

CLE: Things Lawyers Say that Get them into Trouble: Truth, Candor and Misconduct

Class length: 60 minutes

Instructor: Prof. Martin Mitchell

Event: US Court of Appeals for the Armed Force, CLE and Training Program, May 2025

Attorneys owe duties of Confidentiality of Information, Candor to the Tribunal and Truthfulness in Statements to Others and to avoid Misconduct. There are also parallels in the Code of Conduct for US Judges and the US Courts: Code of Conduct for Judicial Employees.

What is so difficult about keeping secrets, not lying and not breaking rules? Plenty!

What about when these rules conflict with each other?

How do you know when to tell the judge about your client's desire to commit perjury?

What about a client who says they don't intend to show for trial or have violated probation/parole?

What about a client who is using an alias?

This lecture will address some of these concerns by looking at case law and bar ethics opinions.

Sources:

DC Bar Rule 1.6: Confidentiality of Information

DC Bar Rule 3.3: Candor to Tribunal

DC Bar Rule 4.1: Truthfulness in Statements to Others

DC Bar Rule 8.4: Misconduct

Florida Bar Ethics Opinion 04-1 June 24, 2005

Virginia Legal Ethics Opinion 1777 Attorney-Client Privilege – Is Conversation Protected Where Attorney Discovers Client's Mistake In A Bankruptcy Filing (June 13, 2003)

Virginia Legal Ethics Opinion 1840 Can A Lawyer Representing A Settlement Company Facilitate That Company's Practice Of Re Deeding Property Through A Relocation Intermediary Without Proper Recordation? (September 25, 2007)