

Inside Oregon Ethics: Top Ten Ethics List
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Everybody, including David Letterman, seems to have a Top Ten list. I developed the following in response to a recent request for a list that might be helpful to corporate and business law lawyers. Please note, though, that many of the items are also applicable to litigators. Some of the items are required by the ethics rules. Others go beyond what may be required. In any event, here goes:

1. Use written engagement letters that clearly state whom you represent and what you have agreed to do.
2. When you are dealing directly with unrepresented parties, use non-engagement letters so that they cannot later assert that they thought you were their counsel.
3. Don't do business with a client, invest in a client or take any part of your fee in client equity without, at a minimum, carefully drafted conflicts waiver letters that are reviewed by someone besides yourself. See also Form DR5 to the PLF policy and the related exclusionary language.
4. Don't simultaneously represent both buyer and seller, lender and borrower or opposite sides of other similar transactions at the same time.
5. Don't represent multiple would-be partners or incorporators if their interests seriously conflict.
6. Even if their interests don't seriously conflict, don't simultaneously represent multiple would-be partners or incorporators without conflicts waiver letters.
7. Do revisit conflicts issues as time passes. Conflicts that were waiveable at one point may be unwaiveable at another, and situations that did not initially require any waiver may come to require a waiver.
8. Don't write one line conflicts waiver letters. You are writing Exhibit A in defense of the bar complaint or breach of fiduciary duty action against yourself. Act accordingly.
9. Remember that it is more important to hit safely than to swing for the fences every time you are at bat.
10. Don't have a fool for a client. In doubtful situations, ask someone you trust before you act.

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If you would like to suggest one or more issues for future topics, please contact me at: Peter Jarvis via e-mail.

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(503) 294-9456 e-mail: prjarvis@stoel.com An ethics article by attorney Peter R. Jarvis appears each month in the Oregon Law Journal . Peter gives advice to and represents lawyers who have matters of discipline before the Oregon State Bar.

E-mail your questions directly to Peter R. Jarvis. Other articles by Peter can be seen on the member's Archives pages.