other official by means prohibited by law;
- (b) communicate ex parte with such a person during the proceeding unless authorized to do so by law or court order;
- (c) communicate with a juror or prospective juror after discharge of the jury if:
  - (1) the communication is prohibited by law or court order;
  - (2) the juror has made known to the lawyer a desire not to communicate; or
  - (3) the communication involves misrepresentation, coercion, duress or harassment; or
- (d) engage in conduct intended to disrupt a tribunal.

[Originally effective September 1, 1985; amended effective September 1, 2006.]

### **RPC 4.1 TRUTHFULNESS IN STATEMENTS TO OTHERS**

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

- (a) make a false statement of material fact or law to a third person; or
- (b) fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.

[Adopted effective September 1, 1985.]

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