



“If you have questions regarding ethical issues call the State Bar Ethics Hotline: (800) 254-2797.”

Young Lawyers

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ETHICS AND STARTING OUT

The majority of young lawyers begin their careers in the employ of someone else, be it a law firm, government agency or as in-house counsel. Most of these employment scenarios come with the implicit agreement that the young lawyer will work under one or more senior practitioners. For the vast majority of young lawyers, the advice and direction received from a mentor/supervisor will help to prepare them for a career of competent and ethical practice. But, what do you do if you are concerned that, in the performance of your job, you are being asked by a supervisor to commit ethical violations?

Know the rules

Read the rules. This is sage advice that most young lawyers probably receive daily. As a lawyer, your conduct is governed by the Rules of Professional Conduct (RPC) and “[f]ailure to comply with an obligation or prohibition imposed by a rule is basis for invoking the disciplinary process.” RPC 1.0A(c) Since you are subject to discipline for violating these rules take the time to read them and, as Justice Hardesty said at a recent ethics CLE that I attended, re-read them periodically. It is always good to revisit a topic that you haven’t dealt with in a while, and the Rules of Professional Conduct are no different and no less important than any other you encounter in your practice. Make the time to read and understand the ethical rules if it has been a while.

If the partner tells me to do it I am OK, right?

Rule of Professional Conduct 5.2 deals specifically with the responsibilities of a subordinate lawyer. Rule 5.2 says, “[a] lawyer is bound by the Rules of Professional Conduct notwithstanding that the lawyer acted at the direction of

another person. A subordinate lawyer does not violate the Rules of Professional Conduct if that lawyer acts in accordance with a supervisory lawyer’s reasonable resolution of an arguable question of professional duty.” RPC 5.2. In other words, if a supervising attorney asks you to do something that clearly violates the rules and you do it, you should plan on hearing from the Office of Bar Counsel. If it’s a judgment call, you may have an argument that you were simply relying on the judgment and direction of your supervisor.

This point is further driven home in the comment of the ABA Model Rule on which Rule 5.2 is based. “Although a lawyer is not relieved of responsibility for a violation by

the fact that the lawyer acted at the direction of a supervisor, that fact may be relevant in determining whether a lawyer had the knowledge required to render conduct a violation of the rules.” ABA Model Rule 5.2 Comment [1]. Bottom line: if you know what you are doing is a clear violation of the ethical rules, do not do it. If it is an “arguable question” that you bring to your supervisor’s attention and you follow your supervisor’s decision when s/he tells you to go forward, tactfully send a “CYA” letter to your supervisor regarding your discussion and his/her decision. You won’t be “relieved of responsibility” but it may help you when the Office of Bar Counsel comes knocking.

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Consider your future

It is hard to imagine a worse situation for a young lawyer than to be asked by an employer to violate an ethical rule. The thought of displeasing a supervisor or mentor, or worse, being fired for not doing what you're told, is unpleasant for anyone. However, a job in the near term is not worth being subjected to a disciplinary hearing or, worse, being suspended from practice. Your reputation as a professional, in whatever legal community you practice, matters more in the long term than a paycheck or two and it is hard to repair once tarnished. Further, as your mom always said: you are judged by the company you keep. If you find yourself in the unenviable situation of feeling that those you are working for are stepping too close to ethical lines for your taste, you need to carefully consider your future with your current employer.

When in doubt, make a call

Not every situation is clear. If you have questions regarding ethical issues call the State Bar Ethics Hotline: (800) 254-2797. Through the hotline you can contact the Office of Bar Counsel for informal advice. More information can be found at the state bar's website at www.nvbar.org.

Just remember: It's better to call Bar Counsel than to wish you had, just as it's better to know the ethical rules and work within them than to wish you had. Work carefully, and you're setting a path towards a long and well-respected career in the law. ■

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