



# Lawyers' Obligations to Other Lawyers

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Unlike many other professionals, lawyers are bound by rules about their behaviour towards one another.

The Code of Conduct for lawyers specifies that they must be fair and courteous to each other. The reasoning for this rule is that the client's case may not be properly handled if the lawyer's judgment is clouded by animosity to opposing counsel. As well, it does not make for a dignified justice system if the conduct of lawyers is petty and ruled by emotions.

A lawyer is not allowed to engage in "sharp practice", which means taking advantage of another lawyer's mistake or accidental slip. Important strategic advantage can be gained this way, but it is not the right thing to do. To take advantage in this way is obviously not fair to the client and again does not make the justice system look very good.

One of the most important corner stones of the legal system relates to lawyers promises toward each other. In particular, lawyers have the ability to impose what are called "trust conditions" on each other. A trust condition is when you impose a binding promise on another lawyer. An undertaking is when the lawyer makes the promise to do something.

Without this sort of arrangement many client files, in real estate in particular, would be much slower and more complicated. In Manitoba we do not need to use the escrow system because of the ability to use trust conditions.

The guiding principles of how trust conditions work are found in the lawyers Code of Professional Conduct. A trust condition is basically a lawyer's promise, and it is a very serious matter. The condition must be clear and fair, and it has to be accepted, preferably in writing.

If you are buying a house, you must give the vendor the money for the house, and the vendor must give you a Transfer of Land for the home. There can also be requirements to deal with liens against the title, taxes, insurance, closing conditions such as repairs etc. All of this can happen by letters between lawyers.

The vendor's lawyer will send the Transfer of Land to the purchaser on the trust condition that they receive money for the purchase of the house. Or, the purchaser's lawyer will send money to the vendor's lawyer on the trust condition that new title issues in the name of the purchaser.

Trust conditions protect clients because lawyers are absolutely bound by them. They must fulfill the trust condition, without exception. If the lawyer agrees to a trust condition to pay money, but the client leaves town with the money, the lawyer will have to personally pay those funds.

A lay person can bind a lawyer with a trust condition if the lawyer agrees to it, but we cannot bind lay people with trust conditions.

This section of the Code about conduct toward other lawyers also states that it is improper for a lawyer to communicate directly with a client who is represented by a lawyer. It is also improper for a lawyer to make ill-considered or uninformed criticism of other lawyers.

This section of the Code also requires lawyers to promptly answer letters and communications, which is a good practice for all professions.