

DRAFT RULES OF PROFESSIONAL CONDUCT IN THE LEGAL PROFESSION

TABLE OF CONTENTS

A. PRACTICE AS LEGAL PRACTITIONER

- Rule 1: General Responsibility of a lawyer
- Rule 2: Duty as to admission into the legal profession
- Rule 3: Aiding the unauthorized practice of the law
- Rule 4: Avoidance of intermediary in the practice of the law
- Rule 5: Association for legal practice
- Rule 6: Retirement from Judicial position or public employment
- Rule 7: Engagement in business
- Rule 8: Lawyers in salaried employment
- Rule 9: Practising fees
- Rule 10: Seal and Stamp
- Rule 11: Mandatory continuing legal education

B. RELATION WITH CLIENTS

- Rule 12: Dedication and devotion to the cause of the client
- Rule 13: Representing client within the bound of the law
- Rule 14: Representing client competently
- Rule 15: Conflict of interest
- Rule 16: Agreement with client
- Rule 17: Privilege and Confidence of a client
- Rule 18: Lawyers as witness for client
- Rule 19: Withdrawal from employment
- Rule 20: Calling at client's house or place of business
- Rule 21: Dealing with client's property
- Rule 22: Responsibility for litigation
- Rule 23: Investigation of facts and production of witness

C. RELATION WITH OTHER LAWYERS

- Rule 24: Fellowship and precedence
- Rule 25: Good faith and fairness among lawyers
- Rule 26: Associating in a matter
- Rule 27: Change of lawyer

D. RELATION WITH THE COURT

- Rule 28: Lawyer as officer of court
- Rule 29: Duty and Conduct of lawyer to court
- Rule 30: Candid and fair dealing
- Rule 31: Trial Publicity
- Rule 32: Relation with Judges
- Rule 33: Lawyers and tribunals
- Rule 34: Courtroom decorum
- Rule 35: Employment in criminal cases
- Rule 36: Lawyer for indigent accused

E. IMPROPER ATTRACTION OF BUSINESS

- Rule 37: Advertising and Soliciting
- Rule 38: Notepapers, envelopes and visiting cards
- Rule 39: Signs and notices
- Rule 40: Books and articles
- Rule 41: Change of address
- Rule 42: Associate and Consultant
- Rule 43: Barrister's and Senior Advocate's robes
- Rule 44: Press, Radio and Television
- Rule 45: Instigating controversy and litigation

F. REMUNERATION AND FEES

- Rule 46: Fees for legal services
- Rule 47: Retainer
- Rule 48: Contingent fee arrangement
- Rule 49: Payment of the expenses of litigation
- Rule 50: Fixing the amount of fee
- Rule 51: Division of fees
- Rule 52: Offer of compensation or gift by the other party

G. MISCELLANEOUS

- Rule 53: Enforcement of Rules
- Rule 54: Notification of legal practice
- Rule 55: Interpretation

DRAFT RULES OF PROFESSIONAL CONDUCT IN THE LEGAL PROFESSION

A. PRACTICE AS LEGAL PRACTITIONER

General Responsibility of a lawyer

1. A lawyer shall uphold and observe the rule of law, promote and foster the course of justice, maintain a high standard of professional conduct, and shall not engage in any conduct which is unbecoming of a legal practitioner.

Duty as to admission into the legal profession

2. A lawyer shall not knowingly do any act or make any omission or engage in any conduct designed to lead to the admission into the legal profession of a person who is unsuitable for admission by reason of his moral character or insufficient qualification or for any other reason.

Aiding the unauthorized practice of the law

3. (1) A lawyer shall not-

- (a) aid a non-lawyer in the unauthorized practice of the law;
- (b) permit his professional services or his name to be used in aid of, or to make possible, the unauthorized practice of law by any person not qualified to practice or disqualified from practice; or
- (c) share legal fees with a non-lawyer except as provided in rule 51

(2) A lawyer shall not, in return for a fee, write or sign his name or permit his name to be written or signed on a document prepared by a non-lawyer as if prepared by him

Avoidance of intermediary in the practice of the law

4. A lawyer shall not permit his professional services to be controlled or exploited by any lay agency, personal or corporate, which intervenes between him and the client. Charitable societies or other institutions rendering aid to the indigent are not deemed to be such intermediaries.

Association for legal practice

(5) (1) A lawyer shall not form a partnership with a non-lawyer or with a lawyer who is not admitted to practice law in Nigeria, if any of the activities of the partnership consists of the practice of law.

(2) The name of a deceased or former partner may continue to be used as part of the name of a law firm provided it does not lead to any imposition or deception through the continued use of the name.

(3) Where a member of a law firm becomes a Judge and is hereby precluded from practicing law, his name, if it appears, shall be removed from the partnership name.

(4) Where a lawyer practices alone, he shall not hold himself out as a partner in a firm of lawyers by using a firm name such as "A, B and Co". or such other name as may suggest that he is in partnership with others.

(5) It shall be unlawful to carry out legal practice as a corporation.

Retirement from judicial position or public employment

6.(1) A lawyer shall not accept employment as an advocate in any matter upon the merits of which he had previously acted in a judicial capacity.

(2) A lawyer having once held public office or having been in the public employment shall not, after his retirement, accept employment in connection with

any matter in respect of which he had previously acted in a judicial capacity, or on the merit of which he had advised or dealt with in such office or employment.

(3) A Judicial officer who has retired shall not practice as an advocate in any Court of Law or Judicial tribunal in Nigeria.

(4) A judicial officer who has retired shall not sign any pleading in any court.

(5) A judicial officer who has retired may continue to use the word "Justice" as part of his name.

Engagement in business

7.(1) Unless permitted by the General Council of the Bar (hereinafter referred to as the "Bar Council"), a lawyer shall not practice as a legal practitioner at the same time as he practices any other profession.

(2) A lawyer shall not practice as a legal practitioner while personally engaged in

(a) the business of buying and selling commodities;

(b) the business of a commission agent;

(c) such other trade or business which the Bar Council may from time to time declare to be incompatible with practice as a lawyer, or as tending to undermine the high standing of the profession.

Lawyers in salaried employment

8.(1) A lawyer, whilst a servant or in a salaried employment of any kind, shall not appear as an advocate in a Court or judicial tribunal for his employer except where the lawyer is employed as a legal officer in a Government department.

(2) A lawyer whilst a servant or in a salaried employment shall not prepare, sign, or frank pleadings, application, instrument, agreement, contract, deed, letters, memorandum, report, legal opinion and so on or process or file any such documents for his employer.

(3) A director of a registered company shall not appear as an advocate in a Court or Judicial tribunal for his company.

(4) A lawyer in a full-time salaried employment may represent his employer as an officer or agent in cases where the employer is permitted by law to appear by an officer or agent; and in such cases, the lawyer shall not wear robes.

(5) An officer in the Armed Forces who is a lawyer may discharge any duties devolving on him as such officer and may appear at a Court Martial as long as he does so in his capacity as an officer and not as a lawyer.

Practicing fees

9(1) A lawyer shall pay his annual practicing fees not later than 31st March in every year. In the case of lawyers who are enrolled during the year, the fees shall be paid within one month of the enrolment.

(2) A lawyer shall not claim in any Court or before any judicial tribunal that he has paid his annual practicing fees when he is in fact in default.

(3) A lawyer shall not sign documents, pleadings, affidavits, depositions, applications, instruments, agreements, deeds, letters, memorandum, reports, legal opinion and so on and process or file any such documents as a legal practitioner, legal officer or adviser of any governmental department or Ministry or any corporation when he is still in default of payment of his annual practicing fee.

Seal and Stamp

10.(1) A lawyer, acting in his capacity as a legal practitioner, legal officer or adviser of any government department or Ministry or any corporation, shall not sign or file a legal document unless there is affixed on any such document a seal and stamp approved by the Nigerian Bar Association.

(2) for the purpose of this rule, legal documents shall include pleadings, affidavits, depositions, applications, instruments, agreements, deeds, letters, memoranda, reports,

legal opinions or any similar documents.

(3) If without complying with the requirement of this rule, a lawyer signs or files any legal documents as defined in sub-rule (2) of this rule, and in any of the capacities mentioned in sub-rule (1) the document so signed or filed shall be deemed not to have been duly or properly signed or filed.

Mandatory continuing legal education

11.A lawyer shall participate in the mandatory continuing legal education programme approved by the Nigerian Bar Association and shall not conduct or take part in any proceedings in any court, judicial tribunal, panel or board of inquiry as a legal practitioner and shall not sign any documents, pleadings, affidavits, depositions, applications, instruments, agreements, deeds, letters, memorandum, report, legal opinion and so on and process or file any such documents as a legal practitioner, legal officer or adviser of any governmental department of Ministry or corporation unless he is certified as having fulfilled the conditions of an approved continuing legal education programme under the prescribed Rules.

B. RELATION WITH CLIENTS

Dedication and devotion to the cause of the client

12. (1) It is the duty of a lawyer to devote his attention, energy and expertise to the service of his client and, subject to any rule of law, to act in a manner consistent with the best interest of his client.

(2) Without prejudice to the generality of paragraph (1) of this rule, a lawyer shall –

(a) consult with his client in all questions of doubt which do not fall within his discretion;

(b) and keep the client informed of the progress and any important development in the cause or matter as may be reasonably necessary;

(c) warn his client against any particular risk which is likely to occur in the course of the cause or matter;

(d) respond as promptly as reasonably possible to request for information by the client; and

(e) where he considers the client's claim or defence to be hopeless, inform him accordingly.

(3) When representing a client, a lawyer may, where permissible, exercise his independent professional judgment to waive or fail to assert a right or position of his client.

(4) It is the duty of lawyer employed in respect of a Court case to be personally present or be properly represented throughout the proceedings in Court.

(5) Negligence in handling of a client's affairs may be of such a nature as to amount to professional misconduct.

Representing client within the bounds of the law

13 (1) In his representation of a client, a lawyer may refuse to aid or participate in conduct that he believes to be unlawful even though there is some support for an argument that the conduct is legal.

(2) In his representation of his client, a lawyer shall-

(a) keep strictly within the law notwithstanding any contrary instruction by his client; and if the client insists on a breach of the law, the lawyer shall withdraw his service;

(b) use his best endeavours to restrain and prevent his client from committing misconduct or breach of the law with particular reference to judicial officers, witnesses and litigants and if the client persists in his action or conduct, the lawyer shall terminate their relations.

(3) In his representation of his client, a lawyer shall not –

(a) give service or advice to the client which he knows or ought reasonably to know is capable of causing disloyalty to, or breach of, the law, or binging disrespect to the holder of a judicial office, or involving corruption of holders of any public office;

(b) file a suit, assert a position, conduct a defence, delay a trial, or take other action on behalf of his client when he knows or ought reasonably to know that such action would serve merely to harass or maliciously injure another;

(c) knowingly advance a claim or defence that is unwarranted under existing law, but he may advance such claim or defence if it can be supported by argument in good faith for an extension, modification, or reversal of existing law;

(d) fail or neglect to inform his client of the option of alternative dispute resolution mechanisms before resorting to or continuing litigation on behalf of his client.

(e) conceal or knowingly fail to disclose that which he is required by law to reveal;

(f) knowingly use perjured or false evidence;

(g) knowingly make a false statement of law or fact;

(h) participate in the creation or preservation of evidence when he knows or ought reasonably to know that the evidence is false;

(i) counsel or assist his client in conduct that the lawyer knows to be illegal or fraudulent; or

(j) knowingly engage in other illegal conduct or conduct contrary to any of these rules.

(4) Where in the course of his representation of his client a lawyer receives clearly established information that the client has perpetrated a fraud upon a person or tribunal, he shall promptly call on his client to rectify it, and if his client refuses or is unable to do so he shall reveal the fraud to the affected person or tribunal, except when the information is a privileged communication; and if the person who perpetrated the fraud is not his client, the lawyer shall promptly reveal the fraud to the tribunal.

(5) A lawyer shall not assert in argument his personal belief in the integrity of his client or of his witnesses or in the justice of his cause, but he may make a fair analysis of the evidence touching on those matters.

Representing client competently

14.A lawyer shall not -

(a) handle a legal matter which he knows or ought to know that he is not competent to handle, without associating with him a lawyer who is competent to handle it, unless the client objects;

(b) handle a legal matter without adequate preparation;

(c) neglect a legal matter entrusted to him; or

(d) attempt to exonerate himself from or limit his ability to his client for his personal malpractice or professional misconduct

Conflict of interest

15(1) A lawyer shall, at the time of the retainer disclose to the client all the circumstances of his relations with the parties, and any interest in or connection with the controversy which might influence the client in the selection of the lawyer.

(2) Except with the consent of his client after full disclosure, a lawyer shall not accept a retainer if the exercise of his professional judgment on behalf of his client will be or may reasonably be affected by his own financial, business, property, or personal interest.

(3) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation which he is conducting for a client, except that he may

—
(a) acquire a lien granted by law to secure his fees and expenses, or

(b) contract with a client for a reasonable contingent fee in a civil case.

(4) A lawyer shall not accept a proffered employment if the exercise of his independent professional judgment on behalf of a client will be or is likely to be adversely affected by the acceptance of the proffered employment, or if it is likely to involve him in representing differing interests, unless it is obvious that the lawyer can adequately representing the interest of each, and each consents to the representation after full disclosure of the possible effect of such representing on the exercise of his independent professional judgment on behalf of each.

(4) A lawyer shall not appear as counsel for a client in a legal proceedings in which the lawyer is himself a party.

(5) Where a lawyer is required to decline employment or to withdraw from employment under any of these rules, no partner, or associate, or any other lawyer affiliated with him or his firm, may accept or continue such employment.

Agreement with clients

16.(1) A client shall be free to choose his lawyer and to dispense with his services as he deems fit; provided that nothing in this rule shall absolve the client from fulfilling any agreed or implied obligations to the lawyer including the payment of fees.

(2) The lawyer shall ensure that important agreements between him and the client are, as far as possible reduced into writing, but it is dishonourable and a misconduct for the lawyer to avoid performance of a contract fairly made with his client whether reduced into writing or not.

Privilege and confidence of a client

(1) Except as provided under sub-rule (3) of this rule, all oral or written communications made by a client to his lawyer in the normal course of professional employment are privileged.

(2) Except as provided in sub-rule (3) of this rule, a lawyer shall not knowingly —

(a) reveal a confidence or secret of his client;

(b) use a confidence or secret of his client to the disadvantage of the client; or

(c) use a confidence or secret of his client for the advantage of himself or of a third person unless the client consents after full disclosure.

(3) A lawyer may reveal -

(a) confidences or secrets with the consent of the client or clients affected, but only after a full disclosure to them

(b) confidences or secrets when permitted under these rules or required law or a Court order;

- (c) the intention of his client to commit a crime and the information necessary to prevent the crime;
- (d) confidences or secrets necessary to establish or collect his fee or to defend himself or his employees or associates against an accusation of wrongful conduct.
- (4) a lawyer shall exercise reasonable care to prevent his employees, associates and others whose services are utilized by him from disclosing or using confidences or secrets of a client, but a lawyer may reveal the information allowed by sub-rule (3) through an employee.
- (5) A lawyer shall not in any way communicate upon the subject of controversy or negotiate or compromise the matter with the other party who is represented by a lawyer, and he shall deal only with the lawyer of that other party in respect of the matter.
- (6) A lawyer shall avoid anything that may tend to mislead an opposing party who is not represented by a lawyer and shall not undertake to advise him as to the law.

Lawyer as witness for client

- 18 (1) Subject to sub-rule (2) of this rule a lawyer shall not accept to act in any contemplated or pending litigation if he knows or ought reasonably to know that he or a lawyer in his firm may be called or ought to be called as a witness.
- (2) A lawyer may undertake an employment on behalf of a client and he or a lawyer in his firm may testify for the client-
- (a) if the testimony will relate solely to an uncounted matter;
 - (b) if the testimony will relate solely to a matter of formality and there is no reason to believe that substantial evidence will be offered in opposition to the testimony;
 - (c) if the testimony will relate solely to the nature and value of legal services rendered in the case by the lawyer or his firm to the client; or
 - (d) as to any matter if refusal would work a substantial hardship on the client because of the distinctive value of the lawyer or his firm as lawyer in the particular case.
- (3) When a lawyer knows, prior to trial that he would be a necessary witness except as to merely formal matters, neither he nor his firm may conduct the trial.
- (4) If after undertaking employment in contemplated or pending litigation, a lawyer learns or it is obvious that he or a lawyer in his firm ought to be called as witness on behalf of his client, he shall withdraw from the conduct of the trial and his firm, if any, shall not continue representation in the trial, but he or a lawyer in his firm may testify in the circumstances enumerated in sub-rule (2) of this rule.
- (5) If after undertaking employment in a contemplated or pending litigation, a lawyer learns or it is obvious that he or a lawyer in his firm may be called as a witness other than on behalf of his client, he may continue the representation until it is apparent that his testimony is or may be prejudicial to the client.
- (6) If during the trial, the lawyer discovers that the ends of justice require his testimony, he should from that point on, if feasible and not prejudicial to the client's case, leave further conduct of the trial to other counsel, but if circumstances do not permit this, the lawyer shall not argue the credibility of his own testimony

Withdrawal from employment

- 19(1) A lawyer shall not abandon or withdraw from an employment once assumed, except for good cause.
- (2) Good cause for which the lawyer may be justified in withdrawing from the client's employment includes the following –
- (a) conflict of interest between the lawyer and the client;
 - (b) where the client insists on an unjust or immoral course in the conduct of his case;

- (c) if the client persists against the lawyer's advice and remonstrance in pressing frivolous defences; or
 - (d) if the client deliberately disregards an agreement or obligation as to payment of fees or expenses.
- (3) Where the lawyer is justified in withdrawing from the employment, he shall give reasonable notice to the client allowing him time to employ another lawyer.
- (4) Where the lawyer withdraws from an employment after a fee has been paid, he shall refund such part of the fee as has not been clearly earned.

Call at client's house or place of business

20. A lawyer shall not call at a client's house or place of business for the purpose of giving advice to, or taking instructions from, the client except in special circumstances or for some other urgent reason preventing his client from coming to his law office.

Dealing with client's property

- 21.(1) A lawyer shall not do any act whereby for his personal benefit or gain he abuses or takes advantage of the confidence reposed in him by his client.
- (2) Where a lawyer collects money for his client, or is in position to deliver property on behalf of his client, he shall promptly report, and account for, it and shall not mix such money or property with or use it as, his own.

Responsibility for litigation

- 22. (1)** It is the duty of a lawyer to accept any briefs in the Court in which he professes to practice provided the proper professional fee is offered unless there are special circumstances which justify his refusal.
- (2) It is the duty of every lawyer on his own responsibility to decide what cases he will bring into Court for the Plaintiff and what cases he would contest in Court for the Defendant; and he is not absolved from bringing questionable action or arguing questionable defences or giving questionable advice on the ground that he is only following his client's instructions.
- (3) A lawyer shall not conduct a civil case or make defence in a civil case when he knows or ought reasonably to know that it is intended merely to harass or to injure the opposite party or to work oppression or wrong.
- (4) The lawyer shall be responsible for taking decisions in respect of incidental matters not affecting the merit of the case or operating to prejudice substantively the right of a client and he shall not be bound to do or refrain from doing anything contrary to his sense of honour or propriety simply because his client demands that he should do it.
- (5) In matters not directly affecting the merit of the case or operating to prejudice the rights of the client, the lawyer may, to the exclusion of his client, determine what accommodations to be granted to the opposing lawyer.
- (6) For the purpose of this rule, the expression "incidental matters" includes matters such as fixing time for trial for the opposing lawyer, and applying for or resisting adjournment, account being taken of the circumstances of the opposing lawyer.

Investigation of facts and Production of witnesses, etc.

23.(1) Subject to the rules dealing with communications with the other party, it shall be lawful for a lawyer to interview any witness or prospective witness for the opposing side in any action without the consent of the opposing party, but he shall not take any action calculated to secrete a witness.

(2) A lawyer shall not participate in a bargain with a witness either by contingent fee or otherwise as a condition for giving evidence but this does not preclude payment of reasonable expenses incurred for the purpose of giving the evidence.

(2) A lawyer may advertise for witnesses to testify to a particular event or transaction but not to witnesses to testify to a particular version of the event or transaction.

(3) A lawyer shall not be unfair or abusive or inconsiderate to adverse witnesses or opposing litigants or ask any question only to insult or degrade the witness; and he shall not allow the unfair suggestions or demands of his clients to influence his action.

C. RELATION WITH OTHER LAWYERS

Fellowship and Precedence.

24(1) Lawyers shall treat one another with respect, fairness, consideration and dignity, and shall not allow any ill-feeling between opposing clients to influence their conduct and demeanor towards one another or towards the opposing clients.

(2) Lawyers shall observe among one another the rules of precedence as laid down by law, and subject to this, all lawyers are to be treated on the basis of equality of status.

Good faith and fairness among lawyers

25(1) A lawyer shall observe good faith and fairness in dealing with another lawyer.

(2) Without prejudice to the generality of sub-rule (1) of this rule, a lawyer -

(a) shall observe strictly all promises or agreements with other opposing lawyers whether oral or in writing and whether in or out of court, and shall adhere in good faith to all agreements implied by the circumstances of the case.

(b) shall, where he gives a personal undertaking and does not expressly or clearly disclaim personal liability there under, honour his undertaking promptly; and

(c) shall not take an undue advantage of the predicament or misfortune of the opposing lawyer or client.

(3) A lawyer shall not hand over his brief to another lawyer to hold, and that other shall not accept the brief, unless the brief is handed over in reasonable time for the receiving lawyer to acquire adequate grasp of the matter,

(4) Where a lawyer is aware, or ought reasonably to be aware, that a person is already represented by another lawyer in a particular matter, he shall not have any dealing with that person in respect of the same matter without giving prior notice to the other lawyer. The lawyer accepting the instructions shall use his best endeavours to ensure that all the fees due to the other lawyer in the matter are paid.

(5) During the course of his representation of a client, a lawyer shall not:

(a) communicate, or cause another to communicate, on the subject of the representation with the party he knows to be represented by a lawyer in that matter unless he has the prior consent of the lawyer representing such party or is authorized by law to do so; or

(b) give advice to a person who is not represented by a lawyer in the matter or cause.

Associating in matter

26 (1) It is the right of the client to proffer, either on his own, or on the advice of his lawyer, the service of additional lawyer in a matter.

(2) Where a lawyer is employed by a client to join the original lawyer, the later lawyer shall decline if it is objectionable to the original lawyer, but if the original lawyer is relieved of his retainer by the client or he withdraws, the later lawyer

may come into the matter; and that case, he shall use his best endeavours to ensure that all the fees due to the other lawyer in the matter are paid.

(3) When lawyers jointly associated in a course cannot agree as to any matter vital to the interest of the client, the conflict of opinion shall be frankly stated to the client for his determination, and his decision shall be final provided that where the nature of the differences makes it impracticable for the lawyer whose judgment has been overruled to cooperate effectively, he shall withdraw from the employment

Change of lawyer:

27(1) Where a client changes his lawyer on a pending matter, the new lawyer shall

(a) promptly give notice to the former lawyer; and

(b) use his best endeavours to ensure that the former lawyer is paid his earned fees.

(2) Where in litigation, a client changes his lawyer, both the old lawyer and new lawyer shall give notice of the change to the court.

(3) Where a client changes his lawyer-

(a) The client is entitled to –

(i) all letters written by the lawyer to other persons at the direction of the client;

(ii) copies of letters written by the lawyer to other persons at the direction of the client

(iii) drafts and copies made in the course of business; and

(iv) documents prepared from such drafts; and

(b) the lawyer is entitled to-

(i) all letters written by the client to the lawyer;

(ii) copies of letters addressed by the lawyer to the client;

(iii) a lien on the papers or documents of his client in respect of unpaid fees.

(4) This rule is subject to any applicable rule of court.

D. RELATION WITH THE COURT.

Lawyer as officer of Court

28. A lawyer is an officer of the Court and, accordingly, he shall not do any act or conduct himself in any manner that may obstruct, delay or adversely affect the administration of justice.

Duty of lawyer to Court; and conduct in Court

29.(1) A lawyer shall always treat the Court with respect, dignity and honour:

(2) where the lawyer has a proper ground for complaint against a judicial officer, he shall make his complaint to the appropriate authorities.

(3) A lawyer who fails to comply with any undertaking given by him either personally or on behalf of a client to a court is prima facie guilty of professional misconduct.

(4) Except where the opposing lawyer fails or refuses to attend and the Judge is advised of the circumstances, a lawyer shall not discuss a pending case with a Judge trying the case unless the opposing lawyer is present.

(5) Except as provided by a rule or order of Court, lawyer shall not deliver to the Judge any letter, memorandum, brief or other written communication without concurrently delivering a copy to the opposing lawyer.

Candid and fair dealing

30.(1) In appearing in his professional capacity before a Court or Tribunal, a lawyer shall not deal with the Court otherwise than candidly and fairly.

(2) In presenting a matter to a Court, a lawyer shall disclose:

- (a) any legal authority in the jurisdiction known to him to be directly adverse to the position of his client and which is not disclosed by the opposing lawyer; and
- (b) the identities of the clients he represents and of the persons who employed him unless such disclosure is privileged or irrelevant.

(3) In appearing in his professional capacity before a Court or Tribunal, a lawyer shall not:

- (a) state or allude to any matter that he has no reasonable basis to believe is relevant to the case or that will not be supported by admissible evidence;
- (b) ask any question that he has no reasonable basis to believe is relevant to the case and that is intended to degrade a witness or other person;
- (c) assert his personal knowledge of the facts in issue except when testifying as witness, nor assert his personal opinion as to the justness of a cause, as to the credibility of a witness, as to the culpability of a civil litigant or as to the guilt or innocence of an accused, but he may argue, on his analysis of the evidence, for any position or conclusion with respect to the matters stated herein;
- (d) fail to comply with known local customs of courtesy or practice of the Bar or of a particular Tribunal without giving to the opposing lawyer adequate notice of his client not to comply;
- (e) intentionally or habitually violate any established rule of procedure or of evidence;
- (f) knowingly misquote the content of a paper, the testimony of a witness, the language of the argument of the opposing counsel, or the language of a decision or a textbook;
- (g) with knowledge of its invalidity, cite as authority a decision that has been overruled, or a statute that has been repealed with intent to mislead the Court or Tribunal.
- (h) in argument, assert as a fact that which has not been proved, or in those jurisdictions where a side has the opening and closing argument, to mislead his opponent by concealing or withholding in his opening argument positions upon which his side intends to rely;
- (i) produce evidence which he knows the Court should reject;
- (j) promote a case which to his knowledge is false: or
- (k) in any other way do or perform any act which may obviously amount to an abuse of the process of the Court, or which is dishonourable and unworthy of an officer of the law charged, as the lawyer, with the duty of aiding in the administration of justice.

Trial publicity

31. A lawyer or law firm engaged in or associated with the prosecution or defence of a criminal matter, or associated with a civil action shall not, while litigation is anticipated or pending in the matter, make or participate in making any extra-judicial statement that is calculated to prejudice or interfere with, or is reasonably capable of prejudicing or interfering with, the fair trial of the matter or the judgment or sentence thereon.

Relation with Judges

32. A lawyer shall not do anything, or conduct himself in such a way, as to give the impression, or allow the impression to be created, that his act or conduct is calculated to gain, or has the appearance of gaining special personal consideration or favour from a Judge.

Lawyer and Tribunals

33. A lawyer appearing before a judicial tribunal shall accord due respect to it and shall treat the tribunal with courtesy and dignity.

Courtroom Decorum

34.When in the courtroom, a lawyer shall -

- (a) be attired in a proper or dignified manner and shall not wear any apparel or ornament calculated to attract attention to himself,
- (b) conduct himself with decency and decorum, and observe the customs, conduct and code of behaviour of the Court and custom of practice at the bar with respect to appearances, dress, manners and courtesy;
- (c) rise when addressing or being addressed by the Judge;
- (d) address his objections, requests, arguments, and observations to the Judge and shall not engage in the exchange of banter, personality display, arguments or controversy with the opposing lawyer;
- (e) not engage in undignified or discourteous conduct which is degrading to a Court or tribunal; and
- (f) not remain within the Bar or wear the lawyer's robes when conducting a case in which he is a party or giving evidence.

Employment in Criminal Cases

35.(1) Where a lawyer undertakes a defence of a person accused of a crime, he shall exert himself, by all fair and honourable means, to put before the Court all matters that are necessary in the interest of justice; but he shall not stand or offer to stand bail for a person for whom he or a person in his law firm is appearing.

(2)Where the lawyer accepts a brief for the defence in a murder trial, he shall be deemed to have given a solemn undertaking, subject to any sufficient unforeseen circumstances, that he will personally conduct the defence provided his fee is paid.

(3)Where an accused person discloses facts which clearly and credibly show his guilt, the lawyer shall not present any evidence inconsistent with those facts and shall not offer any testimony which he knows to be false.

(4)The primary duty of a lawyer engaged in public prosecution is not to convict but to see that justice is done.

(5) A public prosecutor shall not institute or cause to be instituted a criminal charge if he knows or ought reasonably to know that the charges are not supported by the probable evidence.

(6) A lawyer engaged in public prosecution shall not suppress facts or secrete witnesses capable of establishing the innocence of the accused person; but he shall make timely disclosure to the lawyer for the defendant, or to the defendant if he has no counsel, of the existence of evidence known to the prosecutor or other government lawyer that tends to negate the guilt of he accused, mitigate the degree of the offence, or reduce the punishment.

Lawyer for an Indigent accused

36.A lawyer assigned to defend an indigent prisoner shall not ask to be excused except for substantial reason, but shall exert his best effort in the defence of the accused.

E. IMPROPER ATTRACTION OF BUSINESS

Advertising and Soliciting

37.(1) Subject to paragraphs (2) and (3) of this rule a lawyer may engage in any advertising or promotion in connection with his practice of the law, provided:

- (a) it is fair and proper in all the circumstances
- (b) it complies with the provisions of these Rules.

(2) A lawyer shall not engage or be involved in any advertising or promotion of his practice of the law which -

- (a) is inaccurate or likely to mislead;
- (b) is likely to diminish public confidence in the legal profession, or the Administration of Justice, or otherwise bring the legal profession into disrepute;
- (c) makes comparison with or criticizes other lawyers or other professions or professionals;
- (d) includes statement about the quality of the lawyer's work, the size of success of his practice or his success rate; or
- (e) is so frequent or obstructive as to cause annoyance to those to whom it is directed.

3. Notwithstanding the provisions of paragraph (1) of this rule, a lawyer shall not solicit professional employment either directly or indirectly-

- (a) by circulars, handbills, advertisement, through touts or by personal communication or interview;
- (b) by furnishing, permitting or inspiring newspaper, radio or television comments in relation to his practice of the law;
- (c) by procuring his photograph to be published in connection with matters in which he has been or is engaged, or concerning the manner of their conduct, the magnitude of the interest involved or the importance of the lawyer's position;
- (d) by permitting or inspiring sound recordings in relation to his practice of law; or
- (e) by such similar self-aggrandisement.

4. Nothing in this rule shall preclude a lawyer from publishing in a reputable Law List or Law Directory, a brief biographical or informative data of himself, including all or any of the following matters:

- (a) his name or names of his professional association;
- (b) his address, telephone number, telex number e-mail address etc.
- (c) the school colleges or other institutions attended with dates of graduation, degree and other educational or academic qualifications or distinctions;
- (d) date and place of birth and admission to practice law;
- (e) any public or quasi- public office, post of honour legal authorship, etc;
- (f) any legal teaching position;
- (g) any National Honours;
- (h) membership and office in the Bar Association and duties thereon; and
- (i) any position held in legal or scientific societies.

Note-papers, envelopes and visiting cards

38. A lawyer may cause to be printed on his note-papers, envelopes and visiting cards -

- (a) his name and address;
- (b) his academic and professional qualifications and title including the words "Barrister-at-Law", "Barrister and Solicitor", "Solicitor and Advocate", "Legal Practitioner", "Attorney-at-Law", and
- (c) any National Honours

Signs and Notices

39. A lawyer or a firm may display at the entrance of or outside any buildings or offices in which he or it carries on practice, a sign or notice containing his or its name and professional qualifications. The sign or notice shall be of reasonable size and sober design.

Books and articles

40. Where a lawyer writes a book or an article for publication in which he gives information on the law, he may add his professional qualification after his name.

Change of address

41. On a change of address, telephone number or other circumstances relating to his practice, a lawyer may send to his clients notice of a change and may insert an advertisement of such change in a newspaper or journal:

Associate and Consultant

42. Where a lawyer is available to act as an associate of other lawyers, either generally or in a particular branch of the law or legal service, he may send to lawyers in his locality only and publish in his local journal, if any, a brief and dignified announcement of his availability to serve other lawyers in that connection as long as the announcement is not designed to attract business improperly.

Lawyer's robes

43.(1) Except with the permission of the Court, a lawyer appearing before a High Court, the Court of Appeal or the Supreme Court shall do so in his robes.

(2) A lawyer shall not wear the Barrister's or Senior Advocate's robe-

(a) on any occasion other than in Court except as may be directed or permitted by the Bar Council; or

(b) when conducting his own case as party to a legal proceeding in Court; or

(c) giving evidence in a legal proceeding in Court.

Press, Radio and Television

44. (1) A lawyer may write articles for publications, or participate in radio and television programmes in which he gives information on the law, but he shall not accept employment from any such publication or programme to advise or inquire in respect of their individual rights.

(2) A lawyer shall not -

(a) insert in any newspaper, periodical or any other publication, an advertisement offering as a lawyer, to undertake confidential enquiries;

(b) write for publication or otherwise cause or permit to be published except in a legal periodical, any particulars of his practice or earnings in the Courts or cases where the time for appeal has not expired on any matter in which he has been engaged as a lawyer; and

(c) take steps to procure the publication of his photograph as a lawyer in the press or any periodical.

3. Where a lawyer is instructed by a client to publish an advertisement or notice, the lawyer may put his name, address and his academic professional qualifications.

Instigating controversy or Litigation

45. (1) A lawyer shall not foment strife or instigate litigation and, except in the case of close relations or of trust, he shall not, without being consulted, proffer advice to bring a law suit.

(2) A lawyer shall not -

(a) search the land registry or other registries for defects with a view to employment or litigation;

(b) seek out claimants in respect of personal injuries or any other cause of action with a view to being employed by the prospective client.;

(c) engage, aid or encourage an agent or any other person to follow up on accidents with a view to employment as a lawyer in respect of any claims arising therefrom; or

(d) offer or agree to offer rewards to any person who by reason of his own employment is likely to be able to influence legal work in favour of the lawyer.

F. REMUNERATION AND FEES

Fees for legal service

46.(1) A lawyer is entitled to be paid adequate remuneration for his services to the client.

(2) A lawyer shall not enter into an agreement for , charge or collect an illegal or clearly excessive fee.

(3) For the purpose of this rule, 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 for the services rendered or to be rendered.

Retainer

47. (1) Subject to sub-rule (2) of this rule, a lawyer may accept general or special retainers.

(2) Where a lawyer accepts a retainer in respect of litigation, he shall be separately instructed and separately remunerated by fees for each piece of work; and accordingly, a lawyer shall not –

(a) represent or undertake to represent a client for all his litigation or a part of it on an agreed lump sum over a period of time; or

(b) accept instructions from a client on terms that a particular class of court cases shall be done at a fixed fee in each case irrespective of the circumstances of each case.

(3) A lawyer who accepts a retainer shall not –

(a) in the case of a general retainer, advise on, or appear in any proceedings detrimental to the interest of the client paying the retainer during the period of the retainer; and

(b) in the case of a special retainer, accept instructions in any matter forming the subject matter of the retainer which will involve advising or arguing against the interest of the client paying the retainer.

(4) In this rule – “retainer” means an agreement by a lawyer to give his services to a client; “general retainer” means a retainer which covers the clients work generally; and “special retainer” means a retainer which covers a particular matter of the client.

Contingent fee arrangement

48. (1) A lawyer may enter into a contract with his client for a contingent fee in respect of a civil matter undertaken or to be undertaken for a client whether contentious or non-contentious: Provided that -

(a) the contract is reasonable in all the circumstances of the case including the risk and uncertainty of the compensation;

(b) the contract is not –

(i) vitiated by fraud, mistake or undue influence; or

(ii) contrary to public policy; and

(c) if the employment involved litigation, it is reasonably obvious that there is a bonafide cause of action

(2) A lawyer shall not enter into an arrangement to charge or collect, a contingent fee for representing a defendant in a criminal case.

(3) Except as provided in sub-rule (1) of this rule, a lawyer shall not purchase or otherwise acquire directly or indirectly an interest in the subject matter of the litigation which he or his firm is conducting; but he may acquire a lien granted by law to secure his fees and expenses.

(4) A lawyer shall not enter into a contingent fee arrangement without first having advised the client of the effect of the arrangement and afforded the client an opportunity to retain him under an arrangement whereby he would be compensated on the basis of a reasonable value of his services.

(5) In this rule, "contingent fee: means fee paid or agreed to be paid for the lawyer's legal services under an arrangement whereby compensation, contingent in whole or in part upon the successful accomplishment or deposition of the subject matter of the agreement, is to be of an amount which is either fixed or is to be determined under the formula

Payment of the expenses of litigation

49. A lawyer shall not enter into an agreement to pay for, or bear the expenses of his client's litigation, but the lawyer may, in good, faith advance expenses -

- (a) as a matter of convenience, and
- (b) subject to reimbursement.

50. Fixing the amount of the fee

(1) The professional fees charged by a lawyer for his services shall be reasonable and commensurate with the services rendered; and accordingly, the lawyer shall not charge fees which are excessive or so low as to amount to undercutting: Provided that a reduced fee or no fee at all may be charged on the ground of the special relationship or indigence of a client.

(2) In determining the amount of the fee, a lawyer may take into account all or any of the following considerations in ascertaining the value of the service rendered -

- (a) the time and labour required, the novelty and difficulty of the questions involved and the skill required to conduct the cause properly;
- (b) whether the acceptance of employment in the particular case will preclude the lawyer's appearance for others in cases likely to arise out of the transaction, and in which there is a reasonable expectation that otherwise he would be employed;
- (c) whether the acceptance of the employment will involve the loss of other employment while employed in the particular case of antagonisms with other clients;
- (d) the customary charges of the Bar for similar services; Provided that in determining the customary charges of the Bar, the lawyer may consider a schedule of minimum fees, if any, adopted by the Bar Association, but he is not bound to follow it strictly or alone;
- (e) the amount involved in controversy and the benefits resulting to the client from the services;
- (f) the contingency or the certainty of the compensation; and
- (g) the character of the employment, whether casual or for an established or constant client.

Division of fees

51. A lawyer shall not share the fees of his legal services except with another lawyer based upon the division of service or responsibility: Provided that -

- (a) an agreement by a lawyer with his firm, partner or association may provide for the payment of money, over a period of time after his death, to his estate or to one of more persons;

- (b) a lawyer who undertakes to complete unfinished legal business of a deceased lawyer that proportion of the total compensation which fairly represents the service rendered by the deceased lawyer; and
- (c) a law firm may include non-lawyer employees in retirement plan, even though the plan is based on profit-sharing arrangement.

Offer of compensation or gift by the other party

52. A lawyer shall not accept any compensation, rebate, commission, gift or other advantages from or on behalf of the opposing party except with the full knowledge and consent of his client after full disclosure

A. MISCELLANEOUS

Enforcement of rules

53 (1) If a lawyer acts in contravention of any of the rules in these Rules or fails to perform any of the duties imposed by the Rules, he shall be guilty of a professional misconduct and liable to punishment as provided in Legal Practitioners Act.

(2) It is the duty of every lawyer to report any breach of any of these rules that comes to his knowledge to the appropriate authorities for necessary disciplinary action.

Notification of Legal Practice

54. (1) Every person who sets up private legal practice either alone or in association or partnership with another or others shall not later than thirty days after commencement of such legal practice and if he continues to carry on the law practice, deliver a Notice in the prescribed form to the Branch of the Nigerian Bar Association within whose jurisdiction the law office is situated.

(2) The Notice referred to in sub-rule (1) of this rule shall state:

- (a) the name of the legal practitioner;
- (b) the address where the legal practice is carried on;
- (c) the date when the legal practitioner was called to the Bar in Nigeria; and
- (d) the date when his name was entered in the Roll of Legal Practitioners in Nigeria.

(3) The Branch of the Nigerian Bar Association to which the Notice is delivered shall enter the particulars in the Notice in a Register or database kept for that purpose.

(4) Every legal practitioner who, after having been registered under sub-rule (3) of this rule, changes this name or address for legal practice shall deliver to the Branch where he is so registered, a Notice in the prescribed form showing particulars of the changes made.

Interpretation

55. In these rules unless the context otherwise admits -

“Judge” includes any officer carrying out judicial functions in a Court;

“Lawyer” means legal practitioner as defined by the Legal Practitioners Act.

Dated at Abuja this Day of 2006

.....
Attorney – General of the Federation
And Minister of Justice
Chairman General Council of the Bar