

## ETHICS & PROFESSIONALISM

The Municipal Attorney's Role in Effective Strategy, Compliance & Management

Mississippi Municipal Attorney Association  
Based on Mississippi Rules of Professional Conduct

1

---

---

---

---

---

---

---

## THE VIGNETTE: A Day in City Hall

### The Situation

You are City Attorney for Magnolia Springs, Mississippi.

### Monday Morning:

- Mayor requests advice on development agreement
- You draft ordinance and provide legal guidance

### Wednesday Afternoon:

- Three Board members express concerns about potential conflict
- They want you to represent them against the Mayor

2

---

---

---

---

---

---

---

## Who is the Client?

### Mississippi Rule 1.13(a)

*"A lawyer employed by an organization represents the organization acting through its duly authorized constituents."*

### What This Means:

- Your client is the **municipality itself**
- Not individual officials or board members
- Acts through authorized representatives

### THE MUNICIPALITY

↓

Mayor

Board of Aldermen

City Departments

Constituents, not clients

3

---

---

---

---

---

---

---

### Conflicts of Interest: Rules 1.7 & 1.8

**Rule 1.7: Conflicts of Interest**  
Lawyers cannot represent clients with directly adverse interests or when representation may be materially limited.

Direct Adversity	Material Limitation	Using Information
Cannot represent if directly adverse to another client	Responsibilities to others may limit representation	Cannot use client information to their disadvantage

**When branches take conflicting positions, you cannot represent one against the other—they are not separate clients.**

---

---

---

---

---

---

---

4

### The Duty of Loyalty & Confidentiality

**Your Singular Duty**

→

**MUNICIPALITY**

Your sole client

**LOYALTY**

**What This Means in Practice:**

- You owe undivided loyalty to the municipal organization
- Information from Mayor cannot be used against Board or vice versa
- You cannot take sides when internal disputes arise

---

---

---

---

---

---

---

5

### THE VIGNETTE: The Conflict Emerges

**The Board's Request**  
"We need you to represent us in litigation against the Mayor to stop this deal."

**Your Ethical Analysis:**

<b>Who is the client?</b> The City—not the Mayor or Board separately.	<b>Can you represent the Board?</b> No. This violates Rule 1.7.	<b>Can you get consent?</b> No. MS ethics opinions prohibit this.
--	--	--

**Municipal Bar Ethics Opinion 295: A municipal attorney may not represent one branch against another under any circumstances.**

---

---

---

---

---

---

---

6

**THE VIGNETTE: The Proper Response****What You Should Do****1. Explain Your Client Identity (Rule 1.13(d))**

Clarify you represent the City organization, not individual officials.

**2. Recommend Internal Resolution**

Advise working through municipal procedures to resolve the dispute.

**3. Suggest Independent Counsel**

If litigation proceeds, both branches need separate representation.

Your role: Serve the municipality's best interests through neutral legal advice.

7

---

---

---

---

---

---

---

**Competence & Diligence: Rules 1.1 & 1.3****Rule 1.1: Competence**

"A lawyer shall provide competent representation."

**Municipal Attorney Duties:**

- Stay current on municipal law
- Understand local government operations
- Master relevant state statutes
- Know when to seek expert help

**Rule 1.3: Diligence**

"A lawyer shall act with reasonable diligence and promptness."

**Practical Application:**

- Respond promptly to requests
- Meet legal deadlines
- Follow through on commitments
- Maintain organized case management

8

---

---

---

---

---

---

---

**Communication: Rule 1.4**

"A lawyer shall keep the client reasonably informed about the status of the matter and promptly comply with reasonable requests for information."

**Essential Communication Duties****Inform**

Keep officials informed of significant developments and legal options

**Explain**

Explain matters to permit informed decisions

**Respond**

Respond promptly to requests from authorized officials

**Special Consideration:**

Communicate through proper channels to authorized officials, not individual constituents.

9

---

---

---

---

---

---

---

**Confidentiality: Rule 1.6**

A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent.

**The Municipal Context****Client Confidences**

All information from municipal officials is confidential to the municipality

**Public Records Laws**

Balance privilege with Mississippi Public Records Act

**Permitted Disclosures:**

- Information impliedly authorized for representation
- To prevent death or substantial bodily harm
- To prevent client crime or fraud
- To comply with court order or law

Executive sessions protect attorney-client privilege

10

---

---

---

---

---

---

---

**When Officials Violate the Law: Rule 1.13(b)**

"If a lawyer knows that an officer or employee is engaged in action that is a violation of law that might be imputed to the organization, the lawyer shall proceed as is reasonably necessary in the best interest of the organization."

**Your Escalation Duty****STEP 1**

Ask for reconsideration

**STEP 2**

Refer to higher authority

**STEP 3**

Refer to highest authority

**Rule 1.13(c): Ultimate Option**

If the highest authority insists on clearly illegal action that will cause substantial injury, you may resign.

**Critical Balance:** Protect the organization, not individual wrongdoings

11

---

---

---

---

---

---

---

**VIGNETTE 2: Multiple Governmental Clients****The Situation**

Law Firm A has built a successful municipal law practice in Mississippi. The firm represents the City Council for the City of Raykajavick and also represents the Board of Supervisors for Red County, the county in which Raykajavick is located.

**Mississippi Bar Ethics Opinion 126**

Addresses conflicts of interest when law firms represent multiple governmental entities

**The Firm's Representation:**

City of Raykajavick

City Council

Red County

Board of Supervisors

12

---

---

---

---

---

---

---

### The Ethics Questions

Three Issues to Analyze

**Question 1**  
Is it unethical for Firm A to represent both the City of Reykjavik and the Red County Board of Supervisors?

**Question 2**  
Is it unethical for Firm A to represent the Boards of Supervisors for two different counties?

**Question 3**  
If no conflict exists per se, what action should the firm take if an actual conflict arises? Is the entire firm disqualified from participation?

*These questions go to the heart of building a municipal law practice*

13

---

---

---

---

---

---

---

### The Committee's Holding

NO CONFLICT PER SE

**Question 1: City & County**  
It is **not per se unethical** for Firm A to represent both the City of Reykjavik and Red County Board of Supervisors.

**Question 2: Multiple Counties**  
It is **not per se unethical** for Firm A to represent the Boards of Supervisors for two different counties.

**Supporting Authority:**

- ABA Informal Opinion 518 (1982) - dual representation of municipalities for contracts with full disclosure
- New York State Bar Opinion 468 (1977) - not improper for lawyer to be both town and village attorney
- Kentucky State Bar Opinion E-152 - similar guidance on multiple governmental clients

*Key Principle: Governmental entities are separate clients, but representing multiple governmental bodies does not create an automatic conflict.*

14

---

---

---

---

---

---

---

### When Actual Conflicts Arise

Question 3: Handling Actual Conflicts

Circumstances That Create Actual Conflicts:

**Litigation Risk**  
Substantial likelihood of litigation between the governmental entities

**Adverse Negotiations**  
Negotiations where outcome could benefit one at the expense of the other

**Required Actions:**

**1. Full Disclosure**  
Provide complete disclosure to both clients about the nature of the conflict

**2. Obtain Informed Consent**  
Secure consent after explaining circumstances and potential adverse effects

**3. Withdraw if Necessary**  
If conflict cannot be resolved, withdraw from one or both representations

15

---

---

---

---

---

---

---

### Firm-Wide Disqualification?

**Is the Entire Firm Disqualified?**

**Rule 1.10: Imputation**

When a conflict arises that prevents one attorney from representing a client, it generally disqualifies the entire firm under Mississippi's imputation rules.

**Practical Impact**

If Firm A must withdraw from representing one governmental client due to conflict, other attorneys in the same firm are also disqualified.

**Best Practices for Multiple Governmental Clients:**

- Conduct conflicts check before accepting new governmental clients
- Maintain clear documentation of representation scope
- Monitor for potential conflicts between governmental entities
- Have withdrawal protocols in place if conflicts arise
- Consider engagement letters that address potential conflicts

Building a municipal practice requires careful attention to conflicts management

16

---

---

---

---

---

---

---

### VIGNETTE 3: The Liability Pool Dilemma

**The Situation**

You represent the City of Oakwood, which is a member of the Mississippi Municipal Liability Plan. This nonprofit corporation pools resources from multiple Mississippi municipalities to pay covered claims for member cities.

**Mississippi Bar Ethics Opinion 188**  
Addresses conflicts when suing another municipality in the same liability pool

**The Potential Lawsuit:**

Your Client <b>City of Oakwood</b>	<b>VS</b>	Defendant <b>City of Pineville</b>
--	-----------	---------------------------------------

Both cities are members of the same Mississippi Municipal Liability Plan.

17

---

---

---

---

---

---

---

### The Conflict Question

Is it a conflict of interest to sue another city when your success might increase your client's liability pool contributions?

**The Concern:**

If you successfully sue Pineville on behalf of Oakwood, the liability plan pays the judgment. This increases the pool's total claims, which could cause:

<b>Higher Premiums</b> <small>All member cities pay more</small>	<b>Your Client Pays More</b> <small>Oakwood's contributions increase</small>
---	---

**Does this indirect financial impact create a conflict of interest?**

Key Fact: You've never represented Pineville, have no privileged information about them, and have no improper advantage.

18

---

---

---

---

---

---

---

Opinion 188: The Committee's Answer

NO CONFLICT OF INTEREST

*"There is no conflict of interest in a municipal attorney using a municipality which he does not represent even though both municipalities are members of the same liability plan."*

**Rationale:**

- You have never represented the defendant municipality (Pineville)
- You have no privileged information concerning Pineville
- You have no improper advantage against Pineville
- The possibility of increased premiums exists regardless of who represents Oakwood
- Any attorney suing Pineville would create the same potential financial impact

**Key Principle:** The indirect economic connection through a shared liability pool does not create an ethical conflict that would require disqualification.

---

---

---

---

---

---

---

19

VIGNETTE 4: Generative AI in Practice

**The Modern Challenge**

As municipal attorney, you're considering using generative AI tools like ChatGPT, Claude, or other platforms to help draft ordinances, research legal issues, and analyze municipal contracts more efficiently.

Mississippi Bar Ethics Opinion 287

Addresses ethical obligations when using generative AI in legal practice

**Before You Start Using AI:**

Confidentiality?

Accuracy?

Billing?

Disclosure?

---

---

---

---

---

---

---

20

AI Ethical Duties: Part 1

**1. Duty to Protect Confidentiality (Rule 1.6)**

**Affirmative Duty:**

You must take reasonable measures and precautions to protect client confidentiality when using AI

→ Understand AI tool's data handling policies

→ Avoid "hallucinating" AI without consent

→ Review Terms of Service carefully

**2. Duty to Verify Accuracy (Rule 1.1)**

**Affirmative Duty:**

You must verify the accuracy and sufficiency of ALL work performed by AI

→ AI can "hallucinate" fake cases

→ Verify all legal citations independently

→ You remain professionally responsible

---

---

---

---

---

---

---

21

### AI Ethical Duties: Part 2

3. Duty on Billing Practices (Rule 1.5)

**Affirmative Duty:**

You must review costs and fees to ensure billing practices don't duplicate charges or inflate hours

☒ Cannot bill full hourly rate for AI-assisted work that takes less time

☒ Adjust billing to reflect actual time and AI assistance

☒ Be transparent about efficiency gains

4. Duty to Disclose AI Use (Rule 1.4)

**When Disclosure Required:**

- When client charged for AI tool costs
- When confidential information provided to third-party AI
- When risk of inadvertent disclosure despite safeguards

---

---

---

---

---

---

---

---

22

### Opinion 267: The Bottom Line

Lawyers May Ethically Use Generative AI

**Provided the Lawyer:**

- Makes appropriate safeguards to protect client confidential information
- Is competent to use the technology and understands its limitations
- Takes precautions to verify the accuracy of the tool's output
- Uses reasonable billing practices
- Obtains client's informed consent when appropriate

**Best Practices for Municipal Attorneys:**

Develop firm policies on AI use

Train staff on AI ethical obligations

Stay current with evolving technology

Document AI tool selection and use

AI is a tool—not a replacement for professional judgment and ethical responsibility

---

---

---

---

---

---

---

---

23

### The Municipal Attorney's Strategic Role

Beyond Legal Advisor: Compliance Manager

**Preventive Law**

- Draft clear policies and procedures
- Conduct compliance training
- Review contracts before execution
- Anticipate legal risks

**Risk Management**

- Identify potential liabilities
- Develop mitigation strategies
- Monitor compliance systems
- Advise on insurance needs

**Strategic Planning**

- Align legal strategy with municipal goals
- Advise on legislative initiatives
- Structure transactions efficiently
- Support economic development

**Rule 2.1: Advisor Role**

"In representing a client, a lawyer shall exercise independent professional judgment and render candid advice."

---

---

---

---

---

---

---

---

24



### Effective Management Practices

1

2

3

Establish Clear Protocols

Document Legal Advice

Maintain Independence

**Best Practices for Municipal Attorneys:**

- Create written engagement terms defining scope of representation
- Implement conflict-checking systems for multiple representations
- Maintain detailed matter files and time records
- Provide legal opinions in writing when addressing significant issues
- Establish regular communication schedules with key officials

**Professional Independence (Rule 5.4)**  
A lawyer shall not permit a person who employs or pays the lawyer to direct or regulate the lawyer's professional judgment. Your allegiance is to the law and the client, not to individual officials.

---

---

---

---

---

---

---

25

### Common Ethical Pitfalls to Avoid

Pitfall #1

Pitfall #2

Pitfall #3

Taking Sides

Blurred Boundaries

Silent Complicity

Representing one branch against another or favoring individual officials over the organization

Failing to clarify who the client is when interests become adverse

Remaining silent when officials engage in illegal conduct that harms the municipality

Pitfall #4

Pitfall #5

Pitfall #6

Personal Conflicts

Political Pressure

Poor Documentation

Having financial or personal interests that compromise professional judgment

Allowing political considerations to override legal and ethical obligations

Failing to document advice, creating exposure for both attorney and municipality

---

---

---

---

---

---

---

26

### Mississippi-Specific Considerations

**Mississippi Public Records Act**

- Balance transparency with attorney-client privilege
- Understand exemptions for legal advice
- Properly invoke executive session protections

**Mississippi Open Meetings Act**

- Advise on proper notice requirements
- Guide executive session procedures
- Ensure compliance with posting rules

**Mississippi Bar Ethics Opinion 255**  
Specifically addresses municipal attorney conflicts—a lawyer cannot represent one branch of municipal government against another, even with informed consent.

**Key Mississippi Resources:**

- Mississippi Rules of Professional Conduct
- Mississippi Bar Ethics Opinions
- Mississippi Code Title 21 (Municipalities)
- Mississippi Municipal League resources

---

---

---

---

---

---

---

27

9

## Key Takeaways

### KNOW YOUR CLIENT

The municipality is your sole client, not individual officials or branches

### MAINTAIN LOYALTY

Undivided loyalty to the organization means neutrality in internal disputes

### ACT INDEPENDENTLY

Exercise independent judgment free from political pressure or personal interests

### Your Professional Duties:

- Provide competent representation to your municipal client
- Communicate clearly with authorized officials
- Maintain confidentiality while respecting public records laws
- Clarify your role when interests become adverse
- Never represent one branch against another

Your ethical obligations are the foundation of effective legal service and municipal governance.

28

## QUESTIONS & DISCUSSION

Ethics & Professionalism in Municipal Law

For additional guidance, consult:

Mississippi Rules of Professional Conduct

The Mississippi Bar Ethics Opinions

Mississippi Municipal Attorney Association

29