



Building Your Brand (ethically)

CLE COURSE

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Because We Are Lawyers

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Looking Ahead



- Compliance with Ethics Rules
- Why
- How
- When

Building Your Brand

ABA Model Rules of Professional Conduct address many issues that impact how you build your brand:

- Competence
- Diligence
- Fulsome, Effective, and Prompt Communication
- Decline or Terminate Representation
- Advise
- Counsel
- Candor and Truthfulness
- Fairness
- Pro Bono Service
- Public Service



ABA Model Rules of Professional Conduct

Rule 1.1 - Competence

(a) A lawyer shall provide competent representation to a client. Competent representation requires the **legal knowledge, skill, thoroughness and preparation reasonably necessary** for the representation.



ABA Model Rules of Professional Conduct

Rule 1.3 - Diligence

(a) A lawyer shall act with **reasonable diligence and promptness** in representing a client.



ABA Model Rules of Professional Conduct

Rule 1.4 – Communications

(a) A lawyer shall:

- **promptly inform the client** of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
- **reasonably consult** with the client about the means by which the client's objectives are to be accomplished;
- keep the client **reasonably informed** about the status of the matter;
- **promptly comply** with reasonable requests for information; and
- **consult with the client about any relevant limitation** on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall **explain a matter to the extent reasonably necessary** to permit the client to make informed decisions regarding the representation.

ABA Model Rules of Professional Conduct

Rule 1.16 – Declining or Terminating Representation

(a) a lawyer **shall not represent a client or shall withdraw** from the representation if:

- the **representation will result in violation** of the rules of professional conduct or other law;
- the **lawyer's physical or mental condition materially impairs** the lawyer's ability to represent the client; or
- the **lawyer is discharged**

AND...



ABA Model Rules of Professional Conduct

Rule 1.16 – Declining or Terminating Representation (cont.)

(b) A lawyer **may withdraw** from representing a client if:

- withdrawal can be accomplished **without material adverse effect** on the interests of the client;
- the client persists in a course of action involving the lawyer's services that the **lawyer reasonably believes is criminal or fraudulent**;
- the client has **used the lawyer's services to perpetrate a crime or fraud**;
- the client insists upon taking **action that the lawyer considers repugnant** or with which **the lawyer has a fundamental disagreement**;
- the **client fails substantially to fulfill an obligation** to the lawyer and has been given reasonable warning;
- the representation will result in an **unreasonable financial burden** on the lawyer or has been **rendered unreasonably difficult** by the client; or
- other **good cause**

(c) Exceptions to the above --- A lawyer must comply with applicable law requiring notice to or permission of a tribunal

(d) Upon termination, take steps to the extent reasonably practicable to protect a client's interests

ABA Model Rules of Professional Conduct

Rule 2.1 – Advisor

- a lawyer shall exercise **independent professional judgment** and render **candid advice**.
- In rendering advice, a lawyer **may refer** not only to law but **to other considerations such as moral, economic, social and political factors**, that may be relevant to the client's situation.



ABA Model Rules of Professional Conduct

Rule 3.1- Meritorious Claims & Contentions

- A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a **basis in law and fact for doing so that is not frivolous**, which includes a good faith argument for an extension, modification or reversal of existing law.
- Exception for representing the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration.



ABA Model Rules of Professional Conduct

Rule 3.3 - Candor Toward the Tribunal

(a) A lawyer **shall not** knowingly:

- **make a false statement** of fact or law to a tribunal or **fail to correct a false statement** of material fact or law previously made to the tribunal by the lawyer;
- **fail to disclose** to the tribunal legal **authority in the controlling jurisdiction** known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or
- **offer evidence that the lawyer knows to be false**. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

ABA Model Rules of Professional Conduct

Rule 3.4 - Fairness to Opposing Party & Counsel

A lawyer shall not:

- **unlawfully obstruct** another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;
- **falsify evidence**, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;
- **knowingly disobey an obligation** under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;
- in pretrial procedure, **make a frivolous discovery request or fail to make reasonably diligent effort to comply** with a legally proper discovery request by an opposing party;
- in trial, **allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence**, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused; or
- **request a person other than a client to refrain from voluntarily giving relevant information** to another party unless: (1) the person is a relative or an employee or other agent of a client; and (2) the lawyer reasonably believes that the person's interests will not be adversely affected by refraining from giving such information

ABA Model Rules of Professional Conduct

Rule 4.1 - Truthfulness in Statements to Others

In the course of representing a client a lawyer **shall not** knowingly:

(a) **make a false statement** of material fact or law to a third person; or

(b) **fail to disclose** a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.



ABA Model Rules of Professional Conduct

Rule 6.1 - Voluntary Pro Bono Publico Service

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

(a) provide a **substantial majority** of the (50) hours of legal services **without fee or expectation of fee** to:

- persons of limited means or
- charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the needs of persons of limited means; and

(b) provide any additional services through:

- delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;
- delivery of legal services at a substantially reduced fee to persons of limited means; or
- participation in activities for improving the law, the legal system or the legal profession.

In addition, **a lawyer should voluntarily contribute financial support** to organizations that provide legal services to persons of limited means.

ABA Model Rules of Professional Conduct

Rule 6.3 - Membership in Legal Services Organization

A lawyer may serve as a director, officer or member of a legal services organization, apart from the law firm in which the lawyer practices, notwithstanding that the organization serves persons having interests adverse to a client of the lawyer. The lawyer shall not knowingly participate in a decision or action of the organization:

- if participating in the decision or action would be incompatible with the lawyer's obligations to a client under Rule 1.7; or
- where the decision or action could have a material adverse effect on the representation of a client of the organization whose interests are adverse to a client of the lawyer.

ABA Model Rules of Professional Conduct

Rule 7.1 – Communications Concerning a Lawyer's Services

- A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.



ABA Model Rules of Professional Conduct

Rule 7.2 - Communications Concerning a Lawyer's Services: Specific Rules

(a) A lawyer may communicate information regarding the lawyer's services through any media.

(b) A lawyer shall not compensate, give or promise anything of value to a person for recommending the lawyer's services **except** that a lawyer may:

- pay the **reasonable costs** of advertisements or communications permitted by this Rule;
- pay the **usual charges** of a legal service plan or a not-for-profit or qualified lawyer referral service;
- pay for a law practice in accordance with Rule 1.17;
- **refer clients to another lawyer or a nonlawyer professional** pursuant to an agreement not otherwise prohibited under these Rules that provides for the other person to refer clients or customers to the lawyer, **if**:
 - the reciprocal referral agreement is not exclusive; and
 - the client is informed of the existence and nature of the agreement; and
- **give nominal gifts as an expression of appreciation** that are neither intended nor reasonably expected to be a form of compensation for recommending a lawyer's services.

AND...

ABA's Model Rules of Professional Conduct

Rule 7.2 - Communications Concerning a Lawyer's Services: Specific Rules (cont.)

(c) A lawyer **shall not state or imply that a lawyer is certified as a specialist** in a particular field of law, **unless**:

- the lawyer has been **certified as a specialist by an organization that has been approved by an appropriate authority** of the state or the District of Columbia or a U.S. Territory or that has been accredited by the American Bar Association; and
- the **name of the certifying organization is clearly identified** in the communication.

(d) Any **communication made under this Rule must include the name and contact information** of at least one lawyer or law firm responsible for its content.



ABA Model Rules of Professional Conduct

Rule 7.3 - Solicitation of Clients

(a) “Solicitation” or “solicit” denotes a **communication initiated by or on behalf of a lawyer or law firm that is directed to a specific person the lawyer knows or reasonably should know needs legal services** in a particular matter and that offers to provide, or reasonably can be understood as offering to provide, legal services for that matter.

(b) A lawyer **shall not solicit professional employment by live person-to-person contact** when a **significant motive** for the lawyer’s doing so is the **lawyer’s or law firm’s pecuniary gain, unless** the contact is with a:

- lawyer;
- person who has a family, close personal, or prior business or professional relationship with the lawyer or law firm; or
- person who routinely uses for business purposes the type of legal services offered by the lawyer.

(c) A lawyer **shall not solicit professional employment** even when not otherwise prohibited by paragraph (b), if:

- **the target of the solicitation has made known to the lawyer a desire not to be solicited** by the lawyer; or
- the solicitation **involves coercion, duress or harassment**.

(d) This Rule **does not prohibit communications authorized by law or ordered by a court or other tribunal**.

(e) Notwithstanding the prohibitions in this Rule, a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer that uses live person-to-person contact to enroll members or sell subscriptions for the plan from persons who are not known to need legal services in a particular matter covered by the plan.

Building Your Brand – HOW?

- Your actions and intentions have a cumulative affect on the development of your brand.
 - If you don't intentionally build your brand, your brand will be built for you (and it may not be what you want)



Building Your Brand – HOW?

- Think about what you want to portray to the outside world and what you can portray authentically
- Develop your story; what you do (or don't do) that makes you different
- Determine your ideal target audience(s)
- Find and create situations that will allow you to share your story and genuinely connect with your audience

Building Your Brand – HOW?

ONLINE

1: Comply with ethics regulations

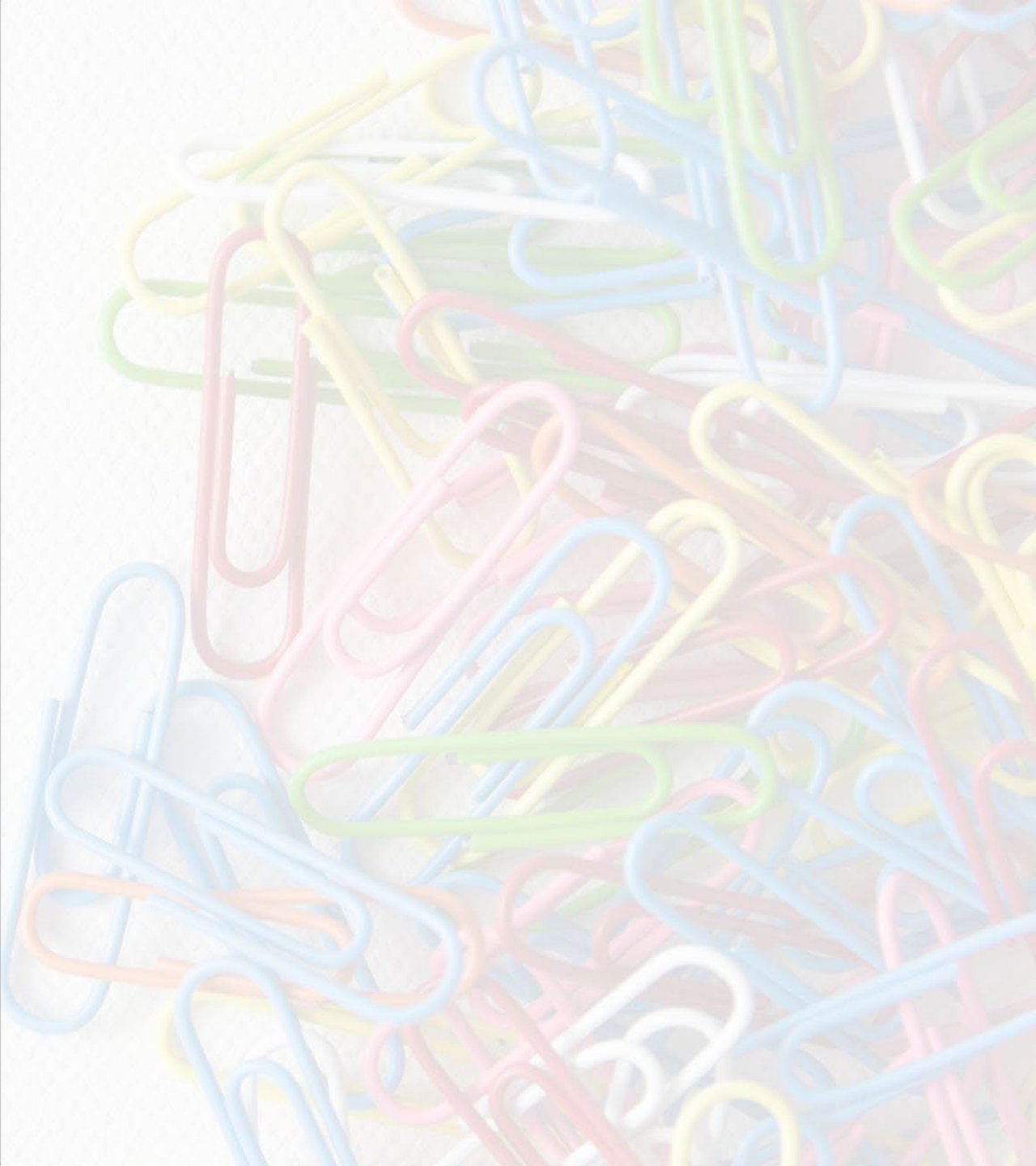
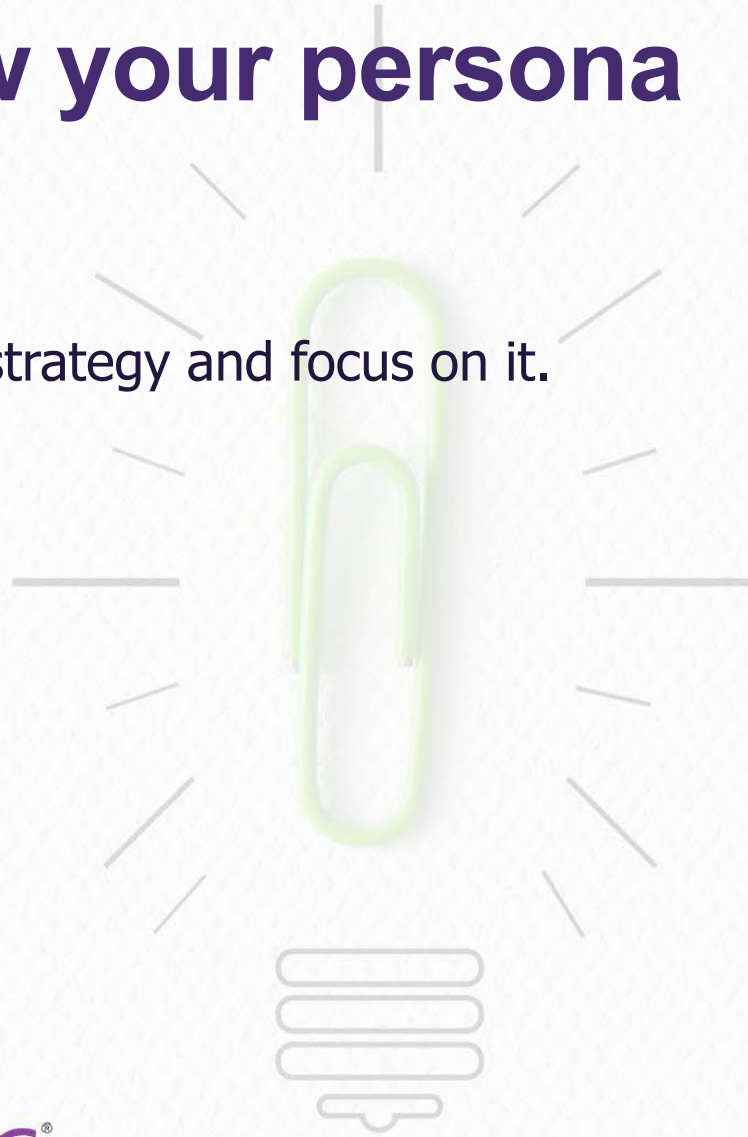
- Brazil: OAB Provision 205/2021 and Code of Ethics
- USA: ABA rule 7.2 and state regulations

2: Who are you?

- That's really interesting, but I know you in person...

3: Know your persona

- Decide your strategy and focus on it.



4: Tell a story

- There's a story in everything. You just need to decide how to tell it.



6: Vanity metrics tell you nothing

- It doesn't matter if you have 100k followers with an 1% engagement rate.

7: It's not about the letter of the law

- People relate with people.

8: Ads won't hurt you

LAWYER and ATTORNEY are among Google Ads' most expensive keywords.

9: It's worth it

- 96% of people who need legal advice search for it on Google.

10: Slow and steady

- Don't expect fast results. Commit to consistency.

Building Your Brand – WHY?

- Create Opportunities for Success
 - Success is defined in your own terms
 - Personal and Professional Fulfilment
 - Achieve goals?
 - Help others?

Building Your Brand – WHY?

- “Personal Brand is what people say about you when you leave the room.” (variation of a quote frequently attributed to Jeff Bezos)
- Reputation - Used to be more localized but now your reputation is, at least in part, ascertainable online
- The absence of an online presence (self-promotional or mentions by outside sources) can lead to questions about your abilities.
- Creating a recognizable name for yourself and your practice conveys competence and trustworthiness.

Building Your Brand – WHEN?

- Always.
- Everything you do contributes to your brand.
- Be intentional with your actions and decisions.
- Create and control throughout your career.
- Be open to expanding or modifying your brand.

Building Your Brand

- Take your cues from Civility Codes and conform to Ethics Rules
 - Keeping commitments and seeking agreement
 - Being respectful and acting in a courteous and cordial manner
 - Being prompt, punctual, and prepared
 - Maintaining honesty and personal integrity
 - Communicating with opposing counsel
 - Avoiding actions taken merely to delay or harass
 - Ensuring proper conduct before the court
 - Acting with dignity and cooperation in pretrial proceedings
 - Acting as a role model to the client and public
 - Utilizing the court system in an efficient and fair manner

Questions?



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