

CHAPTER II
STANDARDS OF PROFESSIONAL CONDUCT AND ETIQUETTE

(Rules under Section 49(1)(c) of the Act read with the Proviso thereto)

Preamble

An Advocate shall, at all times, comport himself in a manner befitting his status as an officer of the Court, a privileged member of the community, and a gentleman, bearing in mind that what may be lawful and moral for a person who is not a member of the Bar, or for a member of the Bar in his non-professional capacity may still be improper for an Advocate. Without prejudice to the generality of the foregoing obligation, an Advocate shall fearlessly uphold the interests of his client, and in his conduct conform to the rules hereinafter mentioned both in letter and in spirit. The rules hereinafter mentioned contain canons of conduct and etiquette adopted as general guides; yet the specific mention thereof shall not be construed as a denial of the existence of other equally imperative though not specifically mentioned.

SECTION I - DUTY TO THE COURT

1. An Advocate shall, during the presentation of his case and while otherwise acting before a Court, conduct himself with dignity and self-respect. He shall not be servile and whenever there is proper ground for serious complaint against a judicial officer, it shall be his right and duty to submit his grievance to proper authorities.
2. An Advocate shall maintain towards the Courts a respectful attitude, bearing in mind that the dignity of the judicial office is essential for the survival of a free community.
3. An Advocate shall not influence the decision of a Court by any illegal or improper means. Private communications with a judge relating to a pending case are forbidden.
4. An Advocate shall use his best efforts to restrain and prevent his client from resorting to sharp or unfair practices or from doing anything in relation to the Court, opposing counsel or parties which the Advocate himself ought not to do. An Advocate shall refuse to represent the client who persists in such improper conduct. He shall not consider himself a mere mouth-piece of the client, and shall exercise his own judgment in the use of restrained language in correspondence, avoiding scurrilous attacks in pleadings, and using intemperate language during arguments in Court.
5. An Advocate shall appear in Court at all times only in the prescribed dress, and his appearance shall always be presentable.
6. An Advocate shall not enter appearance, act, plead or practise in any way before a Court, Tribunal or Authority mentioned in Section 30 of the Act, if the sole or any member thereof is related to the Advocate as father, grandfather, son, grand-

son, uncle, brother, nephew, first cousin, husband, wife, mother, daughter, sister, aunt, niece, father-in-law, mother-in-law, son-in-law, brother-in-law, daughter-in-law or sister-in law.

For the purposes of this rule, Court shall ban a Court, Bench or tribunal in which above mentioned relation of the Advocate is a Judge, Member or the Presiding Officer.

7. An Advocate shall not wear bands or gown in public places other than in Courts except on such ceremonial occasions and at such places as the Bar Council of India or the Court may prescribe.

8. An Advocate shall not appear in or before any Court or Tribunal or any other authority for or against an Organisation or an institution, society or corporation, if he is a member of the Executive Committee of such Organisation or institution or society or corporation. "Executive Committee", by whatever name it may be called, shall include any Committee or body of persons, which, for the time being, is vested with the general management of the affairs of the Organisation or institution, society or corporation.

PROVIDED that this rule shall not apply to such a member appearing as "amicus curiae" or without a fee on behalf of a Bar Council, Incorporated Law Society or a Bar Association.

9. An Advocate should not act or plead in any matter in which he is himself pecuniarily interested.

Illustration:

I. He should not act in a bankruptcy petition when he himself is also a creditor of the bankrupt.

II. He should not accept a brief from a company of which he is a Director.

10. An Advocate shall not stand as a surety, or certify the soundness of a surety for his client required for the purpose of any legal proceedings.

SECTION II - DUTY TO THE CLIENT

11. An Advocate is bound to accept any brief in the Courts or Tribunals or before any other authority in or before which he professes to practise at a fee consistent with his standing at the Bar and the nature of the case. Special circumstances may justify his refusal to accept a particular brief.

12. An Advocate shall not ordinarily withdraw from engagements once accepted, without sufficient cause and unless reasonable and sufficient notice is given to the client. Upon his withdrawal from a case, he shall refund such part of the fee as has not been earned.

13. An Advocate should not accept a brief or appear in a case in which he has reason to believe that he will be a witness and if being engaged in a case, it becomes apparent that he is a witness on a material question of fact, he should not continue to appear as an Advocate if he can retire without jeopardising his client's interests.

14. An Advocate shall at the commencement of his engagement and during the continuance thereof make all such full and frank disclosures to his client relating to his connection with the parties and any interest in or about the controversy as are likely to affect his client's judgement in either engaging him or continuing the engagement.

15. It shall be the duty of an Advocate fearlessly to uphold the interests of his client by all fair and honourable means without regard to any unpleasant consequences to himself or any other. He shall defend a person accused of a crime regardless of his personal opinion as to the guilt of the accused, bearing in mind that his loyalty is to the law which requires that no man should be convicted without adequate evidence.

16. An Advocate appearing for the prosecution in a criminal trial shall so conduct the prosecution that it does not lead to conviction of the innocent. The suppression of material capable of establishing the innocence of the accused shall be scrupulously avoided.

17. An Advocate shall not directly or indirectly, commit a breach of the obligations imposed by Sec. 126 of the Indian Evidence Act.

18. An Advocate shall not at any time, be a party to fomenting of litigation.

19. An Advocate shall not act on the instructions of any person other than his client or his authorised agent.

20. An Advocate shall not stipulate for a fee contingent on the results of litigation or agree to share the proceed thereof.

21. An Advocate shall not buy or traffic in or stipulate for or agree to receive any share or interest in any actionable claim. Nothing in this Rule shall apply to stock, shares and debentures or Government securities, or to any instruments, which are, for the time being, by law or custom negotiable, or to any mercantile document of title to goods.

22. An Advocate shall not, directly or indirectly, bid for or purchase, either in his own name or in any other name, for his own benefit or for the benefit of any other person, any property sold in the execution of a decree or order in any suit, appeal or other proceeding in which he was in any way professionally engaged. This prohibition, however, does not prevent an Advocate from bidding for or purchasing for his client any property, which his client may, himself legally bid for or purchase, provided the Advocate is expressly authorised in writing in this behalf.

23. An Advocate shall not adjust fee payable to him by his client against his own personal liability to the client, which liability does not arise in the course of his employment as an Advocate.

24. An Advocate shall not do any thing whereby he abuses or takes advantage of the confidence reposed in him by his client.

25. An Advocate should keep accounts of the client's money entrusted to him, and the accounts should show the amounts received from the client or on his behalf, the expenses incurred for him and the debits made on account of fees with respective dates and all other necessary particulars.

26. Where moneys are received from or on account of a client, the entries in the accounts should contain a reference as to whether the amounts have been received for fees or expenses, and during the course of the proceedings, no Advocate shall, except with the consent in writing of the client concerned, be at liberty to divert any portion of the expenses towards fees.

27. Where any amount is received or given to him on behalf of his client the fact of such receipt must be intimated to the client as early as possible.

28. After the termination of the proceeding the Advocate shall be at liberty to appropriate towards the settled fee due to him any sum remaining unexpended out of the amount paid or sent to him for expenses, or any amount that has come into his hands in that proceeding.

29. Where the fee has been left unsettled, the Advocate shall be entitled to deduct, out of any moneys of the client remaining in his hands, at the termination of the proceeding for which he had been engaged, the fee payable under the rules of the Court, in force for the time being, of by then settled and the balance, if any, shall be refunded to the client.

30. A copy of the client's account shall be furnished to him on demand provided the necessary copying charge is paid.

31. An Advocate shall not enter into arrangements whereby funds in his hands are converted into loans.

32. An Advocate shall not lend money to his client for the purpose of any action or legal proceedings in which he is engaged by such client.

Explanation: An Advocate shall not be held guilty for a breach of this rule, if in the course a pending suit or proceeding, and without any arrangement with the client in respect of the same, the Advocate feels compelled by reason of the rule of the Court to make a payment to the Court on account of the client for the progress of the suit of proceeding.

33. An Advocate who has, at any time, advised in connection with the institution of a suit, appeal or other matter or has drawn pleadings, or acted for a party shall not act, appear or plead for the opposite party.

SECTION III - DUTY TO OPPONENT

34. An Advocate shall not in any way communicate or negotiate upon the subject matter of controversy with any party represented by an Advocate except through that Advocate.

35. An Advocate shall do his best to carry out all legitimate promises made to the opposite party even though not reduced to writing or enforceable under the rules of the Court.

SECTION IV - DUTY TO COLLEAGUES

36. An Advocate shall not solicit work or advertise, either directly or indirectly, whether by circulars, advertisements, touts, personal communications, interviews not warranted by personal relations, furnishing or inspiring newspaper comments or producing his photograph to be published in connection with cases in which he has been engaged or concerned. His sign-board or name plate should be of a reasonable size. The sign-board or name-plate or stationery should not indicate that he is or has been President or Member of a Bar Council or of any Association or that he has been associated with any person or Organisation or with any particular cause or matter or that he specialises in any particular type of work or that he has been a Judge or an Advocate General.

37. An Advocate shall not permit his professional services or his name to be used in aid of, or to make possible, the unauthorised practice of law by any agency.

38. An Advocate shall not accept a fee less than the fee taxable under the rules when the client is able to pay the same.

39. An Advocate shall not enter appearance in any case in which there is already a vakalatnama or memo of appearance filed by an Advocate engaged for a party except with his consent; in case such consent is not produced he shall apply to the Court stating reasons why the said consent should not be produced and he shall appear only after obtaining the permission of the Court.