

# Ethics and the Supreme Court: Insights from 16 months

**Tenth Annual Legal Ethics Lecture  
Rose Law Firm  
May 15, 2017**

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**1) Rules of Professional Conduct**

a) Rules 1.2, 4.2, 4.3

limited-scope legal representation

unbundling of legal services

b) Rule 1.5 (fees in writing; types of retainer) ON HOLD

c) Rule 1.15 (Unclaimed or Unidentifiable Trust Account Funds).

d) Rule 1.19: Client Files: Definition, Retention, Destruction

Travis v. Committee on Professional Conduct, 2009 Ark. 188

2) **Admission to the Practice of Law**

- a) Pro Hac Vice; Admission to Practice, Rule XIV
- b) Practicum; Administrative Order 17
- c) License fees; Admission to Practice, Rule VII

3) **Inmates and files in possession of attorneys**

- a) Rules of Appellate Procedure - Criminal, 19
- b) Rule of Professional Conduct 1.19
- c) Geatches v. State, 2016 Ark. 452, 505 S.W. 3d 691

4) **Lawyers in contempt**

- a) Theodis Thompson, 2016 Ark. 383 (attending CLE program)
- b) James F. Valley, 2016 Ark. 443, 505 S.W.3d 674 (two hearings at the same time in different counties)

5) **Disqualification of attorney**

- a) State v. Floyd, 2016 Ark. 264, 495 SW3d 762 (former circuit judge issued arrest warrant and presided over arraignment; now defense attorney) (5-2 decision)

6) **Disbarment of attorneys**

- a) Sky Tabb, 2016 Ark. 282 (report of Judge John Lineberger, master)
- b) Theresa Bloodman, 2016 Ark. 109, 2016 Ark. 309 (assigned to Judge Kim Smith, master)

7) **Judicial Disqualification and Recusal**

- a) Ferguson v. State, 2016 Ark. 319, 498 S.W.3d 733 (Circuit judge presided over dependency neglect matter; subsequently presiding over criminal case) (4-3 decision)
- b) Robinson Nursing Home v. Phillips, 2016 Ark. 388, 502 S.W.3d 519 (Statement by Justice Wood)

8) **Judicial Discipline and Disability Commission**

- a) Wynne District Judge Joseph Boeckmann
- b) Garland County Circuit Judge Wade Narramore
- c) Pulaski County Circuit Judge Tim Fox  
*Pavan v. Smith*, 2016 Ark. 437

9) **The Arkansas Code of Judicial conduct**

- a) Administrative law judges

- b) Girl scout cookies
- c) Gifts to judges
- d) Recusal standards
- e) Campaign contributions

10) **Advising clients**

Rule 1.2(d): A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

11) **The Big Issue: Who is in charge of the Supreme Court and the judicial system generally?**

- A) Amendment 80, § 2. **Supreme Court.**
  - a) The Supreme Court shall be composed of seven Justices, one of whom shall serve as Chief Justice. The Justices of the Supreme Court shall be selected from the State at large.
  - b) The Chief Justice shall be selected for that position in the same manner as the other Justices are selected. During any temporary period of absence or incapacity of the Chief Justice, an acting Chief Justice shall be selected by the Court from among the remaining justices.

- c) The concurrence of at least four justices shall be required for a decision in all cases.

B) Amendment 80, § 4. **Superintending control.**

The Supreme Court shall exercise general superintending control over all courts of the state and may temporarily assign judges, with their consent, to courts or divisions other than that for which they were elected or appointed. These functions shall be administered by the Chief Justice.

**Ark. Code Ann. 16-10-101 (a):**

The Supreme Court shall have general superintending control over the administration of justice in all courts in the State of Arkansas. The Chief Justice of the Supreme Court shall be directly responsible for the efficient operation of the judicial branch and of its constituent courts and for the expeditious dispatch of litigation therein and the proper conduct of the business of the courts.

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