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The Law of Lawyering: A Resource Guide

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As the practice of law has grown more complex, the law governing *how* we practice has grown in tandem. 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 Oregon 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 nationally and here in the Northwest. We'll focus especially on those available over the web.

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. 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.

Oregon. The Oregon State Bar's web site at www.osbar.org is a comprehensive source for primary ethics and licensing materials here. The Oregon RPCs, the former Oregon Disciplinary Rules, Rules of Bar Procedure, State Bar Act, licensing forms, ethics opinions and Disciplinary Reporter are all available there. For OSB members, the Casemaker database offers a direct link to state and federal cases interpreting both the new RPCs and the former Oregon Disciplinary Rules. The Oregon Professional Liability Fund has a variety of risk management articles and forms (along with copies of the basic and excess PLF plans) available on its web site at www.osbplf.org. The OSB's Ethical Oregon Lawyer was updated in 2006 to reflect both the new Oregon RPCs and

the accompanying ethics opinions. It remains the single best summary for legal ethics and lawyer civil liability in Oregon.

Washington. Washington revised its RPCs in September 2006. The new Washington RPCs, the accompanying official commentary and ethics opinions interpreting the rules are all available on the Washington State Bar's web site at www.wsba.org. Rules, information and forms for licensing (including *pro hac vice* and reciprocal admission) in Washington are also available on the WSBA's web site. For OSB members, the Casemaker database now includes Washington case law. The WSBA's Legal Ethics Deskbook is similar in scope and content to the OSB's Ethical Oregon Lawyer and is being updated to reflect the newly amended Washington RPCs.

Idaho. Like Oregon and Washington, the Idaho State Bar's web site at www.state.id.us/isb offers a comprehensive counterpart collection of the Idaho RPCs, the accompanying commentary and licensing information and forms (including *pro hac vice* and reciprocal admission). Idaho's ethics opinions are not available on the web, but can be obtained by contacting the Idaho Bar Counsel's Office. Again for OSB members, the Casemaker database also includes Idaho case law. Although the ISB does not publish a direct equivalent to the OSB's Ethical Oregon Lawyer or the WSBA's Legal Ethics Deskbook, 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.

Our neighbors to the 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.ca.gov/state/calbar, and for Alaska, www.alaskabar.org. The U.S. District Court's web site here in Oregon at www.ord.uscourts.gov has both its local rules setting out admission and professional standards and links to all of the other federal courts in the Ninth Circuit.

Finally, if you need to find this column again, it will be available in the Multnomah Lawyer's archives at www.mbabar.org and in the legal ethics resources section of my firm's web site at www.frllp.com.

ABOUT THE AUTHOR

Mark J. Fucile of Fucile & Reising LLP focuses on legal ethics, product liability defense and condemnation litigation. In his legal ethics practice, Mark handles professional responsibility, regulatory and attorney-client privilege matters and law firm related litigation for lawyers, law firms and legal departments throughout the Northwest. He is a past member of the Oregon State Bar's Legal Ethics Committee, is a past chair of the Washington State Bar Rules of Professional Conduct Committee, is a member of the Idaho State Bar Professionalism & Ethics Section and is a co-editor of the OSB's Ethical Oregon Lawyer and the WSBA's Legal Ethics Deskbook. Mark also writes the monthly

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