

A Guide for Spotting And Avoiding Common Ethical Pitfalls When Practicing Family Law

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The practice of family law is a hot bed of ethical pitfalls, which can cause numerous problems for a practitioner unless one is alert to them and familiar with the Rules of Professional Conduct (RPCs). The RPCs are the starting point for analyzing any ethical question. They appear in Section I of the New Jersey Court Rules and are also on the Judiciary's website.¹ In addition, on the Judiciary's website, one can access all of the ethics opinions issued, including the published cases and the opinions of the Disciplinary Review Board (DRB) the Supreme Court has adopted as its own when imposing discipline.²

To put ethics matters in perspective, there are 36,993 attorneys who actively engage in private practice in New Jersey out of the 98,396 who are registered. Generally, less than 10 percent of matters from which attorney discipline arises are related to family law. By contrast, approximately 36 percent of fee disputes are related to matrimonial matters.

In 2017, the most frequent reason attorneys were disciplined was for dishonesty, fraud, deceit and misrepresentation (*i.e.*, 26 of the 156 attorneys disciplined). The fifth most frequent reason for discipline in 2017 was for gross neglect/lack of diligence/incompetence (*i.e.*, 14 of the 156 cases). And the ninth most frequent cause of discipline was lack of communication between the attorney and his or her client.

Usually, ethics violations do not arise in a vacuum. More often than not, an attorney has violated more than one ethical rule when discipline is imposed. Therefore, if one sees an attorney has been disciplined, and thinks what the attorney has done is a minor infraction of the RPCs, it may be that the

attorney has violated other RPCs, which has increased the amount of discipline.

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