

MANAGING THE DIFFICULT CLIENT



www.grayanddunning.com

OHIO RULES OF PROFESSIONAL CONDUCT

RULE 1.14: CLIENT WITH DIMINISHED CAPACITY

(a) When a client's capacity to make adequately considered decisions in connection with a representation is **diminished**, whether because of minority, **mental impairment** or for some other reason, the lawyer shall, as far as reasonably possible, **maintain a normal client-lawyer relationship** with the client.

(b) When the lawyer reasonably believes that the client has **diminished capacity**, is at **risk** of substantial physical, financial, or other harm unless action is taken, **and** cannot adequately act in the client's own interest, the lawyer **may** take reasonably necessary **protective action**, including **consulting** with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the **appointment** of a guardian ad litem, conservator, or guardian.

(c) Information relating to the representation of a client with diminished capacity is protected by Rule 1.6. When taking protective action pursuant to division (b), the lawyer is impliedly authorized under Rule 1.6(a) to **reveal information** about the client, but only to the extent **reasonably necessary to protect the client's interests**.

OHIO RULES OF PROFESSIONAL CONDUCT

RULE 1.2: SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LAWYER

(a) Subject to divisions (c), (d), and (e) of this rule, a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take action on behalf of the client as is impliedly authorized to carry out the representation. **A lawyer does not violate this rule by acceding to requests of opposing counsel that do not prejudice the rights of the client, being punctual in fulfilling all professional commitments, avoiding offensive tactics, and treating with courtesy and consideration all persons involved in the legal process.** A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision as to a plea to be entered, whether to waive a jury trial, and whether the client will testify.

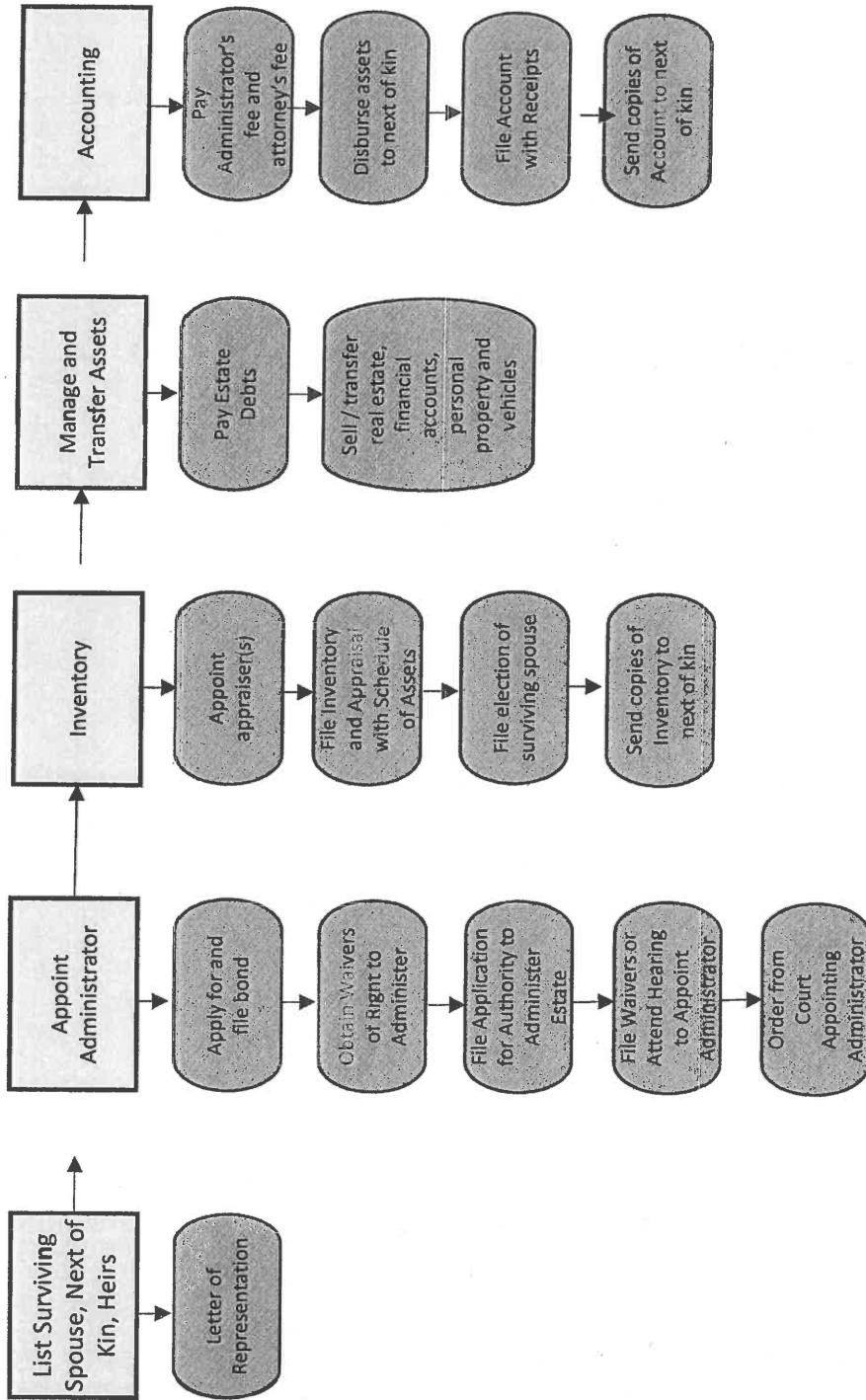
(d)(1) **A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is illegal or fraudulent. A lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client in making a good faith effort to determine the validity, scope, meaning, or application of the law.**

RULE 3.3: CANDOR TOWARD THE TRIBUNAL

...(b) **A lawyer who represents a client in an adjudicative proceeding and who knows that a person, including the client, intends to engage, is engaging, or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable measures to remedy the situation, including, if necessary, disclosure to the tribunal.**

(Clarence Darrow)

PROBATE – NO WILL



OHIO RULES OF PROFESSIONAL CONDUCT

RULE 1.16: DECLINING¹ OR TERMINATING REPRESENTATION

- (a) Subject to divisions (c), (d), and (e) of this rule, **a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if any of the following applies:**
- (1) **the representation will result in violation of the Ohio Rules of Professional Conduct or other law...**
- (b) Subject to divisions (c), (d), and (e) of this rule, a lawyer **may withdraw from the representation of a client if any of the following applies:**
- ...(2) **the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is illegal or fraudulent;**
 - (3) **the client has used the lawyer's services to perpetrate a crime or fraud;**
 - (4) **the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;**
 - (5) **the client fails substantially to fulfill an obligation, financial or otherwise, to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;**
 - (6) **the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client;**

¹ Representation is not required

NOTES

Warning Signs / Characteristics of a Difficult Client

Hal R. Lieberman, New York Legal Ethics Reporter
Six Clients in Search of a Lawyer: Or, Don't Take the Case

Richard A. DiLiberto, Jr., *The Difficult Client, the Difficult Case - How to Handle Them*

Justice Carole Curtis, *Dealing with Difficult Clients*, Law
PRO

Joe Forward, *At Wit's End: Dealing With Difficult or Challenging Clients*, Wisconsin Bar Inside Track

Gabriella Soyanova, *How to Deal With Difficult Clients*

Paul Fisher, *Identifying and Managing Difficult, High-Conflict Personality Clients*

Richard A. Seterberg, *The Difficult Client*, the Healthcare Law Forum, Northern Kentucky University

Jerome Fiskin and Lindsay Slatter, *Toxic Client Syndrome*, FORUM magazine

What We Can Do

Allison Shields, *Dealing with Difficult Clients*
Understanding Your Role

Steven A. Meyerowitz, The Pennsylvania Lawyer, *How to Handle Difficult Clients*

Justice Carole Curtis, Id.

Erin Coe, *How to Handle the Client From Hell* - Law 360

Stuart Taylor Jr. and Casey Johnson - Until Proven Guilty

Set Boundaries

Nancy Zalusky Berg, Walling, Berg and Debele, P.A.
Dealing with Difficult Clients, Difficult Lawyers and Difficult Judges

Protect Your Staff / Yourself

Justice Carole Curtis, Id.
Richard A. Setterberg, Id.

Mark Herrmann,

I'm Not A Difficult Client; You're A Difficult Lawyer!

Managing Number One

Chris Voss, *Never Split the Difference*

Allison Shields, Legal Ease Consulting, Inc.

Effectively Dealing With Difficult Client Situations

Nancy Zalusky Berg, *Dealing With Difficult Clients, Difficult Lawyers and Difficult Judges*

Roger Fisher and William Ury, *Principled Negotiation, Harvard Negotiation Project, Getting To Yes, Negotiating Agreement Without Giving In*

Some Rules

Robert Fulghum, All I Really Need To Know I Learned in Kindergarden

Diane Muldrow, Everything I Need To Know I Learned From A Little Golden Book

Maeda Riaz, *The Healthy Lawyer: Stress Management*