

TOP TEN ETHICAL PROBLEMS FOR JUVENILE ATTORNEYS

10. Your first question is “Where is Lone Star anyway”?

Effective Assistance of Counsel

Rule 1.01 Tx Disciplinary Rules of Professional Conduct

A lawyer shall not accept or continue employment in a legal matter which the lawyer knows or should know is beyond the lawyer’s competence unless w/ counsel or emerg.

9. Do I really have to talk to my client when all he wants to discuss is the latest Harry Potter?

Keep Client informed

Rule 1.03 TDRPC

A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply w/ reasonable requests for info. (explain to the extent reasonably necessary to permit client to make an informed decision)

8. You are not going to believe what my client told me.

Don’t reveal confidential information.

Rule 1.05 TDRPC

A lawyer shall not knowingly reveal confidential information of a client or former client to a anyone, other than the client, the client’s representatives or members of the lawyer’s law firm. Unless the client consents. The attorney is defending a claim by the client against the attorney or to stop a crime.

7. You mean my client might be telling the truth?

Duty to investigate.

Rule 1.01 TDRPC

A lawyer shall not neglect a legal matter entrusted to the lawyer or fail to carry out completely the obligation that the lawyer owes to a client. The standard is whether counsel’s performance fell below an objective standard of reasonableness and, if so, whether a reasonable probability exists that, but for counsel’s unprofessional errors, a different outcome would have resulted.

6. But Judge I really did think that the State was in agreement.

Don’t lie to the Court.

Rule 3.03 Candor toward the Tribunal

A lawyer shall not knowingly make a false statement of material fact or law to a tribunal ; offer or use evidence that the lawyer knows to be false.

R3.02 says a lawyer shall not take a position that unreasonably increases the costs or other burdens of the case or that unreasonably delays resolution of the matter.

5. I bet the State can't prove that my client wasn't abducted by aliens.

Duty not to promote frivolous claims or defenses.

Same as above.

4. Yes, Virginia you too can go to jail.

Duty to report child abuse.

Tx Fam Code 261.101(a)

A person having cause to believe that a child's physical or mental health has been adversely affected by abuse or neglect by any person shall immediately make a report as provided by this subchapter. A professional shall make a report not later than the 48th hour after the professional first suspects that the child has been or may be abused or neglected/

3. Don's start celebrating, it's not over yet.

Appointment of Counsel and Continuation of Representation.

A juvenile has a right to counsel at all stages of his case. 51.10(b) Tx Fam 51.101 States that an attorney appointed to represent the child until the case is terminated, the family retains an attorney, or a new attorney is appointed by the Court.

You have an ethical obligation to perfect an appeal for your client .

2. Help, my client's mama is CRAZY.

Appointment of GAL

Section 51.11

In any case in which it appears to the juvenile court that the child's parent or guardian is incapable or unwilling to make decisions in the best interest of the child with respect to proceedings...the court may appoint a guardian ad litem to protect the interests of the child in the proceedings.

1. Remember who's your daddy.

You do not represent the parent or even the best interest of your client.

Rule 2.01 TDRPC

In advising or otherwise representing a client, a lawyer shall exercise independent professional judgment and render candid advice.

The lawyer represents the juvenile, not the parents, not the State of Texas and not even the best interest of the child.