

**April 2007 WSBA *Bar News Ethics & the Law* Column**

**Where Is the Law?  
A Resource Guide to the Law of Lawyering**

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As the practice of law has grown more complex, the law governing *how* we practice has grown in equal measure. The American Bar Association adopted its first set of ethics rules, the Canons of Professional Ethics, in 1908. At that time, there were only 32 Canons numbering just a few pages. Since then, both the ABA and Washington have adopted professional codes that are considerably longer. Case law interpreting the rules has grown apace and reference works have been developed both nationally and here in the Northwest interpreting the interpretations. Lawyers have always been charged with knowing and following the professional rules. In today's practice environment, however, knowing the rules isn't just a matter of professional ethics. The ethics rules now form the subtext for many areas of professional liability ranging from legal malpractice to disqualification. And, the flip side of increased cross-border practice is the need to know the rules in more than one jurisdiction. In this column, we'll look at the principal resources on the law of lawyering both here in the Northwest and nationally. We'll focus especially on those available over the web.

***Washington***

The amendments to the Washington RPCs that became effective this past September brought with them some new rules, some tweaks to old rules and an all new accompanying set of comments. The new rules (in both text and comparative form), a summary of significant changes and the accompanying comments are all available on the ethics page on the WSBA's web site at [www.wsba.org/lawyers/ethics](http://www.wsba.org/lawyers/ethics). For further research into the new rules, the WSBA's web site also has an on-line archive of the reports from the "Ethics 2003 Committee" that developed what (for the most part) became the new rules, the Board of Governors' review of the rule proposals and many other historical resources making up the "legislative history" of the new rules.<sup>1</sup>

For interpretive resources, the WSBA's web site has an excellent ethics opinion search engine that literally puts all of its formal (issued by the Board of Governors) and informal (issued by the Rules of Professional Conduct Committee) ethics opinions at your fingertips. In print form, the WSBA also publishes the Legal Ethics Deskbook. The Deskbook, which is being updated to reflect the new rules and comments, features in depth analysis of such areas as conflicts and confidentiality from the specific reference point of Washington law and practice. The Deskbook also contains many useful forms (including conflict waivers) along with practical advice on using them. Finally, the Casemaker database available to WSBA members offers a direct link to the Washington and

federal cases dealing with the RPCs, the attorney-client privilege and the law of lawyer civil liability.

Beyond the RPCs, the WSBA's web site also has links to the Rules for the Enforcement of Lawyer Conduct, which are the procedural rules governing lawyer discipline, and the Admission to Practice Rules, including the state court *pro hac vice* rule and information on reciprocal licensing both with and beyond Washington. The U.S. District Courts for Western and Eastern Districts meanwhile have their rules for full and *pro hac vice* admission available at respectively, [www.wawd.uscourts.gov](http://www.wawd.uscourts.gov) and [www.waed.uscourts.gov](http://www.waed.uscourts.gov).

### ***Oregon***

The Oregon State Bar's web site at [www.osbar.org](http://www.osbar.org) is a comprehensive source for Oregon's primary ethics and licensing materials. The new Oregon RPCs (which were adopted effective January 2005), the former Oregon Disciplinary Rules, Oregon's Rules of Bar Procedure (which are analogous to the Washington Rules for the Enforcement of Lawyer Conduct), its admission rules and licensing forms (including reciprocal admission, house counsel admission and *pro hac vice* admission), the newly (in 2005) updated Oregon ethics opinions and its Disciplinary Reporter (containing detailed coverage of lawyer disciplinary proceedings) are all available there. Oregon is included in the Casemaker database and offers state and federal case law interpreting both the new RPCs and the former Oregon Disciplinary Rules. Information on admission to the U.S.

District Court for the District of Oregon, in turn, is available on its web site at [www.ord.uscourts.gov](http://www.ord.uscourts.gov). For Oregon State Bar members, the Oregon Professional Liability Fund, which is its mandatory malpractice carrier, has a variety of risk management articles and forms (along with copies of the PLF's basic and excess plans) available on its web site at [www.osbplf.org](http://www.osbplf.org). In print form, the Oregon State Bar's Ethical Oregon Lawyer was updated in 2006 to reflect both the new Oregon RPCs and the accompanying ethics opinions. The Ethical Oregon Lawyer is similar to the WSBA's Legal Ethics Deskbook and remains the single best summary for legal ethics and lawyer civil liability in Oregon.

### ***Idaho***

Like Washington and Oregon, the Idaho State Bar's web site at [www.state.id.us/isb](http://www.state.id.us/isb) offers a comprehensive counterpart collection of the Idaho RPCs (which were updated in 2004), the accompanying official comments (which were also updated in 2004) and licensing information and forms (including reciprocal admission, house counsel admission and *pro hac vice* admission). Idaho's ethics opinions are not available on the web, but can be obtained by contacting the Idaho Bar Counsel's Office. Corresponding admission information for the U.S. District Court for the District of Idaho is available on its web site at [www.idd.uscourts.gov](http://www.idd.uscourts.gov). The Casemaker database also includes Idaho case law. Although the Idaho State Bar does not publish a direct equivalent to the WSBA's

Legal Ethics Deskbook or the Oregon State Bar's Ethical Oregon Lawyer, its Professionalism & Ethics Section sponsors an issue of the ISB Advocate annually with articles on ethics-related topics focused on the Idaho RPCs and case law.

***Nationally***

The ABA's influential Model Rules of Professional Conduct have been adopted (with variations) in almost all states (California and New York are the notable exceptions). The ABA's Model Rules, the accompanying commentary and its ethics opinions interpreting the Model Rules are all available on the ABA Center for Professional Responsibility's web site at [www.abanet.org/cpr](http://www.abanet.org/cpr). In 2000, the American Law Institute issued the Restatement (Third) of the Law Governing Lawyers, which is a comprehensive summary of ethics law in restatement form that is being cited increasingly in both court and bar opinions. Although there are several outstanding national ethics and risk management treatises available in paper form from local law libraries, one of the most accessible sources of ethics law nationally is Cornell University School of Law's American Legal Ethics Library available on the web at [www.law.cornell.edu/ethics](http://www.law.cornell.edu/ethics).

Our neighbors to the far south and far north both have a wide variety of ethics and licensing materials on their state bar web sites at, for California, [www.calbar.org](http://www.calbar.org), and for Alaska, [www.alaskabar.org](http://www.alaskabar.org).

### ***Summing Up***

Although there is certainly more law governing lawyers than when the ABA adopted its first Canons nearly a hundred years ago, the advent of the web has made that law very accessible to all of us. Finally, if you ever need to find this column with its catalog of resources again, it will be available in the Bar News archives at [www.wsba.org/media/publications/barnews](http://www.wsba.org/media/publications/barnews) and in the legal resources section of my firm's web site at [www.frllp.com](http://www.frllp.com).

### **ABOUT THE AUTHOR**

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<sup>1</sup> For an overview of the changes when Washington moved from the former Code of Professional Responsibility to the Rules of Professional Conduct in 1985, see Professor Robert Aronson's comprehensive summary at 61 Washington Law Review 823 (1986).