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(a) Complete records of client trust account funds and other property shall be kept by the lawyer and be preserved for a period of seven years after termination of the representation.

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(f) All funds of clients or third persons held by a lawyer or law firm which are nominal in amount or are expected to be held for a short period of time, including advances for costs and expenses, and funds belonging in part to a client or third person and in part presently or potentially to the lawyer or law firm, shall be deposited in one or more IOLTA accounts as defined in paragraph (j)(2).

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(f) A lawyer or law firm shall deposit all funds of clients or third persons which are not nominal in amount or expected to be held for a short period of time into a separate interest- or dividend bearing client trust account with the client designated as income beneficiary.

Funds of clients or third persons shall not be deposited in a non-interest-bearing account.

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ATTORNEY FEES RETAINERS

CLASSIC (or ENGAGEMENT) RETAINER

Retainer is paid by client to lawyer in order to ensure the lawyer's availability during a specific period of time for a specific matter.

This type of retainer is earned when paid and immediately becomes the property of the lawyer. Therefore, the retainer funds must not be deposited in a client trust account.

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ADVANCE PAYMENT RETAINER

An Advance Payment Retainer is a present payment to the lawyer in exchange for the commitment to provide legal services in the future. Ownership of the retainer passes to the lawyer when paid.

Therefore, the retainer fund must not be deposited in a client trust account.

Any portion of the retainer that is not earned must be returned to the client.

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**FLAT FEE DISSTINGUISHED
FROM ADVANCE PAYMENT RETAINER**

With a flat fee, the lawyer agrees to provide a specific service (e.g. defense of criminal charge, real estate closing, preparation of a will) for a fixed amount.

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SECURITY RETAINER

A Security Retainer secures payment for future services and expenses, and must be deposited in a client trust account.

Funds in a Security Retainer remain the property of the client until applied for services rendered or expenses incurred. Any unpaid funds are refunded to client.

This is the most common form of retainer.

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RULE 8.3 REPORTING PROFESSIONAL MISCONDUCT

- (a) A lawyer who knows that another lawyer has committed a violation of Rule 8.4(b) or Rule 8.4(c) shall inform the appropriate authority.
- (b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.

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- (c) This rule does not require disclosure of information otherwise protected by the attorney-client privilege or by law or information gained by a lawyer or judge while participating in an approved lawyer's assistance program or an intermediary program approved by a circuit court in which non-disciplinary complaints against judges and lawyers can be referred.
- (d) A lawyer who has been disciplined as a result of a lawyer disciplinary action brought before any body other than the Illinois Attorney Registration and Disciplinary Commission shall report that fact to the Commission.

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RULE 1.6: CONFIDENTIALITY OF INFORMATION

A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by paragraph (b) or required by paragraph (c).

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(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

- (1) to prevent the client from committing a crime in circumstances other than those specified in paragraph (c);**
- (2) to prevent the client from committing fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services.**
- (3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services.**

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- (4) to secure legal advice about the lawyer's compliance with these rules;**
- (5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client.**
- (6) to comply with other law or a court order; or**
- (7) to detect and resolve conflicts of interest if the revealed information would not prejudice the client.**

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(c) A lawyer shall reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary to prevent reasonably certain death or substantial bodily harm.

(d)

(e) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of the client.

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RULE 3.5 IMPARTIALITY AND DECORUM OF THE TRIBUNAL

A lawyer shall not:

(a) seek to influence a judge, juror, prospective juror other official by means prohibited by law;

(b) communicate *ex parte* with such a person during the proceeding unless authorized by law of court order.

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RULE FOR JUDGES—EX PARTE COMMUNICATIONS

Judges, see Code of Judicial Conduct, effective 1-1-23

Cannon 2, Rule 2.9

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RULE 8.4 MISCONDUCT

It is professional misconduct for a lawyer to:

(g) present, participate in presenting, or threaten to present to present criminal or professional disciplinary charges to obtain an advantage in a civil matter.

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RULE 8.4 MISCONDUCT

It is professional misconduct for a lawyer

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects.
- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.
- (d) engage in conduct that is prejudicial to the administration of justice.
- (e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law.

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RULE 8.4 MISCONDUCT

It is professional misconduct for a lawyer to:

(f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law. Nor shall a lawyer give or lend anything of value to a judge, official, or employee of a tribunal, except those gifts or loans that a judge or a member of the judge's family may receive under Rule 65(C)(4) of the Illinois Code of Judicial Conduct. Permissible campaign contributions to a judge or candidate for judicial office may be made only by check, draft, or other instrument payable to or to the order of an entity that the lawyer reasonably believes to be a political committee supporting such judge or candidate. Provision of volunteer services by a lawyer to a political committee shall not be deemed to violate this paragraph.

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RULE 8.4 MISCONDUCT

It is professional misconduct for a lawyer to:

- (g) present, participate in presenting, or threaten to present criminal or professional disciplinary charges to obtain an advantage in a civil matter.
- (h) enter into an agreement with a client or former client limiting or purporting to limit the right of the client or former client to file or pursue any complaint before the Illinois Attorney Registration and Disciplinary Commission.
- (i) avoid in bad faith the repayment of an education loan guaranteed by the Illinois Student Assistance Commission or other governmental entity. The lawful discharge of an education loan in a bankruptcy proceeding shall not constitute bad faith under this paragraph, but the discharge shall not preclude a review of the lawyer's conduct to determine if it constitutes bad faith.

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RULE 8.4 MISCONDUCT

It is professional misconduct for a lawyer to:

- (j) violate a federal, state or local statute or ordinance including, but not limited to, the Illinois Human Rights Act (775 ILCS 5/1-101 et seq) that prohibits discrimination based on race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status by conduct that reflects adversely on the lawyer's fitness as a lawyer. Whether a discriminatory act reflects adversely on a lawyer's fitness as a lawyer shall be determined after consideration of all the circumstances, including: the seriousness of the act; whether the lawyer knew that the act was prohibited by statute or ordinance; whether the act was part of a pattern of prohibited conduct; and whether the act was committed in connection with the lawyer's professional activities. No charge of professional misconduct may be brought pursuant to this paragraph until a court or administrative agency of competent jurisdiction has found that the lawyer has engaged in an unlawful discriminatory act, and the finding of the court or administrative agency has become final and enforceable and any right of judicial review has been exhausted.

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RULE 8.4 MISCONDUCT

It is professional misconduct for a lawyer to:

- (k) if the lawyer holds public office:
 - (1) use that office to obtain, or attempt to obtain, a special advantage in a legislative matter for a client under circumstances where the lawyer knows or reasonably should know that such action is not in the public interest;
 - (2) use that office to influence, or attempt to influence, a tribunal to act in favor of a client; or
 - (3) represent any client, including a municipal corporation or other public body, in the promotion or defeat of legislative or other proposals pending before the public body of which such lawyer is a member or by which such lawyer is employed.

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RULE 3.1 MERITORIOUS CLAIMS AND 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.

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RULE 4.3 DEALING WITH UNREPRESENTED PERSON

In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding.

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RULE 4.3 Continued

The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client.

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RULE 1.5 FEES

- (a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:
 - (1) the time and labor required, the novelty and difficulty or the questions involved, and the skill requisite to perform the legal service properly;
 - (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
 - (3) the fee customarily charged in the locality for similar legal services;

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- (4) the amount involved, and the results obtained;
- (5) The time limitations imposed by the client or by the circumstances;
- (6) The nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- (8) Whether the fee is fixed or contingent.

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RULE 1.8 CONFLICT OF INTEREST: CURRENT CLIENTS: SPECIFIC RULES

- (j) A lawyer shall not have sexual relations with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced.

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