

**A SERIES OF VIGNETTES PRESENTING  
ISSUES IN LEGAL ETHICS:  
AN INSTRUCTIONAL VIDEO**

**PRESENTED BY:**



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## **Introduction, by Allison Martin Rhodes**

### **1. Vignette One: Model Rule 1.14**

This vignette examines the issues related to aging clients with diminished capacity. How should a lawyer deal with a client who exhibits signs of diminished mental capacity?

### **2. Vignette Two: Model Rule 1.18**

This vignette examines conflicts of interest with former prospective clients, and specifically scrutinizes the potential impacts of a lawyer's discussion with a prospective client.

### **3. Vignette Three: Model Rules 3.3 and 3.4**

This vignette reviews issues related to responding candidly to discovery requests and the lawyer's duty to ensure that discovery requests from a litigation opponent are responded to candidly and fully, even when a client is resistant to doing so.

### **4. Vignette Four: Model Rule 1.8(f)**

This vignette examines the tripartite relationship between a liability insurer, the insured/client, and the lawyer hired by the insurer, including the difficulties of the situation that arises when an insurance company assigns a lawyer to defend an insured and is paying the lawyer's invoices. How are the insured/client's rights protected, and how does this relationship affect the lawyer's duties?

## **5. Vignette Five: Model Rules 1.6(b)(6) and 1.2(d)**

This vignette examines considerations related to a lawyer responding to a subpoena regarding identifying a client's location. What impact does the issuance of a subpoena to a lawyer regarding the lawyer's client have on the lawyer's duty of confidentiality? In such situations, who has the duty to assert the attorney-client privilege? Does a lawyer assist a client in engaging in criminal activity when she fails to provide information related to the client's location, or advises the client on which jurisdictions would not extradite the client?

## **6. Vignette Six: Model Rule 3.7**

This vignette illustrates the issues presented when a lawyer for a client has critical – and unique – knowledge of the events in dispute at a trial.

## **7. Vignette Seven: Model Rule 1.7**

Often lawyers ask themselves, “how is THAT a conflict, and how do I even know it is?” This vignette addresses a not-uncommon conflict of interest situation that is often subject to an “eye of the beholder” analysis, and whether such a situation creates a positional or issue conflict of interest.

## **8. Vignette Eight: Model Rule 1.2(c)**

This vignette examines the all-too-common situation that occurs when a client thinks she knows what legal services she needs, and maybe more important, which she doesn't need. Here, we explore the nature and extent of the explanation a lawyer should provide to a prospective client who seeks to retain a lawyer for a limited scope engagement. This vignette also introduces issues regarding communications with unrepresented parties under Model Rule 4.3.

## **9. Vignette Nine: Model Rules 5.1 and 5.3**

This vignette examines issues related to supervising junior lawyers and non-lawyer employees, using as an example the type of supervision that may be required in complex litigation matters.

## **10. Vignette Ten: Model Rules 1.6(b)(2) and (b)(3)**

When may or must a lawyer disclose client fraud that is causing financial harm or property damage? This vignette addresses the grounds for a lawyer's permissive disclosure of client confidences when a client's fraudulent conduct in connection with a lawyer's services is or will be causing ongoing substantial injury to the financial interests or property of third persons.

## **11. Vignette Eleven: Model Rule 5.6(b)**

Can a lawyer ever enter into a settlement agreement that restricts his future practice? In this vignette, a lawyer faces questions from a disciplinary peer review committee regarding a settlement agreement he helped draft.

## **12. Vignette Twelve: Model Rule 8.3**

When does a lawyer have to report another lawyer's misconduct? This vignette raises questions as to the impact of a client's concerns in connection with a lawyer's duty to report misconduct, including reviewing the interaction between Model Rules 8.3 and 1.6.

## **13. Vignette Thirteen: Model Rule 1.9**

What is the substantial relationship test, and when are new matters substantially related to a lawyer's prior representation of a former client? This vignette addresses exactly these issues, in the context of two lawyers employed by a county who contemplate leaving their jobs to handle cases against that same county.

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