

QUAPAW TRIBE OF OKLAHOMA

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Resolution No. 032115-A

To adopt an ordinance enacting attorney rules
of professional conduct

BEFORE THE BUSINESS COMMITTEE OF THE QUAPAW TRIBE
OF OKLAHOMA (O-GAH-PAH)

March 21, 2015

The TRIBAL BUSINESS COMMITTEE introduced the following
Resolution to approve and adopt an ordinance enacting attorney rules of
professional conduct Tribal ordinance.

WHEREAS, the Quapaw Tribe of Indians of Oklahoma (O-Gah-Pah) is a federally recognized Indian Tribe and is governed by a Governing Resolution adopted by the Quapaw Indian Council on August 19, 1956, and approved by the Commissioner of Indian Affairs on September 20, 1957; and

WHEREAS, the Quapaw Tribe asserts tribal governmental jurisdiction to the fullest extent recognized by law over the lands within the original Quapaw Reservation, as established as a homeland for the Quapaw Nation by the Treaty of May 13, 1833; and

WHEREAS, the Governing Resolution delegates authority to the Quapaw Tribal Business Committee to speak and act on the behalf of the Quapaw Tribe; and

WHEREAS, the Quapaw Tribal Business Committee is thus empowered and obligated to transact Tribal business, including but not limited to enacting laws and ordinances for the Tribe, including establishing codes regulating the ethical conduct of attorneys ; and

WHEREAS, the attorney rules of professional conduct ordinance, as set forth herein, and the Business Committee desires to approve such ordinance, as set forth herein.

NOW THEREFORE BE IT RESOLVED by the Tribal Business Committee that the following attorney rules of professional conduct shall be enacted as the

- 1 explanation about the material risks of and reasonably available alternatives to
2 the proposed course of conduct.
- 3 (f) "Knowingly," "known," or "knows" denotes actual knowledge of the fact in
4 question. A person's knowledge may be inferred from circumstances.
- 5 (g) "Partner" denotes a member of a partnership, a shareholder in a law firm
6 organized as a professional corporation, or a member of an association authorized
7 to practice law.
- 8 (h) "Reasonable" or "reasonably" when used in relation to conduct by a lawyer
9 denotes the conduct of a reasonably prudent and competent lawyer.
- 10 (i) "Reasonable belief" or "reasonably believes" when used in reference to a lawyer
11 denotes that the lawyer believes the matter in question and that the circumstances
12 are such that the belief is reasonable.
- 13 (j) "Reasonably should know" when used in reference to a lawyer denotes that a
14 lawyer of reasonable prudence and competence would ascertain the matter in
15 question.
- 16 (k) "Screened" denotes the isolation of a lawyer from any participation in a matter
17 through the timely imposition of procedures within a firm that are reasonably
18 adequate under the circumstances to protect information that the isolated lawyer
19 is obligated to protect under these Rules or other law.
- 20 (l) "Substantial" when used in reference to degree or extent denotes a material
21 matter of clear and weighty importance.
- 22 (m) "Tribunal" denotes a court, an arbitrator in a binding arbitration proceeding or a
23 legislative body, administrative agency or other body acting in an adjudicative
24 capacity. A legislative body, administrative agency or other body acts in an
25 adjudicative capacity when a neutral official, after the presentation of evidence or
26 legal argument by a party or parties, will render a binding legal judgment directly
27 affecting a party's interests in a particular matter.
- 28 (n) "Writing" or "written" denotes a tangible or electronic record of a communication
29 or representation, including handwriting, typewriting, printing, photostating,
30 photography, audio or videorecording, and electronic communications. A
31 "signed" writing includes an electronic sound, symbol or process attached to or
32 logically associated with a writing and executed or adopted by a person with the
33 intent to sign the writing.

34 **Rule 1.1. Competence**

35 A lawyer shall provide competent representation to a client. Competent representation
36 requires the legal knowledge, skill, thoroughness and preparation reasonably necessary
37 for the representation.

38 **Rule 1.2. Scope of Representation and Allocation of Authority Between Client
39 and Lawyer**

- 40 (a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions
41 concerning the objectives of representation and, as required by Rule 1.4, shall
42 consult with the client as to the means by which they are to be pursued. A lawyer

- 1 may take such action on behalf of the client as is impliedly authorized to carry
2 out the representation. A lawyer shall abide by a client's decision whether to
3 settle a matter. In a criminal case, the lawyer shall abide by the client's decision,
4 after consultation with the lawyer, as to a plea to be entered, whether to waive
5 jury trial and whether the client will testify.
- 6 (b) A lawyer's representation of a client, including representation by appointment,
7 does not constitute an endorsement of the client's political, economic, social or
8 moral views or activities.
- 9 (c) A lawyer may limit the scope of the representation if the limitation is reasonable
10 under the circumstances and the client gives informed consent.
- 11 (d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that
12 the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal
13 consequences of any proposed course of conduct with a client and may counsel
14 or assist a client to make a good faith effort to determine the validity, scope,
15 meaning or application of the law.

16 **Rule 1.3. Diligence**

17 A lawyer shall act with reasonable diligence and promptness in representing a client.

18 **Rule 1.4. Communication**

- 19 (a) A lawyer shall:
- 20 (1) promptly inform the client of any decision or circumstance with respect to
21 which the client's informed consent, as defined in Rule 1.0(e), is required by
22 these Rules;
- 23 (2) reasonably consult with the client about the means by which the client's
24 objectives are to be accomplished;
- 25 (3) keep the client reasonably informed about the status of the matter;
- 26 (4) promptly comply with reasonable requests for information; and
- 27 (5) consult with the client about any relevant limitation on the lawyer's conduct
28 when the lawyer knows that the client expects assistance not permitted by
29 the Rules of Professional Conduct or other law.
- 30 (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the
31 client to make informed decisions regarding the representation.

32 **Rule 1.5. Fees**

- 33 (a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee
34 or an unreasonable amount for expenses. The factors to be considered in
35 determining the reasonableness of a fee include the following:
- 36 (1) the time and labor required, the novelty and difficulty of the questions
37 involved, and the skill requisite to perform the legal service properly;
- 38 (2) the likelihood, if apparent to the client, that the acceptance of the particular
39 employment will preclude other employment by the lawyer;
- 40 (3) the fee customarily charged in the locality for similar legal services;

- 1 (4) the amount involved and the results obtained;
- 2 (5) the time limitations imposed by the client or by the circumstances;
- 3 (6) the nature and length of the professional relationship with the client;
- 4 (7) the experience, reputation, and ability of the lawyer or lawyers performing
5 the services; and
- 6 (8) whether the fee is fixed or contingent.
- 7 (b) The scope of the representation and the basis or rate of the fee and expenses for
8 which the client will be responsible shall be communicated to the client,
9 preferably in writing, before or within a reasonable time after commencing the
10 representation, except when the lawyer will charge a regularly represented client
11 on the same basis or rate. Any changes in the basis or rate of the fee or expenses
12 shall also be communicated to the client.
- 13 (c) A fee may be contingent on the outcome of the matter for which the service is
14 rendered, except in a matter in which a contingent fee is prohibited by paragraph
15 (d) or other law. A contingent fee agreement shall be in a writing signed by the
16 client and shall state the method by which the fee is to be determined, including
17 the percentage or percentages that shall accrue to the lawyer in the event of
18 settlement, trial or appeal; litigation and other expenses to be deducted from the
19 recovery; and whether such expenses are to be deducted before or after the
20 contingent fee is calculated. The agreement must clearly notify the client of any
21 expenses for which the client will be liable whether or not the client is the
22 prevailing party. Upon conclusion of a contingent fee matter, the lawyer shall
23 provide the client with a written statement stating the outcome of the matter and,
24 if there is a recovery, showing the remittance to the client and the method of its
25 determination.
- 26 (d) A lawyer shall not enter into an arrangement for, charge, or collect:
- 27 (1) any fee in a domestic relations matter, the payment or amount of which is
28 contingent upon the securing of a divorce or upon the amount of alimony or
29 support, or property settlement in lieu thereof; or
- 30 (2) a contingent fee for representing a defendant in a criminal case.
- 31 (e) A division of a fee between lawyers who are not in the same firm may be made
32 only if:
- 33 (1) the division is in proportion to the services performed by each lawyer or
34 each lawyer assumes joint responsibility for the representation;
- 35 (2) the client agrees to the arrangement, including the share each lawyer will
36 receive, and the agreement is confirmed in writing; and
- 37 (3) the total fee is reasonable.

38 **Rule 1.6. Confidentiality of Information**

- 39 (a) A lawyer shall not reveal information relating to the representation of a client
40 unless the client gives informed consent, the disclosure is impliedly authorized in

- 1 order to carry out the representation or the disclosure is permitted by paragraph
2 (b).
- 3 (b) A lawyer may reveal information relating to the representation of a client to the
4 extent the lawyer reasonably believes necessary:
- 5 (1) to prevent reasonably certain death or substantial bodily harm;
- 6 (2) to prevent the client from committing a crime or fraud that is reasonably
7 certain to result in substantial injury to the financial interests or property of
8 another and in furtherance of which the client has used or is using the
9 lawyer's services;
- 10 (3) to prevent, mitigate or rectify substantial injury to the financial interests or
11 property of another that is reasonably certain to result or has resulted from
12 the client's commission of a crime or fraud in furtherance of which the client
13 has used the lawyer's services;
- 14 (4) to secure legal advice about the lawyer's compliance with these Rules;
- 15 (5) to establish a claim or defense on behalf of the lawyer in a controversy
16 between the lawyer and the client, to establish a defense to a criminal charge
17 or civil claim against the lawyer based upon conduct in which the client was
18 involved, or to respond to allegations in any proceeding concerning the
19 lawyer's representation of the client;
- 20 (6) to comply with other law or a court order; or
- 21 (7) to detect and resolve conflicts of interest arising from the lawyer's change of
22 employment or from changes in the composition or ownership of a firm, but
23 only if the revealed information would not compromise the attorney-client
24 privilege or otherwise prejudice the client.
- 25 (c) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized
26 disclosure of, or unauthorized access to, information relating to the representation
27 of a client.

28 **Rule 1.7. Conflict of Interest; Current Clients**

- 29 (a) Except as provided in paragraph (b), a lawyer shall not represent a client if the
30 representation involves a concurrent conflict of interest. A concurrent conflict of
31 interest exists if:
- 32 (1) the representation of one client will be directly adverse to another client; or
- 33 (2) there is a significant risk that the representation of one or more clients will
34 be materially limited by the lawyer's responsibilities to another client, a
35 former client or a third person or by a personal interest of the lawyer.
- 36 (b) Notwithstanding the existence of a concurrent conflict of interest under
37 paragraph (a), a lawyer may represent a client if:
- 38 (1) the lawyer reasonably believes that the lawyer will be able to provide
39 competent and diligent representation to each affected client;
- 40 (2) the representation is not prohibited by law;

1 (3) the representation does not involve the assertion of a claim by one client
2 against another client represented by the lawyer in the same litigation or
3 other proceeding before a tribunal; and

4 (4) each affected client gives informed consent, confirmed in writing.

5 **Rule 1.8. Conflict of Interest; Current Clients; Specific Rules**

6 (a) A lawyer shall not enter into a business transaction with a client or knowingly
7 acquire an ownership, possessory, security or other pecuniary interest adverse to
8 a client unless:

9 (1) the transaction and terms on which the lawyer acquires the interest are fair
10 and reasonable to the client and are fully disclosed and transmitted in writing
11 in a manner that can be reasonably understood by the client;

12 (2) the client is advised in writing of the desirability of seeking and is given a
13 reasonable opportunity to seek the advice of independent legal counsel on
14 the transaction; and

15 (3) the client gives informed consent, in a writing signed by the client, to the
16 essential terms of the transaction and the lawyer's role in the transaction,
17 including whether the lawyer is representing the client in the transaction.

18 (b) A lawyer shall not use information relating to representation of a client to the
19 disadvantage of the client unless the client gives informed consent, except as
20 permitted or required by these Rules.

21 (c) A lawyer shall not solicit any substantial gift from a client, including a
22 testamentary gift, or prepare on behalf of a client an instrument giving the lawyer
23 or a person related to the lawyer any substantial gift unless the lawyer or other
24 recipient of the gift is related to the client. For purposes of this paragraph,
25 related persons include a spouse, child, grandchild, parent, grandparent or other
26 relative or individual with whom the lawyer or the client maintains a close,
27 familial relationship.

28 (d) Prior to the conclusion of representation of a client, a lawyer shall not make or
29 negotiate an agreement giving the lawyer literary or media rights to a portrayal or
30 account based in substantial part on information relating to the representation.

31 (e) A lawyer shall not provide financial assistance to a client in connection with
32 pending or contemplated litigation, except that:

33 (1) a lawyer may advance court costs and expenses of litigation, the repayment
34 of which may be contingent on the outcome of the matter; and

35 (2) a lawyer representing an indigent client may pay court costs and expenses of
36 litigation on behalf of the client.

37 (f) A lawyer shall not accept compensation for representing a client from one other
38 than the client unless:

39 (1) the client gives informed consent;

40 (2) there is no interference with the lawyer's independence of professional
41 judgment or with the client-lawyer relationship; and

- 1 (3) information relating to representation of a client is protected as required by
2 Rule 1.6.
- 3 (g) A lawyer who represents two or more clients shall not participate in making an
4 aggregate settlement of the claims of or against the clients, or in a criminal case
5 an aggregated agreement as to guilty or nolo contendere pleas, unless each client
6 gives informed consent, in a writing signed by the client. The lawyer's disclosure
7 shall include the existence and nature of all the claims or pleas involved and of
8 the participation of each person in the settlement.
- 9 (h) A lawyer shall not:
- 10 (1) make an agreement prospectively limiting the lawyer's liability to a client for
11 malpractice unless the client is independently represented in making the
12 agreement; or
- 13 (2) settle a claim or potential claim for such liability with an unrepresented
14 client or former client unless that person is advised in writing of the
15 desirability of seeking and is given a reasonable opportunity to seek the
16 advice of independent legal counsel in connection therewith.
- 17 (i) A lawyer shall not acquire a proprietary interest in the cause of action or subject
18 matter of litigation the lawyer is conducting for a client, except that the lawyer
19 may:
- 20 (1) acquire a lien authorized by law to secure the lawyer's fee or expenses; and
21 (2) contract with a client for a reasonable contingent fee in a civil case.
- 22 (j) A lawyer shall not have sexual relations with a client unless a consensual sexual
23 relationship existed between them when the client-lawyer relationship
24 commenced.
- 25 (k) While lawyers are associated in a firm, a prohibition in the foregoing paragraphs
26 (a) through (i) that applies to any one of them shall apply to all of them.

27 **Rule 1.9. Duties to Former Clients**

- 28 (a) A lawyer who has formerly represented a client in a matter shall not thereafter
29 represent another person in the same or a substantially related matter in which
30 that person's interests are materially adverse to the interests of the former client
31 unless the former client gives informed consent, confirmed in writing.
- 32 (b) A lawyer shall not knowingly represent a person in the same or a substantially
33 related matter in which a firm with which the lawyer formerly was associated had
34 previously represented a client
- 35 (1) whose interests are materially adverse to that person; and
36 (2) about whom the lawyer had acquired information protected by Rules 1.6 and
37 1.9(c) that is material to the matter;
- 38 unless the former client gives informed consent, confirmed in writing.
- 39 (c) A lawyer who has formerly represented a client in a matter or whose present or
40 former firm has formerly represented a client in a matter shall not thereafter:

1 (1) use information relating to the representation to the disadvantage of the
2 former client except as these Rules would permit or require with respect to a
3 client, or when the information has become generally known; or

4 (2) reveal information relating to the representation except as these Rules would
5 permit or require with respect to a client.

6 **Rule 1.10. Imputation of Conflicts of Interest; General Rule**

7 (a) While lawyers are associated in a firm, none of them shall knowingly represent a
8 client when any one of them practicing alone would be prohibited from doing so
9 by Rules 1.7 or 1.9, unless

10 (1) the prohibition is based on a personal interest of the disqualified lawyer and
11 does not present a significant risk of materially limiting the representation of
12 the client by the remaining lawyers in the firm; or

13 (2) the prohibition is based upon Rule 1.9(a) or (b) and arises out of the
14 disqualified lawyer's association with a prior firm, and

15 (i) the disqualified lawyer is timely screened from any participation in the
16 matter and is apportioned no part of the fee therefrom;

17 (ii) written notice is promptly given to any affected former client to enable the
18 former client to ascertain compliance with the provisions of this Rule,
19 which shall include a description of the screening procedures employed; a
20 statement of the firm's and of the screened lawyer's compliance with these
21 Rules; a statement that review may be available before a tribunal; and an
22 agreement by the firm to respond promptly to any written inquiries or
23 objections by the former client about the screening procedures; and

24 (iii) certifications of compliance with these Rules and with the screening
25 procedures are provided to the former client by the screened lawyer and by
26 a partner of the firm, at reasonable intervals upon the former client's
27 written request and upon termination of the screening procedures.

28 (b) When a lawyer has terminated an association with a firm, the firm is not
29 prohibited from thereafter representing a person with interests materially adverse
30 to those of a client represented by the formerly associated lawyer and not
31 currently represented by the firm, unless:

32 (1) the matter is the same or substantially related to that in which the formerly
33 associated lawyer represented the client; and

34 (2) any lawyer remaining in the firm has information protected by Rules 1.6 and
35 1.9(c) that is material to the matter.

36 (c) A disqualification prescribed by this rule may be waived by the affected client
37 under the conditions stated in Rule 1.7.

38 (d) The disqualification of lawyers associated in a firm with former or current
39 government lawyers is governed by Rule 1.11.

1 **Rule 1.11. Special Conflicts of Interest for Former and Current Government**
2 **Officers and Employees**

- 3 (a) Except as law may otherwise expressly permit, a lawyer who has formerly served
4 as a public officer or employee of the government:
- 5 (1) is subject to Rule 1.9(c); and
6 (2) shall not otherwise represent a client in connection with a matter in which
7 the lawyer participated personally and substantially as a public officer or
8 employee, unless the appropriate government agency gives its informed
9 consent, confirmed in writing, to the representation.
- 10 (b) When a lawyer is disqualified from representation under paragraph (a), no lawyer
11 in a firm with which that lawyer is associated may knowingly undertake or
12 continue representation in such a matter unless:
- 13 (1) the disqualified lawyer is timely screened from any participation in the
14 matter and is apportioned no part of the fee therefrom; and
15 (2) written notice is promptly given to the appropriate government agency to
16 enable it to ascertain compliance with the provisions of this rule.
- 17 (c) Except as law may otherwise expressly permit, a lawyer having information that
18 the lawyer knows is confidential government information about a person
19 acquired when the lawyer was a public officer or employee, may not represent a
20 private client whose interests are adverse to that person in a matter in which the
21 information could be used to the material disadvantage of that person. As used in
22 this Rule, the term "confidential government information" means information
23 that has been obtained under governmental authority and which, at the time this
24 Rule is applied, the government is prohibited by law from disclosing to the public
25 or has a legal privilege not to disclose and which is not otherwise available to the
26 public. A firm with which that lawyer is associated may undertake or continue
27 representation in the matter only if the disqualified lawyer is timely screened
28 from any participation in the matter and is apportioned no part of the fee
29 therefrom.
- 30 (d) Except as law may otherwise expressly permit, a lawyer currently serving as a
31 public officer or employee:
- 32 (1) is subject to Rules 1.7 and 1.9; and
33 (2) shall not:
- 34 (i) participate in a matter in which the lawyer participated personally and
35 substantially while in private practice or nongovernmental employment,
36 unless the appropriate government agency gives its informed consent,
37 confirmed in writing; or
38 (ii) negotiate for private employment with any person who is involved as a
39 party or as lawyer for a party in a matter in which the lawyer is
40 participating personally and substantially, except that a lawyer serving as a
41 law clerk to a judge, other adjudicative officer or arbitrator may negotiate
42 for private employment as permitted by Rule 1.12(b) and subject to the
43 conditions stated in Rule 1.12(b).

- 1 (e) As used in this Rule, the term "matter" includes:
- 2 (1) any judicial or other proceeding, application, request for a ruling or other
3 determination, contract, claim, controversy, investigation, charge,
4 accusation, arrest or other particular matter involving a specific party or
5 parties, and
- 6 (2) any other matter covered by the conflict of interest rules of the appropriate
7 government agency.

8 **Rule 1.12. Former Judge, Arbitrator, Mediator or Other Third-Party Neutral**

- 9 (a) Except as stated in paragraph (d), a lawyer shall not represent anyone in
10 connection with a matter in which the lawyer participated personally and
11 substantially as a judge or other adjudicative officer or law clerk to such a person
12 or as an arbitrator, mediator or other third-party neutral, unless all parties to the
13 proceeding give informed consent, confirmed in writing.
- 14 (b) A lawyer shall not negotiate for employment with any person who is involved as
15 a party or as lawyer for a party in a matter in which the lawyer is participating
16 personally and substantially as a judge or other adjudicative officer or as an
17 arbitrator, mediator or other third-party neutral. A lawyer serving as a law clerk
18 to a judge or other adjudicative officer may negotiate for employment with a
19 party or lawyer involved in a matter in which the clerk is participating personally
20 and substantially, but only after the lawyer has notified the judge or other
21 adjudicative officer.
- 22 (c) If a lawyer is disqualified by paragraph (a), no lawyer in a firm with which that
23 lawyer is associated may knowingly undertake or continue representation in the
24 matter unless:
- 25 (1) the disqualified lawyer is timely screened from any participation in the
26 matter and is apportioned no part of the fee therefrom; and
- 27 (2) written notice is promptly given to the parties and any appropriate tribunal to
28 enable them to ascertain compliance with the provisions of this rule.
- 29 (d) An arbitrator selected as a partisan of a party in a multimember arbitration panel
30 is not prohibited from subsequently representing that party.

31 **Rule 1.13. Organization as Client**

- 32 (a) A lawyer employed or retained by an organization represents the organization
33 acting through its duly authorized constituents.
- 34 (b) If a lawyer for an organization knows that an officer, employee or other person
35 associated with the organization is engaged in action, intends to act or refuses to
36 act in a matter related to the representation that is a violation of a legal obligation
37 to the organization, or a violation of law that reasonably might be imputed to the
38 organization, and that is likely to result in substantial injury to the organization,
39 then the lawyer shall proceed as is reasonably necessary in the best interest of the
40 organization. Unless the lawyer reasonably believes that it is not necessary in the
41 best interest of the organization to do so, the lawyer shall refer the matter to
42 higher authority in the organization, including, if warranted by the circumstances

- 1 to the highest authority that can act on behalf of the organization as determined
2 by applicable law.
- 3 (c) Except as provided in paragraph (d), if
- 4 (1) despite the lawyer's efforts in accordance with paragraph (b) the highest
5 authority that can act on behalf of the organization insists upon or fails to
6 address in a timely and appropriate manner an action, or a refusal to act, that
7 is clearly a violation of law, and
- 8 (2) the lawyer reasonably believes that the violation is reasonably certain to
9 result in substantial injury to the organization,
- 10 then the lawyer may reveal information relating to the representation whether or
11 not Rule 1.6 permits such disclosure, but only if and to the extent the lawyer
12 reasonably believes necessary to prevent substantial injury to the organization.
- 13 (d) Paragraph (c) shall not apply with respect to information relating to a lawyer's
14 representation of an organization to investigate an alleged violation of law, or to
15 defend the organization or an officer, employee or other constituent associated
16 with the organization against a claim arising out of an alleged violation of law.
- 17 (e) A lawyer who reasonably believes that he or she has been discharged because of
18 the lawyer's actions taken pursuant to paragraphs (b) or (c), or who withdraws
19 under circumstances that require or permit the lawyer to take action under either
20 of those paragraphs, shall proceed as the lawyer reasonably believes necessary to
21 assure that the organization's highest authority is informed of the lawyer's
22 discharge or withdrawal.
- 23 (f) In dealing with an organization's directors, officers, employees, members,
24 shareholders or other constituents, a lawyer shall explain the identity of the client
25 when the lawyer knows or reasonably should know that the organization's
26 interests are adverse to those of the constituents with whom the lawyer is dealing.
- 27 (g) A lawyer representing an organization may also represent any of its directors,
28 officers, employees, members, shareholders or other constituents, subject to the
29 provisions of Rule 1.7. If the organization's consent to the dual representation is
30 required by Rule 1.7, the consent shall be given by an appropriate official of the
31 organization other than the individual who is to be represented, or by the
32 shareholders.

33 **Rule 1.14. Client with Diminished Capacity**

- 34 (a) When a client's capacity to make adequately considered decisions in connection
35 with a representation is diminished, whether because of minority, mental
36 impairment or for some other reason, the lawyer shall, as far as reasonably
37 possible, maintain a normal client-lawyer relationship with the client.
- 38 (b) When the lawyer reasonably believes that the client has diminished capacity, is at
39 risk of substantial physical, financial or other harm unless action is taken and
40 cannot adequately act in the client's own interest, the lawyer may take reasonably
41 necessary protective action, including consulting with individuals or entities that
42 have the ability to take action to protect the client and, in appropriate cases,
43 seeking the appointment of a guardian ad litem, conservator or guardian.

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

6 **Rule 1.15. Safekeeping Property**

7 (a) A lawyer shall hold property of clients or third persons that is in a lawyer's
8 possession in connection with a representation separate from the lawyer's own
9 property. Funds shall be kept in a separate account maintained in the state where
10 the lawyer's office is situated, or elsewhere with the consent of the client or third
11 person. Other property shall be identified as such and appropriately safeguarded.
12 Complete records of such account funds and other property shall be kept by the
13 lawyer and shall be preserved for a period of five years after termination of the
14 representation.

15 (b) A lawyer may deposit the lawyer's own funds in a client trust account for the sole
16 purpose of paying bank service charges on that account, but only in an amount
17 necessary for that purpose.

18 (c) A lawyer shall deposit into a client trust account legal fees and expenses that
19 have been paid in advance, to be withdrawn by the lawyer only as fees are earned
20 or expenses incurred.

21 (d) Upon receiving funds or other property in which a client or third person has an
22 interest, a lawyer shall promptly notify the client or third person. Except as
23 stated in this rule or otherwise permitted by law or by agreement with the client,
24 a lawyer shall promptly deliver to the client or third person any funds or other
25 property that the client or third person is entitled to receive and, upon request by
26 the client or third person, shall promptly render a full accounting regarding such
27 property.

28 (e) When in the course of representation a lawyer is in possession of property in
29 which two or more persons (one of whom may be the lawyer) claim interests, the
30 property shall be kept separate by the lawyer until the dispute is resolved. The
31 lawyer shall promptly distribute all portions of the property as to which the
32 interests are not in dispute.

33 **Rule 1.16. Declining or Terminating Representation**

34 (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where
35 representation has commenced, shall withdraw from the representation of a client
36 if:

37 (1) the representation will result in violation of the rules of professional conduct
38 or other law;

39 (2) the lawyer's physical or mental condition materially impairs the lawyer's
40 ability to represent the client; or

41 (3) the lawyer is discharged.

42 (b) Except as stated in paragraph (c), a lawyer may withdraw from representing a
43 client if:

- 1 (1) withdrawal can be accomplished without material adverse effect on the
2 interests of the client;
- 3 (2) the client persists in a course of action involving the lawyer's services that
4 the lawyer reasonably believes is criminal or fraudulent;
- 5 (3) the client has used the lawyer's services to perpetrate a crime or fraud;
- 6 (4) the client insists upon taking action that the lawyer considers repugnant or
7 with which the lawyer has a fundamental disagreement;
- 8 (5) the client fails substantially to fulfill an obligation to the lawyer regarding
9 the lawyer's services and has been given reasonable warning that the lawyer
10 will withdraw unless the obligation is fulfilled;
- 11 (6) the representation will result in an unreasonable financial burden on the
12 lawyer or has been rendered unreasonably difficult by the client; or
- 13 (7) other good cause for withdrawal exists.
- 14 (c) A lawyer must comply with applicable law requiring notice to or permission of a
15 tribunal when terminating a representation. When ordered to do so by a tribunal,
16 a lawyer shall continue representation notwithstanding good cause for
17 terminating the representation.
- 18 (d) Upon termination of representation, a lawyer shall take steps to the extent
19 reasonably practicable to protect a client's interests, such as giving reasonable
20 notice to the client, allowing time for employment of other counsel, surrendering
21 papers and property to which the client is entitled and refunding any advance
22 payment of fee or expense that has not been earned or incurred. The lawyer may
23 retain papers relating to the client to the extent permitted by other law.

24 **Rule 1.17. Sale of Law Practice**

25 A lawyer or a law firm may sell or purchase a law practice, or an area of law practice,
26 including good will, if the following conditions are satisfied:

- 27 (a) The seller ceases to engage in the private practice of law, or in the area of
28 practice that has been sold, in the geographic area in which the practice has been
29 conducted;
- 30 (b) The entire practice, or the entire area of practice, is sold to one or more lawyers
31 or law firms;
- 32 (c) The seller gives written notice to each of the seller's clients regarding:
33 (1) the proposed sale;
34 (2) the client's right to retain other counsel or to take possession of the file; and
35 (3) the fact that the client's consent to the transfer of the client's files will be
36 presumed if the client does not take any action or does not otherwise object
37 within ninety (90) days of receipt of the notice.

38 If a client cannot be given notice, the representation of that client may be
39 transferred to the purchaser only upon entry of an order so authorizing by a court
40 having jurisdiction. The seller may disclose to the court in camera information

1 relating to the representation only to the extent necessary to obtain an order
2 authorizing the transfer of a file.

3 (d) The fees charged clients shall not be increased by reason of the sale.

4 **Rule 1.18. Duties to Prospective Client**

5 (a) A person who consults with a lawyer about the possibility of forming a client-
6 lawyer relationship with respect to a matter is a prospective client.

7 (b) Even when no client-lawyer relationship ensues, a lawyer who has learned
8 information from a prospective client shall not use or reveal that information,
9 except as Rule 1.9 would permit with respect to information of a former client.

10 (c) A lawyer subject to paragraph (b) shall not represent a client with interests
11 materially adverse to those of a prospective client in the same or a substantially
12 related matter if the lawyer received information from the prospective client that
13 could be significantly harmful to that person in the matter, except as provided in
14 paragraph (d). If a lawyer is disqualified from representation under this
15 paragraph, no lawyer in a firm with which that lawyer is associated may
16 knowingly undertake or continue representation in such a matter, except as
17 provided in paragraph (d).

18 (d) When the lawyer has received disqualifying information as defined in paragraph
19 (c), representation is permissible if:

20 (1) both the affected client and the prospective client have given informed
21 consent, confirmed in writing; or

22 (2) the lawyer who received the information took reasonable measures to avoid
23 exposure to more disqualifying information than was reasonably necessary
24 to determine whether to represent the prospective client; and

25 (i) the disqualified lawyer is timely screened from any participation in the
26 matter and is apportioned no part of the fee therefrom; and

27 (ii) written notice is promptly given to the prospective client.

28 **PART II. COUNSELOR**

29 **Rule 2.1. Advisor**

30 In representing a client, a lawyer shall exercise independent professional judgment and
31 render candid advice. In rendering advice, a lawyer may refer not only to law but to
32 other considerations such as moral, economic, social and political factors, that may be
33 relevant to the client's situation.

34 **Rule 2.2. [Reserved.]**

35 **Rule 2.3. Evaluation for Use by Third Persons**

36 (a) A lawyer may provide an evaluation of a matter affecting a client for the use of
37 someone other than the client if the lawyer reasonably believes that making the
38 evaluation is compatible with other aspects of the lawyer's relationship with the
39 client.

- 1 (b) When the lawyer knows or reasonably should know that the evaluation is likely
2 to affect the client's interests materially and adversely, the lawyer shall not
3 provide the evaluation unless the client gives informed consent.
- 4 (c) Except as disclosure is authorized in connection with a report of an evaluation,
5 information relating to the evaluation is otherwise protected by Rule 1.6.

6 **Rule 2.4. Lawyer Serving as Third-Party Neutral**

- 7 (a) A lawyer serves as a third-party neutral when the lawyer assists two or more
8 persons who are not clients of the lawyer to reach a resolution of a dispute or
9 other matter that has arisen between them. Service as a third-party neutral may
10 include service as an arbitrator, a mediator or in such other capacity as will
11 enable the lawyer to assist the parties to resolve the matter.
- 12 (b) A lawyer serving as a third-party neutral shall inform unrepresented parties that
13 the lawyer is not representing them. When the lawyer knows or reasonably
14 should know that a party does not understand the lawyer's role in the matter, the
15 lawyer shall explain the difference between the lawyer's role as a third-party
16 neutral and a lawyer's role as one who represents a client.

17 **PART III. ADVOCATE**

18 **Rule 3.1. Meritorious Claims and Contentions**

19 A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein,
20 unless there is a basis in law and fact for doing so that is not frivolous, which includes a
21 good faith argument for an extension, modification or reversal of existing law. A
22 lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding
23 that could result in incarceration, may nevertheless so defend the proceeding as to
24 require that every element of the case be established.

25 **Rule 3.2. Expediting Litigation**

26 A lawyer shall make reasonable efforts to expedite litigation consistent with the
27 interests of the client.

28 **Rule 3.3 Candor Toward the Tribunal**

- 29 (a) A lawyer shall not knowingly:
- 30 (1) make a false statement of fact or law to a tribunal or fail to correct a false
31 statement of material fact or law previously made to the tribunal by the
32 lawyer;
- 33 (2) fail to disclose to the tribunal legal authority in the controlling jurisdiction
34 known to the lawyer to be directly adverse to the position of the client and
35 not disclosed by opposing counsel; or
- 36 (3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's
37 client, or a witness called by the lawyer, has offered material evidence and
38 the lawyer comes to know of its falsity, the lawyer shall take reasonable
39 remedial measures, including, if necessary, disclosure to the tribunal. A
40 lawyer may refuse to offer evidence, other than the testimony of a defendant
41 in a criminal matter, that the lawyer reasonably believes is false.

- 1 (b) A lawyer who represents a client in an adjudicative proceeding and who knows
2 that a person intends to engage, is engaging or has engaged in criminal or
3 fraudulent conduct related to the proceeding shall take reasonable remedial
4 measures, including, if necessary, disclosure to the tribunal.
- 5 (c) The duties stated in paragraphs (a) and (b) continue to the conclusion of the
6 proceeding, and apply even if compliance requires disclosure of information
7 otherwise protected by Rule 1.6.
- 8 (d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts
9 known to the lawyer that will enable the tribunal to make an informed decision,
10 whether or not the facts are adverse.

11 **Rule 3.4 Fairness to Opposing Party and Counsel**

12 A lawyer shall not:

- 13 (a) unlawfully obstruct another party' s access to evidence or unlawfully alter,
14 destroy or conceal a document or other material having potential evidentiary
15 value. A lawyer shall not counsel or assist another person to do any such act;
- 16 (b) falsify evidence, counsel or assist a witness to testify falsely, or offer an
17 inducement to a witness that is prohibited by law;
- 18 (c) knowingly disobey an obligation under the rules of a tribunal except for an open
19 refusal based on an assertion that no valid obligation exists;
- 20 (d) in pretrial procedure, make a frivolous discovery request or fail to make
21 reasonably diligent effort to comply with a legally proper discovery request by an
22 opposing party;
- 23 (e) in trial, allude to any matter that the lawyer does not reasonably believe is
24 relevant or that will not be supported by admissible evidence, assert personal
25 knowledge of facts in issue except when testifying as a witness, or state a
26 personal opinion as to the justness of a cause, the credibility of a witness, the
27 culpability of a civil litigant or the guilt or innocence of an accused; or
- 28 (f) request a person other than a client to refrain from voluntarily giving relevant
29 information to another party unless:
- 30 (1) the person is a relative or an employee or other agent of a client; and
- 31 (2) the lawyer reasonably believes that the person's interests will not be
32 adversely affected by refraining from giving such information.

33 **Rule 3.5 Impartiality and Decorum of the Tribunal**

34 A lawyer shall not:

- 35 (a) seek to influence a judge, juror, prospective juror or other official by means
36 prohibited by law;
- 37 (b) communicate ex parte with such a person during the proceeding unless
38 authorized to do so by law or court order;
- 39 (c) communicate with a juror or prospective juror after discharge of the jury if:
- 40 (1) the communication is prohibited by law or court order;

- 1 (2) the juror has made known to the lawyer a desire not to communicate; or
- 2 (3) the communication involves misrepresentation, coercion, duress or
- 3 harassment; or
- 4 (d) engage in conduct intended to disrupt a tribunal.

5 **Rule 3.6 Trial Publicity**

6 (a) A lawyer who is participating or has participated in the investigation or litigation
7 of a matter shall not make an extrajudicial statement that the lawyer knows or
8 reasonably should know will be disseminated by means of public communication
9 and will have a substantial likelihood of materially prejudicing an adjudicative
10 proceeding in the matter.

11 (b) Notwithstanding paragraph (a), a lawyer may state:

- 12 (1) the claim, offense or defense involved and, except when prohibited by law,
13 the identity of the persons involved;
- 14 (2) information contained in a public record;
- 15 (3) that an investigation of a matter is in progress;
- 16 (4) the scheduling or result of any step in litigation;
- 17 (5) a request for assistance in obtaining evidence and information necessary
18 thereto;
- 19 (6) a warning of danger concerning the behavior of a person involved, when
20 there is reason to believe that there exists the likelihood of substantial harm
21 to an individual or to the public interest; and
- 22 (7) in a criminal case, in addition to subparagraphs (1) through (6):
 - 23 (i) the identity, residence, occupation and family status of the accused;
 - 24 (ii) if the accused has not been apprehended, information necessary to aid in
25 apprehension of that person;
 - 26 (iii) the fact, time and place of arrest; and
 - 27 (iv) the identity of investigating and arresting officers or agencies and the
28 length of the investigation.

29 (c) Notwithstanding paragraph (a), a lawyer may make a statement that a reasonable
30 lawyer would believe is required to protect a client from the substantial undue
31 prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's
32 client. A statement made pursuant to this paragraph shall be limited to such
33 information as is necessary to mitigate the recent adverse publicity.

34 (d) No lawyer associated in a firm or government agency with a lawyer subject to
35 paragraph (a) shall make a statement prohibited by paragraph (a).

36 **Rule 3.7 Lawyer as Witness**

37 (a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a
38 necessary witness unless:

- 1 (1) the testimony relates to an uncontested issue;
- 2 (2) the testimony relates to the nature and value of legal services rendered in the
3 case; or
- 4 (3) disqualification of the lawyer would work substantial hardship on the client.
- 5 (b) A lawyer may act as advocate in a trial in which another lawyer in the lawyer's
6 firm is likely to be called as a witness unless precluded from doing so by Rule
7 1.7 or Rule 1.9.

8 **Rule 3.8 Special Responsibilities of a Prosecutor**

9 The prosecutor in a criminal case shall:

- 10 (a) refrain from prosecuting a charge that the prosecutor knows is not supported by
11 probable cause;
- 12 (b) make reasonable efforts to assure that the accused has been advised of the right
13 to, and the procedure for obtaining, counsel and has been given reasonable
14 opportunity to obtain counsel;
- 15 (c) not seek to obtain from an unrepresented accused a waiver of important pretrial
16 rights, such as the right to a preliminary hearing;
- 17 (d) make timely disclosure to the defense of all evidence or information known to
18 the prosecutor that tends to negate the guilt of the accused or mitigates the
19 offense, and, in connection with sentencing, disclose to the defense and to the
20 tribunal all unprivileged mitigating information known to the prosecutor, except
21 when the prosecutor is relieved of this responsibility by a protective order of the
22 tribunal;
- 23 (e) not subpoena a lawyer in a grand jury or other criminal proceeding to present
24 evidence about a past or present client unless the prosecutor reasonably believes:
 - 25 (1) the information sought is not protected from disclosure by any applicable
26 privilege;
 - 27 (2) the evidence sought is essential to the successful completion of an ongoing
28 investigation or prosecution; and
 - 29 (3) there is no other feasible alternative to obtain the information;
- 30 (f) except for statements that are necessary to inform the public of the nature and
31 extent of the prosecutor's action and that serve a legitimate law enforcement
32 purpose, refrain from making extrajudicial comments that have a substantial
33 likelihood of heightening public condemnation of the accused and exercise
34 reasonable care to prevent investigators, law enforcement personnel, employees
35 or other persons assisting or associated with the prosecutor in a criminal case
36 from making an extrajudicial statement that the prosecutor would be prohibited
37 from making under Rule 3.6 or this Rule.
- 38 (g) When a prosecutor knows of new, credible and material evidence creating a
39 reasonable likelihood that a convicted defendant did not commit an offense of
40 which the defendant was convicted, the prosecutor shall:
 - 41 (1) promptly disclose that evidence to an appropriate court or authority, and

- 1 (2) if the conviction was obtained in the prosecutor’s jurisdiction,
2 (i) promptly disclose that evidence to the defendant unless a court authorizes
3 delay, and
4 (ii) undertake further investigation, or make reasonable efforts to cause an
5 investigation, to determine whether the defendant was convicted of an
6 offense that the defendant did not commit.
7 (h) When a prosecutor knows of clear and convincing evidence establishing that a
8 defendant in the prosecutor’s jurisdiction was convicted of an offense that the
9 defendant did not commit, the prosecutor shall seek to remedy the conviction.

10 **Rule 3.9 Advocate in Nonadjudicative Proceedings**

11 A lawyer representing a client before a legislative body or administrative agency in a
12 nonadjudicative proceeding shall disclose that the appearance is in a representative
13 capacity and shall conform to the provisions of Rules 3.3(a) through (c), 3.4(a) through
14 (c), and 3.5.

15 **PART IV. TRANSACTIONS WITH PERSONS OTHER THAN CLIENTS**

16 **Rule 4.1 Truthfulness in Statements to Others**

17 In the course of representing a client a lawyer shall not knowingly:

- 18 (a) make a false statement of material fact or law to a third person; or
19 (b) fail to disclose a material fact to a third person when disclosure is necessary to
20 avoid assisting a criminal or fraudulent act by a client, unless disclosure is
21 prohibited by Rule 1.6.

22 **Rule 4.2 Communication with Person Represented by Counsel**

23 In representing a client, a lawyer shall not communicate about the subject of the
24 representation with a person the lawyer knows to be represented by another lawyer in
25 the matter, unless the lawyer has the consent of the other lawyer or is authorized to do
26 so by law or a court order.

27 **Rule 4.3 Dealing with Unrepresented Person**

28 In dealing on behalf of a client with a person who is not represented by counsel, a
29 lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows
30 or reasonably should know that the unrepresented person misunderstands the lawyer’s
31 role in the matter, the lawyer shall make reasonable efforts to correct the
32 misunderstanding. The lawyer shall not give legal advice to an unrepresented person,
33 other than the advice to secure counsel, if the lawyer knows or reasonably should know
34 that the interests of such a person are or have a reasonable possibility of being in
35 conflict with the interests of the client.

36 **Rule 4.4 Respect for Rights of Third Persons**

- 37 (a) In representing a client, a lawyer shall not use means that have no substantial
38 purpose other than to embarrass, delay, or burden a third person, or use methods
39 of obtaining evidence that violate the legal rights of such a person.

- 1 (b) A lawyer who receives a document or electronically stored information relating
2 to the representation of the lawyer's client and knows or reasonably should know
3 that the document or electronically stored information was inadvertently sent
4 shall promptly notify the sender.

5 **PART V. LAW FIRMS AND ASSOCIATIONS**

6 **Rule 5.1 Responsibilities of Partners, Managers, and Supervisory Lawyers**

- 7 (a) A partner in a law firm, and a lawyer who individually or together with other
8 lawyers possesses comparable managerial authority in a law firm, shall make
9 reasonable efforts to ensure that the firm has in effect measures giving reasonable
10 assurance that all lawyers in the firm conform to the Rules of Professional
11 Conduct.
- 12 (b) A lawyer having direct supervisory authority over another lawyer shall make
13 reasonable efforts to ensure that the other lawyer conforms to the Rules of
14 Professional Conduct.
- 15 (c) A lawyer shall be responsible for another lawyer's violation of the Rules of
16 Professional Conduct if:
- 17 (1) the lawyer orders or, with knowledge of the specific conduct, ratifies the
18 conduct involved; or
- 19 (2) the lawyer is a partner or has comparable managerial authority in the law
20 firm in which the other lawyer practices, or has direct supervisory authority
21 over the other lawyer, and knows of the conduct at a time when its
22 consequences can be avoided or mitigated but fails to take reasonable
23 remedial action.

24 **Rule 5.2 Responsibilities of a Subordinate Lawyer**

- 25 (a) A lawyer is bound by the Rules of Professional Conduct notwithstanding that the
26 lawyer acted at the direction of another person.
- 27 (b) A subordinate lawyer does not violate the Rules of Professional Conduct if that
28 lawyer acts in accordance with a supervisory lawyer's reasonable resolution of an
29 arguable question of professional duty.

30 **Rule 5.3 Responsibilities Regarding Nonlawyer Assistance**

31 With respect to a nonlawyer employed or retained by or associated with a lawyer:

- 32 (a) a partner, and a lawyer who individually or together with other lawyers possesses
33 comparable managerial authority in a law firm shall make reasonable efforts to
34 ensure that the firm has in effect measures giving reasonable assurance that the
35 person's conduct is compatible with the professional obligations of the lawyer;
- 36 (b) a lawyer having direct supervisory authority over the nonlawyer shall make
37 reasonable efforts to ensure that the person's conduct is compatible with the
38 professional obligations of the lawyer; and
- 39 (c) a lawyer shall be responsible for conduct of such a person that would be a
40 violation of the Rules of Professional Conduct if engaged in by a lawyer if:

- 1 (1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the
2 conduct involved; or
- 3 (2) the lawyer is a partner or has comparable managerial authority in the law
4 firm in which the person is employed, or has direct supervisory authority
5 over the person, and knows of the conduct at a time when its consequences
6 can be avoided or mitigated but fails to take reasonable remedial action.

7 **Rule 5.4 Professional Independence of a Lawyer**

- 8 (a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:
- 9 (1) an agreement by a lawyer with the lawyer's firm, partner, or associate may
10 provide for the payment of money, over a reasonable period of time after the
11 lawyer's death, to the lawyer's estate or to one or more specified persons;
- 12 (2) a lawyer who purchases the practice of a deceased, disabled, or disappeared
13 lawyer may, pursuant to the provisions of Rule 1.17, pay to the estate or
14 other representative of that lawyer the agreed-upon purchase price;
- 15 (3) a lawyer or law firm may include nonlawyer employees in a compensation
16 or retirement plan, even though the plan is based in whole or in part on a
17 profit-sharing arrangement; and
- 18 (4) a lawyer may share court-awarded legal fees with a nonprofit organization
19 that employed, retained or recommended employment of the lawyer in the
20 matter.
- 21 (b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of
22 the partnership consist of the practice of law.
- 23 (c) A lawyer shall not permit a person who recommends, employs, or pays the
24 lawyer to render legal services for another to direct or regulate the lawyer's
25 professional judgment in rendering such legal services.
- 26 (d) A lawyer shall not practice with or in the form of a professional corporation or
27 association authorized to practice law for a profit, if:
- 28 (1) a nonlawyer owns any interest therein, except that a fiduciary representative
29 of the estate of a lawyer may hold the stock or interest of the lawyer for a
30 reasonable time during administration;
- 31 (2) a nonlawyer is a corporate director or officer thereof or occupies the position
32 of similar responsibility in any form of association other than a corporation;
33 or
- 34 (3) a nonlawyer has the right to direct or control the professional judgment of a
35 lawyer.

36 **Rule 5.5 Unauthorized Practice of Law; Multijurisdictional Practice of Law**

- 37 (a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of
38 the legal profession in that jurisdiction, or assist another in doing so.
- 39 (b) A lawyer who is not admitted to practice in this jurisdiction shall not:

- 1 (1) except as authorized by these Rules or other law, establish an office or other
- 2 systematic and continuous presence in this jurisdiction for the practice of
- 3 law; or
- 4 (2) hold out to the public or otherwise represent that the lawyer is admitted to
- 5 practice law in this jurisdiction.
- 6 (c) A lawyer admitted in another United States jurisdiction, and not disbarred or
- 7 suspended from practice in any jurisdiction, may provide legal services on a
- 8 temporary basis in this jurisdiction that:
 - 9 (1) are undertaken in association with a lawyer who is admitted to practice in
 - 10 this jurisdiction and who actively participates in the matter;
 - 11 (2) are in or reasonably related to a pending or potential proceeding before a
 - 12 tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is
 - 13 assisting, is authorized by law or order to appear in such proceeding or
 - 14 reasonably expects to be so authorized;
 - 15 (3) are in or reasonably related to a pending or potential arbitration, mediation,
 - 16 or other alternative dispute resolution proceeding in this or another
 - 17 jurisdiction, if the services arise out of or are reasonably related to the
 - 18 lawyer's practice in a jurisdiction in which the lawyer is admitted to practice
 - 19 and are not services for which the forum requires pro hac vice admission; or
 - 20 (4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably
 - 21 related to the lawyer's practice in a jurisdiction in which the lawyer is
 - 22 admitted to practice.
- 23 (d) A lawyer admitted in another United States jurisdiction or in a foreign
- 24 jurisdiction, and not disbarred or suspended from practice in any jurisdiction or
- 25 the equivalent thereof, may provide legal services through an office or other
- 26 systematic and continuous presence in this jurisdiction that:
 - 27 (1) are provided to the lawyer's employer or its organizational affiliates; are not
 - 28 services for which the forum requires pro hac vice admission; and, when
 - 29 performed by a foreign lawyer and requires advice on the law of this or
 - 30 another jurisdiction or of the United States, such advice shall be based upon
 - 31 the advice of a lawyer who is duly licensed and authorized by the
 - 32 jurisdiction to provide such advice; or
 - 33 (2) are services that the lawyer is authorized by federal or other law or rule to
 - 34 provide in this jurisdiction.
- 35 (e) For purposes of paragraph (d), the foreign lawyer must be a member in good
- 36 standing of a recognized legal profession in a foreign jurisdiction, the members
- 37 of which are admitted to practice as lawyers or counselors at law or the
- 38 equivalent, and are subject to effective regulation and discipline by a duly
- 39 constituted professional body or a public authority.

40 **Rule 5.6 Restrictions on Right to Practice**

41 A lawyer shall not participate in offering or making:

- 1 (a) a partnership, shareholders, operating, employment, or other similar type of
2 agreement that restricts the right of a lawyer to practice after termination of the
3 relationship, except an agreement concerning benefits upon retirement; or
4 (b) an agreement in which a restriction on the lawyer's right to practice is part of the
5 settlement of a client controversy.

6 **Rule 5.7 Responsibilities Regarding Law-Related Services**

- 7 (a) A lawyer shall be subject to the Rules of Professional Conduct with respect to the
8 provision of law-related services, as defined in paragraph (b), if the law-related
9 services are provided:
- 10 (1) by the lawyer in circumstances that are not distinct from the lawyer's
11 provision of legal services to clients; or
- 12 (2) in other circumstances by an entity controlled by the lawyer individually or
13 with others if the lawyer fails to take reasonable measures to assure that a
14 person obtaining the law-related services knows that the services are not
15 legal services and that the protections of the client-lawyer relationship do
16 not exist.
- 17 (b) The term "law-related services" denotes services that might reasonably be
18 performed in conjunction with and in substance are related to the provision of
19 legal services, and that are not prohibited as unauthorized practice of law when
20 provided by a nonlawyer.

21 **PART VI. PUBLIC SERVICE**

22 **Rule 6.1 Voluntary Pro Bono Publico Service**

23 Every lawyer has a professional responsibility to provide legal services to those unable
24 to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal
25 services per year. In fulfilling this responsibility, the lawyer should:

- 26 (a) provide a substantial majority of the (50) hours of legal services without fee or
27 expectation of fee to:
- 28 (1) persons of limited means, or
29 (2) charitable, religious, civic, community, governmental and educational
30 organizations in matters that are designed primarily to address the needs of
31 persons of limited means; and
- 32 (b) provide any additional services through:
- 33 (1) delivery of legal services at no fee or substantially reduced fee to
34 individuals, groups or organizations seeking to secure or protect civil rights,
35 civil liberties or public rights, or charitable, religious, civic, community,
36 governmental and educational organizations in matters in furtherance of
37 their organizational purposes, where the payment of standard legal fees
38 would significantly deplete the organization's economic resources or would
39 be otherwise inappropriate;
- 40 (2) delivery of legal services at a substantially reduced fee to persons of limited
41 means; or

1 (3) participation in activities for improving the law, the legal system or the legal
2 profession.

3 In addition, a lawyer should voluntarily contribute financial support to
4 organizations that provide legal services to persons of limited means.

5 **Rule 6.2 Accepting Appointments**

6 A lawyer shall not seek to avoid appointment by a tribunal to represent a person except
7 for good cause, such as:

8 (a) representing the client is likely to result in violation of the Rules of Professional
9 Conduct or other law;

10 (b) representing the client is likely to result in an unreasonable financial burden on
11 the lawyer; or

12 (c) the client or the cause is so repugnant to the lawyer as to be likely to impair the
13 client-lawyer relationship or the lawyer's ability to represent the client.

14 **Rule 6.3 Membership in Legal Services Organization**

15 A lawyer may serve as a director, officer or member of a legal services organization,
16 apart from the law firm in which the lawyer practices, notwithstanding that the
17 organization serves persons having interests adverse to a client of the lawyer. The
18 lawyer shall not knowingly participate in a decision or action of the organization:

19 (a) if participating in the decision or action would be incompatible with the lawyer's
20 obligations to a client under Rule 1.7; or

21 (b) where the decision or action could have a material adverse effect on the
22 representation of a client of the organization whose interests are adverse to a
23 client of the lawyer.

24 **Rule 6.4 Law Reform Activities Affecting Client Interests**

25 A lawyer may serve as a director, officer or member of an organization involved in
26 reform of the law or its administration notwithstanding that the reform may affect the
27 interests of a client of the lawyer. When the lawyer knows that the interests of a client
28 may be materially benefitted by a decision in which the lawyer participates, the lawyer
29 shall disclose that fact but need not identify the client.

30 **Rule 6.5 Nonprofit and Court-Annexed Limited Legal Services Programs**

31 (a) A lawyer who, under the auspices of a program sponsored by a nonprofit
32 organization or court, provides short-term limited legal services to a client
33 without expectation by either the lawyer or the client that the lawyer will provide
34 continuing representation in the matter:

35 (1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the
36 representation of the client involves a conflict of interest; and

37 (2) is subject to Rule 1.10 only if the lawyer knows that another lawyer
38 associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a)
39 with respect to the matter.

- 1 (b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a
2 representation governed by this Rule.

3 **PART VII. INFORMATION ABOUT LEGAL SERVICES**

4 **Rule 7.1 Communications Concerning a Lawyer's Services**

5 A lawyer shall not make a false or misleading communication about the lawyer or the
6 lawyer's services. A communication is false or misleading if it contains a material
7 misrepresentation of fact or law, or omits a fact necessary to make the statement
8 considered as a whole not materially misleading.

9 **Rule 7.2 Advertising**

10 (a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services
11 through written, recorded or electronic communication, including public media.

12 (b) A lawyer shall not give anything of value to a person for recommending the
13 lawyer's services except that a lawyer may

14 (1) pay the reasonable costs of advertisements or communications permitted by
15 this Rule;

16 (2) pay the usual charges of a legal service plan or a not-for-profit or qualified
17 lawyer referral service. A qualified lawyer referral service is a lawyer
18 referral service that has been approved by an appropriate regulatory
19 authority;

20 (3) pay for a law practice in accordance with Rule 1.17; and

21 (4) refer clients to another lawyer or a nonlawyer professional pursuant to an
22 agreement not otherwise prohibited under these Rules that provides for the
23 other person to refer clients or customers to the lawyer, if

24 (i) the reciprocal referral agreement is not exclusive, and

25 (ii) the client is informed of the existence and nature of the agreement.

26 (c) Any communication made pursuant to this rule shall include the name and office
27 address of at least one lawyer or law firm responsible for its content.

28 **Rule 7.3 Solicitation of Clients**

29 (a) A lawyer shall not by in-person, live telephone or real-time electronic contact
30 solicit professional employment when a significant motive for the lawyer's doing
31 so is the lawyer's pecuniary gain, unless the person contacted:

32 (1) is a lawyer; or

33 (2) has a family, close personal, or prior professional relationship with the
34 lawyer.

35 (b) A lawyer shall not solicit professional employment by written, recorded or
36 electronic communication or by in-person, telephone or real-time electronic
37 contact even when not otherwise prohibited by paragraph (a), if:

38 (1) the target of the solicitation has made known to the lawyer a desire not to be
39 solicited by the lawyer; or

- 1 (2) the solicitation involves coercion, duress or harassment.
- 2 (c) Every written, recorded or electronic communication from a lawyer soliciting
3 professional employment from anyone known to be in need of legal services in a
4 particular matter shall include the words "Advertising Material" on the outside
5 envelope, if any, and at the beginning and ending of any recorded or electronic
6 communication, unless the recipient of the communication is a person specified
7 in paragraphs (a)(1) or (a)(2).
- 8 (d) Notwithstanding the prohibitions in paragraph (a), a lawyer may participate with
9 a prepaid or group legal service plan operated by an organization not owned or
10 directed by the lawyer that uses in-person or telephone contact to solicit
11 memberships or subscriptions for the plan from persons who are not known to
12 need legal services in a particular matter covered by the plan.

13 **Rule 7.4 Communication of Fields of Practice and Specialization**

- 14 (a) A lawyer may communicate the fact that the lawyer does or does not practice in
15 particular fields of law.
- 16 (b) A lawyer admitted to engage in patent practice before the United States Patent
17 and Trademark Office may use the designation "Patent Attorney" or a
18 substantially similar designation.
- 19 (c) A lawyer engaged in Admiralty practice may use the designation "Admiralty,"
20 "Proctor in Admiralty" or a substantially similar designation.
- 21 (d) A lawyer shall not state or imply that a lawyer is certified as a specialist in a
22 particular field of law, unless:
- 23 (1) the lawyer has been certified as a specialist by an organization that has been
24 approved by an appropriate state authority or that has been accredited by the
25 American Bar Association; and
- 26 (2) the name of the certifying organization is clearly identified in the
27 communication.

28 **Rule 7.5 Firm Names and Letterheads**

- 29 (a) A lawyer shall not use a firm name, letterhead or other professional designation
30 that violates Rule 7.1. A trade name may be used by a lawyer in private practice
31 if it does not imply a connection with a government agency or with a public or
32 charitable legal services organization and is not otherwise in violation of Rule
33 7.1.
- 34 (b) A law firm with offices in more than one jurisdiction may use the same name or
35 other professional designation in each jurisdiction, but identification of the
36 lawyers in an office of the firm shall indicate the jurisdictional limitations on
37 those not licensed to practice in the jurisdiction where the office is located.
- 38 (c) The name of a lawyer holding a public office shall not be used in the name of a
39 law firm, or in communications on its behalf, during any substantial period in
40 which the lawyer is not actively and regularly practicing with the firm.
- 41 (d) Lawyers may state or imply that they practice in a partnership or other
42 organization only when that is the fact.

1 **Rule 7.6 Political Contributions to Obtain Legal Engagements or**
2 **Appointments by Judges**

3 A lawyer or law firm shall not accept a government legal engagement or an
4 appointment by a judge if the lawyer or law firm makes a political contribution or
5 solicits political contributions for the purpose of obtaining or being considered for that
6 type of legal engagement or appointment.

7 **PART VIII. MAINTAINING THE INTEGRITY OF THE PROFESSION**

8 **Rule 8.1 Bar Admission and Disciplinary Matters**

9 An applicant for admission to the bar, or a lawyer in connection with a bar admission
10 application or in connection with a disciplinary matter, shall not:

- 11 (a) knowingly make a false statement of material fact; or
12 (b) fail to disclose a fact necessary to correct a misapprehension known by the
13 person to have arisen in the matter, or knowingly fail to respond to a lawful
14 demand for information from an admissions or disciplinary authority, except that
15 this rule does not require disclosure of information otherwise protected by Rule
16 1.6.

17 **Rule 8.2 Judicial and Legal Officials**

- 18 (a) A lawyer shall not make a statement that the lawyer knows to be false or with
19 reckless disregard as to its truth or falsity concerning the qualifications or
20 integrity of a judge, adjudicatory officer or public legal officer, or of a candidate
21 for election or appointment to judicial or legal office.
22 (b) A lawyer who is a candidate for judicial office shall comply with the applicable
23 provisions of the Code of Judicial Conduct.

24 **Rule 8.3 Reporting Professional Misconduct**

- 25 (a) A lawyer who knows that another lawyer has committed a violation of the Rules
26 of Professional Conduct that raises a substantial question as to that lawyer's
27 honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the
28 appropriate professional authority.
29 (b) A lawyer who knows that a judge has committed a violation of applicable rules
30 of judicial conduct that raises a substantial question as to the judge's fitness for
31 office shall inform the appropriate authority.
32 (c) This Rule does not require disclosure of information otherwise protected by Rule
33 1.6 or information gained by a lawyer or judge while participating in an approved
34 lawyers assistance program.

35 **Rule 8.4 Misconduct**

36 It is professional misconduct for a lawyer to:

- 37 (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist
38 or induce another to do so, or do so through the acts of another;
39 (b) commit a criminal act that reflects adversely on the lawyer's honesty,
40 trustworthiness or fitness as a lawyer in other respects;

- 1 (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
2 (d) engage in conduct that is prejudicial to the administration of justice;
3 (e) state or imply an ability to influence improperly a government agency or official
4 or to achieve results by means that violate the Rules of Professional Conduct or
5 other law; or
6 (f) knowingly assist a judge or judicial officer in conduct that is a violation of
7 applicable rules of judicial conduct or other law.

8 **Rule 8.5 Disciplinary Authority; Choice of Law**

- 9 (a) Disciplinary Authority. A lawyer admitted to practice in this jurisdiction is
10 subject to the disciplinary authority of this jurisdiction, regardless of where the
11 lawyer's conduct occurs. A lawyer not admitted in this jurisdiction is also subject
12 to the disciplinary authority of this jurisdiction if the lawyer provides or offers to
13 provide any legal services in this jurisdiction. A lawyer may be subject to the
14 disciplinary authority of both this jurisdiction and another jurisdiction for the
15 same conduct.
- 16 (b) Choice of Law. In any exercise of the disciplinary authority of this jurisdiction,
17 the rules of professional conduct to be applied shall be as follows:
- 18 (1) for conduct in connection with a matter pending before a tribunal, the rules
19 of the jurisdiction in which the tribunal sits, unless the rules of the tribunal
20 provide otherwise; and
- 21 (2) for any other conduct, the rules of the jurisdiction in which the lawyer's
22 conduct occurred, or, if the predominant effect of the conduct is in a
23 different jurisdiction, the rules of that jurisdiction shall be applied to the
24 conduct. A lawyer shall not be subject to discipline if the lawyer's conduct
25 conforms to the rules of a jurisdiction in which the lawyer reasonably
26 believes the predominant effect of the lawyer's conduct will occur.
27

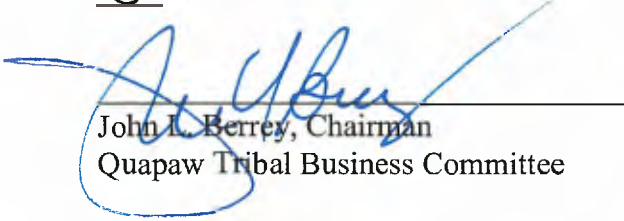
BE IT FURTHER RESOLVED that the Tribal Business Committee hereby finds and resolves as follows:

1. The foregoing ordinance shall become effective immediately upon the certification of this Resolution.

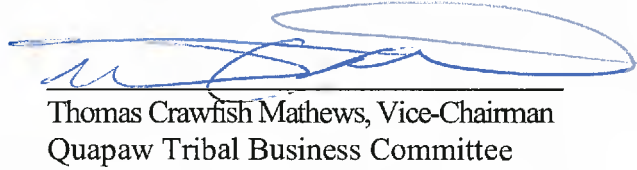
2. The foregoing ordinance shall be codified by the General Counsel in the Quapaw Code of Tribal Regulations as the permanent law of the Tribe.

CERTIFICATION

The foregoing resolution of the Quapaw Tribal Business Committee was presented and duly adopted at a regular meeting of the Tribal Business Committee on March 21, 2015, with a vote reflecting 7 yes, 0 no, 0 abstaining, and 0 absent.



John L. Berrey, Chairman
Quapaw Tribal Business Committee



Thomas Crawfish Mathews, Vice-Chairman
Quapaw Tribal Business Committee