

Rule 1.0 Purpose and Scope of the Rules of Professional Conduct
(Commission’s Proposed Rule – Clean Version)

- (a) Purpose: The purposes of the following Rules are:
 - (1) To protect the public;
 - (2) To protect the interests of clients;
 - (3) To protect the integrity of the legal system and to promote the administration of justice; and
 - (4) To promote respect for, and confidence in, the legal profession.
- (b) Scope of the Rules:
 - (1) These Rules, together with any standards adopted by the Board of Governors of the State Bar of California pursuant to these Rules, regulate the conduct of lawyers and are binding upon all members of the State Bar and all other lawyers practicing law in this state.
 - (2) A willful violation of these Rules is a basis for discipline.
 - (3) Nothing in these Rules or the comments to the Rules is intended to enlarge or to restrict the law regarding the liability of lawyers to others.
- (c) Comments: The comments following the Rules do not add obligations to the Rules but provide guidance for their interpretation and for acting in compliance with the Rules.
- (d) Title: These Rules are the “California Rules of Professional Conduct.”

COMMENT

- [1] The Rules of Professional Conduct are Rules of the Supreme Court of California regulating lawyer conduct in this state. (See *In re Attorney Discipline System* (1998) 19 Cal. 4th 582, 593-597 [79 Cal Rptr.2d 836]; *Howard v. Babcock* (1993) 6 Cal. 4th 409, 418 [25 Cal Rptr.2d 80].) The Rules have been adopted by the Board of Governors of the State Bar of California and approved by the Supreme Court pursuant to Business and Professions Code sections 6076 and 6077. The Supreme Court of California has inherent power to regulate the practice of law in California, including the power to admit and discipline lawyers practicing in this jurisdiction. (*Hustedt v. Workers' Comp. Appeals Bd.* (1981) 30 Cal.3d 329, 336 [178 Cal.Rptr. 801]; *Santa Clara County Counsel Attorneys Association v. Woodside* (1994) 7 Cal.4th 525, 542-543 [28 Cal.Rptr.2d 617] and see Business and Professions Code section 6100.)
- [2] The Rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through discipline. (See *Ames v. State Bar* (1973) 8 Cal.3d 910 [106 Cal.Rptr. 489].) Therefore, failure to comply with an obligation or prohibition imposed by a rule is a basis for invoking the disciplinary process. Because the Rules are not designed to be a basis for civil liability, a violation of a rule does not itself give rise to a cause of action for enforcement of a rule or for damages caused by failure to comply with the rule. (*Stanley v. Richmond* (1995) 35 Cal.App.4th 1070, 1097 [41 Cal.Rptr.2d 768]; *Noble v. Sears Roebuck & Co.* (1973) 33 Cal.App.3d 654, 658 [109 Cal.Rptr. 269]; *Wilhelm v. Pray, Price, Williams & Russell* (1986) 186 Cal.App.3d 1324, 1333 [231 Cal.Rptr. 355].) Nevertheless, a lawyer's

violation of a rule may be evidence of breach of a lawyer's fiduciary or other substantive legal duty in a non-disciplinary context. (See, *Stanley v. Richmond*, *supra*, 35 Cal.App.4th 1070, 1086 [41 Cal.Rptr.2d 768]; *Mirabito v. Liccardo* (1992) 4 Cal.App.4th 41, 44 [5 Cal.Rptr.2d 571].) A violation of the rule may have other non-disciplinary consequences. (See e.g., *Klemm v. Superior Court* (1977) 75 Cal.App.3d 893 [142 Cal.Rptr. 509] (disqualification); *Academy of California Optometrists, Inc. v. Superior Court* (1975) 51 Cal.App.3d 999 [124 Cal.Rptr. 668] (duty to return client files); *Fletcher v. Davis* (2004) 33 Cal.4th 61 [14 Cal.Rptr.3d 58] (enforcement of attorney's lien); *Chambers v. Kay* (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536] (enforcement of fee sharing agreement); *Chronometrics, Inc. v. Sysgen, Inc.* (1980) 110 Cal.App.3d 597 [168 Cal.Rptr. 196] (communication with represented party).)

[3] These Rules are not the sole basis of lawyer regulation. Lawyers authorized to practice law in California are also bound by applicable law including the State Bar Act (Business and Professions Code section 6000 et. seq.), other statutes, rules of court, and the opinions of California courts. Although not binding, issued opinions of ethics committees in California should be consulted for guidance on proper professional conduct. Ethics opinions of other bar associations may also be considered to the extent they relate to rules and laws that are consistent with the rules and laws of this state.

[4] Under paragraph (b)(2), a willful violation of a rule does not require that the lawyer intend to violate the rule. (*Phillips v. State Bar* (1989) 49 Cal.3d 944, 952 [264 Cal.Rptr. 346]; and see Business and Professions Code section 6077.)

[5] For the disciplinary authority of this state and choice of law, see Rule 8.5.