



## Section XIII

# the lawyer

*“A lawyer’s time and advice are his stock in trade.”*

– Abraham Lincoln

**L**awyers are officers of the courts and their services are essential to the effective operation of the legal system. Lawyers work under solemn duties of trust and responsibility to their clients. The purpose of this section is to discuss the profession of law, to describe the requirements for becoming a lawyer and to outline the standards of conduct lawyers must follow. The section also provides information about legal fees, bar associations and other professional organizations, and information on finding a lawyer.

## The Legal Profession

Lawyers are members of a learned profession. Admission to the profession (or the *bar*) requires an undergraduate degree and specialized higher education.

### What Is a Lawyer?

A lawyer, also known as an *attorney-at-law* or *attorney or counselor*, is someone licensed to manage the legal affairs of another person, to give legal advice, to help resolve disputes and, when necessary, to plead cases in court. The lawyer occupies a position of special trust in society. Clients regularly entrust their most important business and personal affairs and even their freedom to their lawyers. The lawyer has a confidential and individual relationship with each client. Within this relationship, the lawyer must always place the client’s interests above any of his or her own personal and professional interests.

### A Lawyer’s Education

The Supreme Court of Ohio controls the practice of law in Ohio, including the development and oversight of admission standards. Before being admitted to the practice of law in Ohio, an individual must,

among other things, successfully complete both undergraduate and graduate-level studies.

Ohio’s educational requirements are similar to those of most states. According to the Ohio Supreme Court’s Rules for the Government of the Bar, a candidate for admission to the bar must earn a bachelor’s degree from a properly accredited college or university before being admitted to law school. The candidate must then earn a law degree from a law school approved by the American Bar Association (ABA).

In addition, the Supreme Court of Ohio requires lawyers to attend 24 hours of continuing legal education (CLE) programs every two years to retain their licenses.

### Admission to the Bar

An undergraduate degree, admission to law school and a law degree are only some of the necessary steps an individual must take to become a licensed lawyer in Ohio. The prospective lawyer also must undergo a background investigation, successfully complete a comprehensive examination on the law (the bar exam), and, finally, take an oath of office.

A basic investigation of a candidate’s character and fitness to practice is completed while a candidate is in law school. Normally, this investigation is completed during the first year of law school and a report is forwarded to the Supreme Court of Ohio. When a candidate is ready to graduate from law school, an updated report is submitted to the Supreme Court of Ohio. The Court must approve a candidate’s character and fitness to practice law before he or she can take the bar examination. A candidate’s character and fitness are not taken lightly. The Supreme Court of Ohio, as part of its Summary of Character and Fitness Process, outlines a number of reasons a candidate may be not be approved.

The bar examination is a comprehensive test of legal knowledge and judgment that a candidate must pass in order to practice law in the state. One portion of the test, called the multi-state exam, consists of multiple-choice questions on general legal principles. Those questions are developed at the national level and used by many states as part of their bar examinations. In a second, Ohio-only portion of the exam, the Supreme Court of Ohio specifies the subject matter and number of questions posed on each area of law. Bar examiners (experienced lawyers appointed by the Supreme Court) prepare the questions and determine how the answers are to be scored. The questions are changed for each examination (two tests are held each year).

The Court notifies all candidates of their individual bar exam grades. Successful candidates must take an oath of office, which is normally administered to all successful candidates together by a member of the Supreme Court of Ohio at a formal swearing-in ceremony in Columbus. The oath of office is not a hollow formality; rather, it distills the essence of lawyers' duties concerning justice, the law and the courts, clients and the public. The oath reads:

I, (name), hereby (swear or affirm) that I will support the Constitution and the laws of the United States and the Constitution and the laws of Ohio, and I will abide by the *Code of Professional Responsibility*.

In my capacity as an attorney and officer of the Court, I will conduct myself with dignity and civility and show respect toward judges, court staff, clients, fellow professionals, and all other persons.

I will honestly, faithfully, and competently discharge the duties of an attorney-at-law. (So help me God.)

When the candidate completes the oath, he or she is officially an attorney authorized to practice in all Ohio courts.

### **Admission to Other Jurisdictions**

Admission to practice in Ohio does not authorize a lawyer to practice before the federal

courts, although generally, a lawyer must be admitted to practice in a state before he or she is eligible for admission to federal practice. Separate applications for admission to practice are required for each federal district court, each circuit court of appeals and the Supreme Court of the United States. Normally, admission to the federal system is by application and does not require an examination, although some federal courts do have admission examinations. For example, the District Court for the Southern District of Ohio requires lawyers to pass an admission examination covering federal practice and procedure.

Similarly, admission to practice in Ohio does not automatically authorize a lawyer to practice in another state. Different states have different requirements for lawyers who are already admitted to practice in another state. In many states, a lawyer who is in good standing in Ohio may be admitted to practice without taking that state's bar exam. Also, most states will admit an attorney from another state by courtesy or *pro hac vice* for the purpose of participating in a single case. For example, an Ohio attorney representing an Ohio resident who was injured in an accident in Michigan may represent the client in a Michigan court providing that the attorney has sought and received admission by the Michigan court for that case.

When they become effective in 2007, the Rules of Professional Conduct will permit lawyers in good standing in other U.S. jurisdictions to provide legal services on a temporary basis in Ohio under certain circumstances.

## **Legal Ethics and Discipline**

All attorneys are bound by a strict code of ethics. In Ohio, the code of ethics is presently called the *Code of Professional Responsibility*. Judges are also bound by an additional set of rules called the *Code of Judicial Conduct*. The discipline (punishment) for a lawyer's violation of the *Code of Professional Responsibility* may

range from a public reprimand to permanent disbarment. Judges may be disciplined and removed from office for violation of either the *Code of Professional Responsibility* or the *Code of Judicial Conduct*.

The Supreme Court of Ohio has adopted The Rules of Professional Conduct, which became effective February 1, 2007. To learn about these changes, go to the Supreme Court of Ohio's Web site at <http://www.sconet.state.oh.us> and click on "Disciplinary System" and then "Code of Professional Responsibility." This site also includes information about the disciplinary process.

### **The Code of Judicial Conduct**

As lawyers, judges are bound by the *Code of Professional Responsibility*, as well as the *Code of Judicial Conduct*. The *canons* (general rules or standards of behavior) of the *Code of Judicial Conduct* specifically apply to judges and magistrates. These rules can be found through the Supreme Court of Ohio Web site at [www.sconet.state.oh.us](http://www.sconet.state.oh.us). Click on "Disciplinary System" and then "Code of Judicial Conduct."

### **Compensation for Clients' Losses**

When an attorney is guilty of either malpractice or professional misconduct, that attorney's client may suffer legal damages (lose money, property, or a particular right, etc.). An attorney is required to use, at least, the degree of care exercised by other members of the legal profession in any given matter. If the attorney is negligent and a client suffers loss as a result, the attorney may be liable for monetary damages in an action for malpractice. It should be noted that malpractice itself is usually not a violation of the *Code of Professional Responsibility*, although a violation of the Code may amount to malpractice in a particular case. Further, repeated neglect or incompetence may be grounds for discipline.

In addition, a client who has suffered a loss caused by the dishonest conduct of any attorney acting in his or her professional capacity may seek reimbursement from the Clients' Security Fund of Ohio, which was established by the Supreme Court of Ohio in October 1985. Eligibility requirements and reimbursement

limitations are stated in the Supreme Court of Ohio's Rules for the Government of the Bar. Application forms and general information are available from the Clients' Security Fund of Ohio, located in Columbus, or through the Supreme Court of Ohio's Web site at [http://www.sconet.state.oh.us/client\\_security/](http://www.sconet.state.oh.us/client_security/). The Clients' Security Fund is financed solely by attorney registration fees from all lawyers licensed to practice in Ohio.

## **Bar Associations and Related Organizations**

The bar association movement began in the 1870s as a concentrated effort by lawyers to improve the image and standing of the legal profession. Today, more than 25,000 Ohio lawyers are members of the Ohio State Bar Association, which is one of the largest voluntary bar associations in the United States.

### **The Ohio State Bar Association and Affiliated Organizations**

Bar associations are not maintained for lawyers alone, but also for the benefit of the public. For its members, the Ohio State Bar Association has committees and sections concerned with improving justice and the administration of justice in all areas of the law. For example, committees and sections regularly review the developments in their areas of the law and recommend specific actions to improve the law and the public's understanding of the law. The Ohio State Bar Association also conducts its own regional and statewide meetings. While these meetings concern some association business, much of the time at the meetings is spent on presentations designed to keep lawyers informed about developments in the law.

The Ohio State Bar Association's Continuing Legal Education Institute is one of the leading providers of approved continuing legal education (CLE) programs in the state, and

continues to offer a wide variety of CLE programs in a variety of formats, including live and online seminars, video replays and live satellite broadcasts. Programs cover a broad range of topics in almost every area of legal practice.

The Association also sponsors or directly administers a number of important programs that benefit the public either directly or indirectly. These programs currently include, for example: evaluation of judicial candidates for the Ohio Supreme Court; an active legislative program designed to improve justice and its administration; specialization programs that allow lawyers and paralegals to become certified in certain areas of the law; and public information resources and programs and a Web site that contains a wide variety of materials for members of the general public.

## Journalists and Lawyers

Most lawyers, and the journalists who cover them and their clients, likely would agree: The relationship between lawyers and journalists is of the “love/hate” variety. Journalists rely on lawyers as sources of legal expertise and information on law as well as specific cases. Lawyers rely on journalists to explain the law and their cases to the public. That both sides need each other in explaining the law to the

public is undeniable. But there is an inherent tension in the goals of both professionals: Journalists are seeking the truth and a good story for their readers and viewers, and occasionally the theatrics of the law and the cast of characters in a case may overshadow the substance of the truth in the matter. This may irritate some lawyers. The extent to which lawyers perform zealously to protect their clients on the public stage may aggravate journalists who are interested in getting to the bottom of any legal matter for their readers or viewers.

Nonetheless, the relationship is an important one, and journalists and lawyers are advised to nurture it, despite the inherent tensions. There are some key components to maintaining a successful partnership. Journalists are encouraged to spend time understanding and researching and learning about the law, and consulting with the local and state bar associations with substantive questions when working on a story. When questioning a lawyer for a story, a journalist should voice any confusion about the law or its application, so that the lawyer can clarify. And finally, journalists are reminded that, in the end, lawyers are obligated to represent their clients. Contacting all sides in a legal dispute is key to presenting the full story of the dispute. Journalists who are preparing for a story about a legal issue are urged to contact the Ohio State Bar Association’s Public & Media Relations Department for assistance.

### Web Links:

***OSBA’s “Law You Can Use” articles:***

(go to <http://www.ohiobar.org/pub/lycu> and search for article by title or topic)

“Attorney Ethics Judged by State’s Supreme Court”

“How Do I Choose Representation in My Personal Injury Case?”

“How To Get the Most from an Attorney/Client Relationship”

“Legal Aid Societies Help Poor Clients”

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## Web Links *continued*

“Ohio Code of Professional Responsibility Governs Attorneys’ Actions”

“Ohio Supreme Court Regulates Lawyer Advertising”

“Paralegals Aid Attorneys and Clients”

“What Happens When a Lawyer’s Practice Closes?”

“What You Should Know about Attorney Fees”

“What You Should Know about the Value of ‘Free’ Legal Information”

“Why Hire a Lawyer?”

### **OSBA’s “LawFacts” pamphlets:**

(go to <http://www.ohiobar.org/pub/lawfacts/> and search by title or topic)

“Attorneys”

“Certified Attorney Specialists”

“Lawyer Ethics and Discipline”

### **Other resources from the OSBA:**

<http://www.ohiobar.org/pub/links.asp>

Link to local bar associations in Ohio, law schools and universities,  
and federal and miscellaneous selected legal resources

<http://www.ohiobar.org/pub/?articleid=72>

Lawyer referral services

<http://www.ohiobar.org/pub/?articleid=85>

Attorney licensing

<http://www.ohiobar.org/pub/?articleid=57>

Specialization program (Certified Attorney Specialists)

<http://www.ohiobar.org/pub/?articleid=84>

Filing a complaint

### **From State of Ohio Web site:**

<http://www.sconet.state.oh.us/Rules/govbar/>

Rules for the Government of the Bar of Ohio

### **From the American Bar Association:**

<http://www.abalawinfo.org/>

Legal information on a variety of topics