



OLIVA
GIBBS

Deals, Dirt & Duty

The Ethical Terrain of
Lawyers & Landmen

Speakers:

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Joseph Manning, Senior Attorney



About the Speaker



Andrew Good

Director of Litigation, Partner, Oliva Gibbs

Andrew represents oil and gas companies in complex litigation, arbitration, and regulatory proceedings before the Ohio Department of Natural Resources and Ohio Department of Commerce. With over a decade of experience handling hundreds of industry cases, he brings deep sector knowledge and proven results to every engagement.

Andrew has earned recognition from Super Lawyers and Best Lawyers for his litigation excellence. In 2024, he was appointed to the Oil and Gas Land Management Commission, where he will serve through 2029, positioning him at the forefront of energy policy and regulation.



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About the Speaker



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Joey has more than a decade of oil and gas industry experience, including several years working in-house and as a landman. He represents clients in connection with upstream oil and gas agreements and commercial contracts, oil and gas leases, surface use agreements, purchase and sale agreements, due diligence for natural resources transactions, complex mineral title issues, pooling and unitization, lease analysis, joint operating agreements, drilling title opinions, supplemental title opinions, and limited acquisition title opinions for clients conducting oil and gas operations.



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Agenda

I. Introduction

II. Ethics for landmen

III. Legal ethics

IV. Common ethical concerns

V. Cross-over between lawyers
and landmen

VI. Consequences of ethical
missteps

VII. Lessons and best practices



Introduction

What about ethics?

- These are the basis of conduct, business principles, and ideals for landmen to adhere to in the professional world.
 - **Professional ethics** – ethical principles or standards implemented by professional organizations or by your companies.
 - **Personal ethics** – ethical principles or standards that an individual person uses to judge behavior as right or wrong.
 - **Legal ethics** – codes of professional responsibility that set forth the generally accepted standards of conduct.

What about ethics?

- **Why are these important?**
 - Sets a standard for behavior/actions
 - Helps develop integrity, credibility, trust, and support
 - Improves decision-making capabilities and guides you to make the right decision
 - Protects yourself, your company, and clients
 - Provides defenses and/or advantages in business and legal matters

Difference between personal, legal & professional ethics

Personal	Refers to a person's beliefs and values of what is right and wrong
	The "moral code" of your personal conscience
	Unethical example – keeping a lost wallet
Professional	Refers to the standards of behavior and values for professionals in a specific field
	The code of conduct for the workplace or your career
	Unethical example – harassing a co-worker
Legal	Refers to the legal standards you must follow
	The rules to avoid legal consequences (civil or criminal)
	Unethical example – failing to disclose a conflict of interest

Personal ethics

These refer to a person's beliefs about what's right and wrong.

- These are guidelines for the decisions made in and out of the workplace, including how you handle certain situations.
- These play a part in how you grow and develop your career.
- **Examples:**
 - Honesty
 - Loyalty
 - Integrity
 - Respect
 - Responsibility
 - Selflessness

Personal ethics

Why are these important?

- Allow you to be more effective
- Follows your reputation
- Instills trust and support for you from others
- Establishes a foundation for you to make the appropriate decision/action
- Improves decision-making capabilities
- Sets your standard of behavior for your professional and personal career/goals

Professional ethics

- These are the standards of conduct, principles, and values that govern behavior within a specific profession. *In other words*, these are rules that define the minimum acceptable behavior for someone acting in a professional capacity.
- They define how members of a profession are expected to act, especially when performing duties, interacting with clients, managing confidential information, or exercising specialized skills.
- They ensure fairness, competence, trustworthiness, and the protection of client and public interests.
 - Set by professional organizations, licensing boards, employer policies, and/or statutory or regulatory rules.
 - For example, in the energy and legal industries, groups like the AAPL and the ABA (and states) establish ethical rules that guide landmen and lawyers.
- **Note:** You may personally believe something is acceptable, but your professional rules may require a higher or different standard.

Legal ethics

- A code of professional responsibility.
- Many landmen are also licensed lawyers, so balanced approach must be applied when a lawyer is working as a landman.
- Look to the American Bar Association's Model Rules of Professional Conduct.
- Check each state's corresponding rules of professional conduct.

State	Code
Alaska	AK Rules of Professional Conduct
American Bar Assoc.	Model Rules of Professional Conduct
Colorado	CO Rules of Professional Conduct
Louisiana	LA Rules of Professional Conduct
New Mexico	NM Rules of Professional Conduct
North Dakota	ND Rules of Professional Conduct
Ohio	OH Rules of Professional Conduct
Oklahoma	OK Rules of Professional Conduct
Pennsylvania	PA Rules of Professional Conduct
Texas	TX Rules of Professional Conduct
Utah	UT Rules of Professional Conduct
West Virginia	WV Rules of Professional Conduct
Wyoming	WY Rules of Professional Conduct

Ethics are important!

- Fosters accountability and responsibility
- Compliance with laws
- Cultivates trust
- Safeguards rights and welfare
- Upholds credibility and reputation
- Enables cooperation and collaboration
- Plays a part in ESG responsibilities

Adhering to ethical standards allows landmen, lawyers, and companies to play a role in fostering a more ethical, equitable, and sustainable industry!

Landman Ethics

Importance of landmen

Per the AAPL:

"A landman is the public facing side of an oil, gas, mineral, or other energy sources exploration and production team who interacts and negotiates directly with landowners to acquire leases for the exploration and development of minerals or other energy sources."

Some duties include:

- Mineral rights acquisitions or divestiture negotiations
- Exploring and/or developing minerals through business agreements
- Researching public and private records to determine mineral ownership
- Title review, refinement, and other means of reducing title risk
- Management of rights and obligations
- Many landmen are also licensed lawyers

Note:

Pressures to perform are motivators and drive behavior that inevitably impact your decision-making. Thus, following ethical rules and obligations are key to success for you and the company.

Ethics & professional organizations

- Landmen are not *per se* regulated by any state or federal agency; there is no governing body that issues licenses or certifications.
- Mainly self-regulated with voluntary associations providing ethical and professional standards (membership not required).

AAPL	American Association of Professional Landmen
NADOA	National Association of Division Order Analysts
NALTA	National Association of Lease and Title Analysts

These organizations (and others), along with personal and legal ethics, help to maintain and promote integrity, develop trust, and avoid ethical/legal risks.

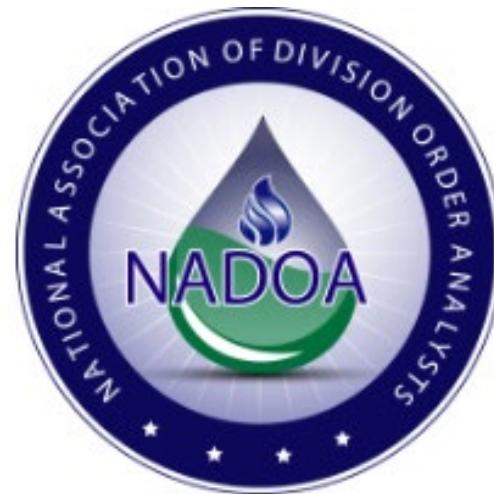
Professional ethics

AAPL



- Members commit to the AAPL's Code of Ethics and Standards of Practices.
- "To inspire and maintain a high standard of professional conduct."
- See, landman.org.

NADOA



- Members commit to NADOA's Code of Ethics.
- "To inspire and maintain a high standard of professional conduct."
- See, nadoa.org.

NALTA



- Members commit to NALTA's Code of Ethics.
- "To promote, maintain, and enforce high standards of professional conduct and fair and honest dealings on the part of each NALTA member within the industry."
- See, nalta.org.

Legislation

- Many states have attempted to pass legislation that would require licensing requirements for landmen.
- Historically, there has been no need to maintain a license and the landman profession has been unregulated in most states.
- Texas failed, but some states require registration at this time.



Legislation

Ohio Revised Code §4735.01 (SB 263)

- Excludes “oil and gas land professionals” from having to be a licensed real estate broker to negotiate oil and gas leases or pipeline easements in Ohio.
 - An “oil and gas land professional” is defined as a person who is “regularly engaged in the preparation and negotiation of agreements for the purpose of exploring for, transporting, producing, or developing oil and gas mineral interests, including but not limited to, oil and gas leases and pipeline easements.”
- Company landmen are exempt.
- Independent landmen are prohibited from engaging in fee transactions and must comply with the conditions below.
- To be exempt, an independent landman must:
 1. Register annual with the superintendent of real estate and pay an annual fee not to exceed \$100;
 2. Maintain membership in an establish professional organization that develops a set of performance and ethical standards for landmen; and
 3. Provide certain disclosures to landowners on forms approved by the superintendent of real estate.

Legislation

North Carolina under N.C. Gen. Stat. § 113-425

- Requires landmen to be registered.
- “A person may not act, offer to act, or hold oneself out as a landman in this State unless the person is registered with the Department in accordance with this section.”
- N.C. Gen. Stat. § 113-425(b). The NC Department of Environmental Quality has the right to revoke a registration or impose civil penalties if someone, among other things, falsely represents himself as a registered landman or engages in any other fraud, deception, misrepresentation, or knowing omission of material facts related to oil and gas interests. 113-425(c).

Maryland under Md. Code, Bus. Occ. & Prof. § 10.5-101

- Requires registration for individuals who negotiate with property owners for the acquisition of mineral rights in oil or gas.
- Proof of registration must be provided to property owners before acquiring mineral rights. § 10.5-104.
- The statute does not impose full ethical code but establishes registration and compliance standards.

Fiduciary duties?

- A landman acting as an agent of a company could be held to owe fiduciary duties recognized in agency law.
- When these could apply:
 - Landman is acting as an agent for a client or company;
 - The principal places trust and reliance on the landman's expertise; and
 - The landman has discretion in carrying out tasks/responsibilities.
- Examples:
 - **Duty of Loyalty** – act solely in the interest of the employer or client
 - **Duty of Care/Competence** – perform work with reasonable skill, diligence, and expertise expected of a professional in that role
 - **Duty of Good Faith/Fair Dealing** – conduct yourself honestly, transparently, and fairly
 - **Duty of Confidentiality** – do not disclose or use confidential information (unless approved)

AAPL Code of Ethics & Standards

AAPL Code of Ethics & Standards of Conduct

“The Code of Ethics shall be the basis of conduct, business principles, and ideals for the members of the AAPL; and it shall be understood that conduct of any member of the Association inconsistent with the provisions set forth in this Article shall be considered unethical and the individual's membership status shall be subject to review for possible disciplinary action as prescribed in Article XVI of these Bylaws.”



AAPL Code of Ethics & Standards of Conduct

“In the area of human endeavor involving trading under competitive conditions, ethical standards for fair and honest dealing can be made increasingly meaningful by an association organized and dedicated not only to the definition, maintenance and enforcement of such standards, but to the improvement and education of its members as set out in the Standards of Practice. Such is the objective of the AAPL, and such is its public trust.”

AAPL Code of Ethics & Standards of Conduct

AAPL Reference	Summary
Article XVI, Section 1	Fair and honest dealing with landowners, industry associates, and the general public to preserve the integrity of the profession
Article XVI, Section 2	Adherence to a high standard of conduct in fulfilling his fiduciary duties to a principal
Article XVI, Section 2	Avoiding business activity which may conflict with the interest of his employer or client or result in the unauthorized disclosure or misuse of confidential information
Article XVI, Section 2	Performance of professional services in a competent manner
Article V, Section 9	Adherence to any provisions of the Bylaws, Code of Ethics, or any rule, regulation, or order adopted pursuant thereto
Article V, Section 9	Avoiding the aiding or abetting of any unauthorized use of the title "Certified Professional Landman," "Registered Professional Landman," "P.Land," or "CPL/ESA"
Article V, Section 9	Avoiding any act or conduct which causes disrespect for or lack of confidence in the member to act professionally

Competence & expertise

A landman shall:

- Keep informed regarding laws, legislation, regulations, public policies, and market conditions in his/her area of represented expertise in order to advise his/her employer or client properly.
- Represent others in his/her area of expertise and shall not represent himself/herself to be skilled in professional areas in which he/she is not competent or professionally qualified.
 - Question or problem that is beyond your level of comfort or competency = speak up!
 - The lawyer's/landman's failure to admit when an issue is outside their competency directly violates the professional codes and can lead to devastating consequences for the client.

Landman competencies

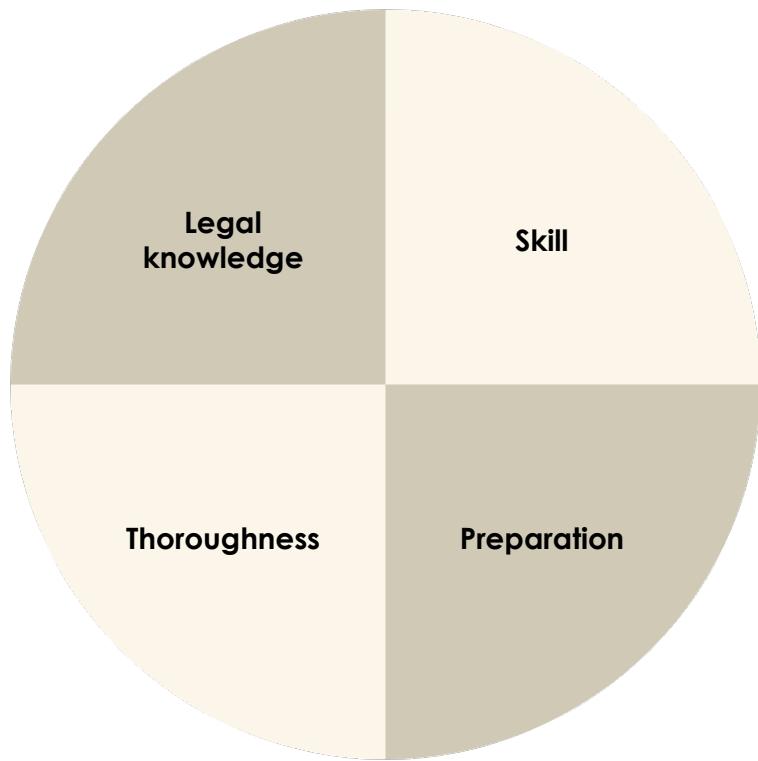
- Legal knowledge
- Title examination
- Negotiation skills
- Communication skills
- Research abilities
- Project management
- Industry knowledge
- Ethics & professionalism
- Adaptability
- Technical skills



Legal Ethics

Model Rule 1.1 – Competence

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



Model Rule 1.6 – Confidentiality of information

- A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by [these rules].



Model Rules 1.7 & 1.8 – Conflicts of interest

- **Model Rule 1.7 – Current clients**
 - A lawyer shall not represent a client if the representation involves a concurrent conflict of interest.
- **Model Rule 1.8 – Current clients**
 - “[A] lawyer shall not use information relating to representation of a client to the disadvantage of the client....”



Model Rule 1.9 – Conflicts of interest

Former clients

- A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.

Model Rules 4.1 – Truthfulness in statements

- **In the course of representing a client, a lawyer shall not knowingly:**
 - a) Make a false statement of material fact or law to a third person; or
 - b) Fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client.



Model Rule 4.3 – Unrepresented parties

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

Model Rules 5.5 – Unauthorized practice of law

- A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal professional in that jurisdiction or assist another in doing so.



Model Rules 8.4 – Misconduct

- It is professional misconduct for a lawyer to:
 - Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.



Common Ethical Concerns

What concerns?

- Honesty, fairness, transparency
- Fiduciary responsibilities
- Good faith and loyalty
- Communications
- Confidentiality
- Conflicts of interest
- Competence

Honesty & fairness

- **At all times, a land professional has a duty to:**
 - Promote and, in a fair and honest manner, represent the industry to the public with the view of establishing goodwill;
 - Conduct yourself in a manner consistent with fairness and honesty to maintain the respect of the public; and,
 - Protect those you deal with against fraud, misrepresentation, and unethical practices.
- **In doing so, you should:**
 - Eliminate actions or practices that are damaging to the public or discredit the industry;
 - Conduct business in a professional manner that is fair, honest, and respectful.

Fiduciary responsibilities

Trust

- Ensure that monies coming into his/her possession in trust for other persons (i.e., escrows, advances, etc.) are properly accounted for and administered in a manner approved by his/her employer or client.

Protect

- Protect members of the public with whom he/she deals against fraud, misrepresentation, and unethical practices.

Eliminate practices

- Eliminate practices that could be or are damaging to the public or bring discredit to the industry.

Fiduciary responsibilities

Fairness

- Treat all parties to any transaction fairly and act in an ethical manner.

Competition

- Competition among those engaged in the mineral and energy industries shall be kept at a high level with careful adherence to established rules of honesty and courtesy.

Compensation

- Do not accept compensation from more than one client for providing the same service, not accept compensation from one party to a transaction, without the full knowledge of all parties to the transaction.

Good faith, loyalty & confidentiality

- **A landman shall:**
 - Act in good faith in dealing with industry associates.
 - “Good faith” means a sincere intention to be honest, fair, and lawful, without any malice or the desire to defraud or take unfair advantage of others.
 - Avoid business activity which may result in the unauthorized disclosure or misuse of confidential information.
 - Not betray his partners’, employers’, or clients’ trust by using confidential information for personal gain.
 - Not aid or abet the unauthorized use of CPL/RPL certification.

Conflicts of interest

1. Avoid business activities that may conflict with the interests of his/her employer or client.
2. Disclose his/her interest in an area that might be in conflict with his principal, employer, or client.
3. Not act adversely or engage in any enterprise in conflict with the interest of his employer or client.
4. Reveal the facts of his/her interest in ownership in property.
5. Not acquire for himself, or others, an interest in property which he is called upon to purchase for his principal, employer, or client.
6. Not undertake to provide professional services concerning a property or a transaction where he has a present or contemplated interest, unless such interest is disclosed to all affected parties.
7. Not accept compensation from more than one principal for providing same service nor accept compensation from one party to transaction without employer/client's knowledge and consent.

Communications

- **A landman shall:**
 - Not knowingly misrepresent any material fact.
 - Not fraudulently induce another to enter into a contract.
 - Avoid falsehoods (i.e., puffing, sales talk, estimates, opinions).
 - Make affirmative disclosures based on the relationship.
 - Correct prior statements that were false, deceptive, or misleading.
 - Present an accurate representation in advertising and disclosures to the public.



Communications

- Effective communication with your team, client, and company is a key factor in the success of a project.
- A landowner may sure to have the lease set aside and sue the landman and client for, amongst others, misrepresentation or fraud.
- The company can be liable for the misrepresentations of a landman and be bound by their actions.

Cooperation, criminal activity & harassment

- **The AAPL requires** that anyone charged with unethical conduct or asked to give evidence in an investigation or disciplinary proceeding must place all pertinent facts before the appropriate authority of the AAPL.
- **A landman shall:**
 - Avoid “any act or conduct which causes disrespect for or lack of confidence in the member to act professional as a land professional.”
 - This includes harassment, bias, and discrimination.
 - Not participate in conduct which causes him to be convicted, adjudged, or otherwise recorded as guilty by any court of competent jurisdiction of any felony, and any offense involving fraud as an essential element, or any other serious crime.
 - Not deny equal professional services to any person for reasons of race, creed, sex, or country of national origin.
 - Not be party to any plan or agreement to discriminate against a person or persons on basis of race, creed, sex, or country of national origin.

Unauthorized practice of law

Landman job functions are generally excluded from the unauthorized practice of law.

- However, those with law degrees/licenses should be cautious in rendering legal advice.
- No malpractice insurance = exposing yourself to personal liability for malpractice.

Never provide legal advice!

A landman that is also an attorney must:

- Consider special restriction on whether he/she represents themselves as a "lawyer."
- Understand that he/she is subject to applicable rules for lawyers.
 - Example: Model Rule 8.4(c) states that it is professional misconduct for a lawyer to "engage in conduct involving dishonesty, fraud, deceit, or misrepresentation."

A landman's job involves:

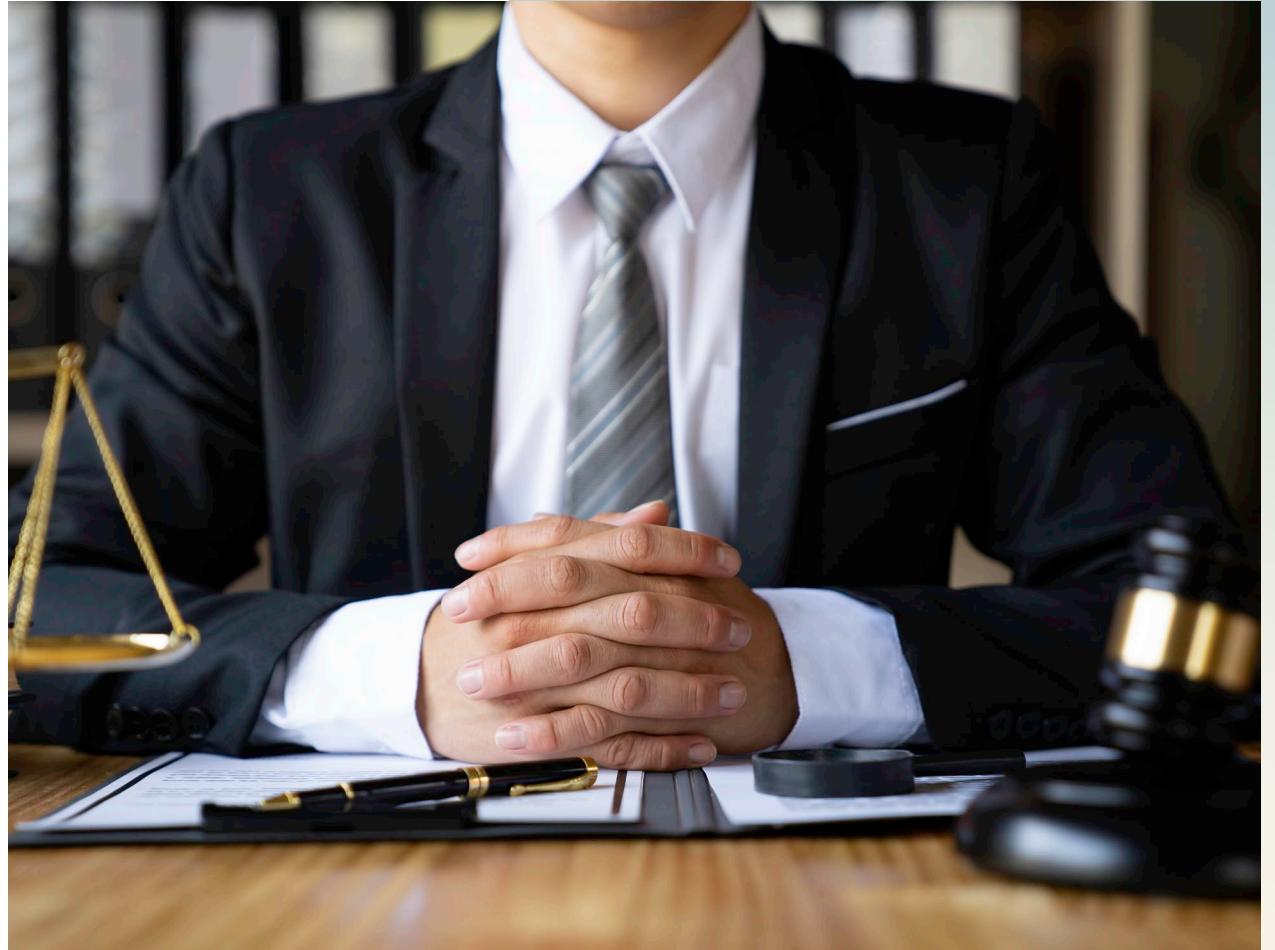
- Interpreting and preparing legal documents and reports.
- Understanding mineral and contract law.
- Negotiating mineral rights.

Unrepresented parties

- Rule 4.3 of the Model Rules provides, in part, that a lawyer shall not give legal advice to an unrepresented party, other than the advice to secure representation when the lawyer's client has interests opposed to those of the unrepresented party.
 - Does not prohibit a licensed lawyer working as a landman from negotiating a lease on behalf of a company.
- To prevent misunderstandings and clear roles, a landman/lawyer should disclose that he/she:
 - Is negotiation the lease on behalf of the company;
 - Are not acting in a legal capacity, and;
 - Are not a disinterested person in the negotiations to prevent any misunderstandings.
- Be clear that you cannot and will not provide legal advice.

Model Rule 1.1 – Competence

- A lawyer must provide competent representation, which includes:
 - Understanding land work issues (i.e., title, leasing, mineral interests),
 - Supervising landmen competently,
 - Ensuring tasks delegated to landmen are performed accurately.
- Lack of supervisory knowledge can constitute a competence violation.



Model Rule 1.6 – Confidentiality

- Attorneys must ensure that landmen:
 - Protect confidential company and client information,
 - Do not disclose non-public information,
 - Understand what constitutes protected information.
- If a landman mishandles confidential information, the supervising attorney risks ethical exposure.



Model Rules 1.7, 1.8 & 1.9 – Conflicts

- Attorneys must:
 - Identify conflicts in leasing, negotiations, ownership, and compensation.
 - Prevent landmen from engaging in self-dealing (e.g., secretly acquiring interests).
 - Ensure loyalty to the client's interests, avoiding personal land deals.
- Lawyers cannot allow landmen to create or worsen conflicts that the attorney is professionally obligated to manage.

Model Rule 1.4 – Truthfulness in Statements to Others

- Attorneys must ensure that the landmen they supervise:
 - Do not make false or misleading statements,
 - Do not conceal material facts,
 - Do not engage in deceptive negotiation tactics.
- If a landman misrepresents acreage, competing offers, minerals, or royalty terms, the lawyer may be ethically responsible under Rule 5.1 or 5.3.



Model Rule 4.3 – Unrepresented Parties

- When dealing with landowners who lack counsel, the attorney must ensure:
 - No landman implies they are “disinterested,”
 - No legal advice is given to the landowner (other than “seek counsel”),
 - The landman clearly discloses their roles and whom they represent.



Model Rule 5.1 – Supervision

- A lawyer with managerial or supervisory authority must make reasonable efforts to ensure that nonlawyer employees (including landmen):
 - Comply with the lawyer's ethical obligations;
 - Are properly trained or instructed; and
 - Follow systems designed to prevent ethical breaches.
- If a landman under the attorney's supervision engages in misconduct, the supervising attorney may be disciplined if the attorney:
 - Ordered it;
 - Knew of it and ratified it; or
 - Failed to remediate it when consequences could have been avoided.

Model Rule 5.3 – Supervision

- When landmen work with or for lawyers, the lawyers must:
 - Ensure the landman's conduct is compatible with the lawyer's professional obligations.
 - Implement policies, guidance, or training to prevent unethical conduct.
 - Be responsible for the landman's actions if the lawyer directed or knowingly allowed the conduct.
- **In practice:** Attorneys cannot allow landmen to misrepresent facts, hide material information, mishandle confidentiality, or provide legal advice improperly.

Model Rule 5.5 – Unauthorized practice of law

- Attorneys must prevent landmen from:
 - Providing legal advice,
 - Interpreting legal documents beyond factual clarification,
 - Drafting legal instruments without lawyer oversight,
 - Appearing to act as legal counsel.
- Lawyers can be sanctioned for assisting a landman in UPL.

Model Rule 5.5 – Misconduct

- An attorney may not:
 - Engage in fraud, deceit, or misrepresentation,
 - Engage in conduct prejudicial to the administration of justice,
 - Knowingly violate professional standards through supervision failures.
- If a landman commits fraud using information obtained from the attorney, the attorney may be held responsible.

Lawyer & Landman

Cross-over

Cross-over

- Landmen and lawyers often work together to facilitate smooth transactions, ensure compliance with legal and regulatory requirements, and resolve disputes related to land and mineral rights.
- Their complementary skills and expertise make them valuable partners in the industry.



Cross-over & collaboration

- Title
- Contracts
- Due diligence
- Litigation
- Regulatory
- Land use

When a licensed attorney transitions into the role of a landman or vice versa, they need to understand the distinctions between the legal and ethical obligations to avoid potential pitfalls.

Consequences for Ethical Violations

Consequences

- Lawyers and landmen that are lawyers are subject to the disciplinary authority in states where they are licensed
- Landman misconduct is referred to the AAPL Ethics Committee
- **Violations can result in:**
 - Expulsion or suspension
 - Censure
 - Loss of credibility and harm to reputation
 - Reprimand, punishment, or disbarment from the practice of law
 - Exposure to civil or criminal liability
 - Loss of employment
 - ...plus, all the headaches that follow the above!



Berry v. Stevens, 168 Okla. 124, 1934 OK 167, 31 P.2d 950

- The plaintiff filed a lawsuit to rescind and cancel the applicable deed.
- During negotiations, parties had a discussion concerning production in and around the land.
- The defendant failed to disclose pertinent information relating to a lucrative deep formation.
- The Court ultimately ruled in favor of the plaintiff and notably held:
 - A duty to speak may arise from partial disclosure, the speaker being under a duty to say nothing or to tell the whole truth. One conveying a false impression by the disclosure of some facts and the concealment of others is guilty of fraud, even though his statement is true as far as it goes, since such concealment is in effect a false representation that what is disclosed is the whole truth.

Continental Resources, Inc. v. Blaine M. Dyer, Oklahoma County Case No. CJ-2020-1920 (2020)

- Blaine Dyer, an attorney, had been hired by a former senior landman for Continental, Justin Biggs, to perform title work for the company in 2011. A few years after Dyer was hired, he allegedly took Biggs hunting and offered to pay him kickbacks in exchange for Continental's confidential drilling and leasing plans. They, along with others, were later accused of using ill-gotten confidential business information to defraud Continental.
 - *"Through their working relationship with Continental, Dyer and Biggs became close friends, and Dyer convinced Biggs to participate in a fraudulent scheme developed by Dyer and his former law school classmate. They agreed Biggs would provide Continental's confidential drilling and leasing plans to Dyer, either verbally, by text messages or email, or by delivering a copy of the confidential drilling schedules."*
 - *"They used the information to their advantage by leasing large blocks of minerals in the drilling areas before Continental could acquire leases. From there, they sold the leases to Continental at higher rates before splitting the profits."*
- Preliminary investigation by Continental revealed \$2M+ was stolen.
- Some of the defendants have been dismissed, but this case is still ongoing.

United States v. Biggs, W. Dist. Oklahoma Case No. CR-20-00307

- Federal prosecutors indicted Blaine Dyer, James Dyer (a landman by trade), and Justin Biggs in the U.S. District Court for the Western District of Oklahoma in separate lawsuits.
- Biggs pleaded guilty to a fraud charge in December 2020. He is free on bond and could serve up to five years in prison, be required to pay a fine up to \$250,000 and participate in a two-year supervised release program.
- Other cases:
 - James Dyer's plea came on February 16
 - The government agreed that a sentence between 0 and 18-months imprisonment would be appropriate, and he faces a fine up to \$250,000, plus restitution to Continental.
 - Blaine Dyer's plea came on February 17
 - He faces up to five years in prison, a fine up to \$250,000, and must also pay back \$3.5 million to Continental in restitution.

B.A. Kelly Land Co., LLC v. Aethon Energy Operating, LLC, 25 F.4th 369 (5th Cir. 2022)

- An unleased landowner filed suit against an operator for not providing disclosures and reports as required under Louisiana's conservation laws.
- The unleased landowner sent a letter making a request for the information, but the operator claimed that the request was too vague to qualify as a request under the statute.
- The operator argued that their senior landman was confused as to what was requested. However, in a declaration, under oath, the landman inferred that he knew enough about the landowner and the statute that any confusion he purportedly has was not a defense.
- The 5th Circuit Court of Appeals stated that the declaration by the landman corroborated that he and the operator were reasonably competent operators and must have known what information was being requested and required under the statute.
- The Court of Appeals held that the letter was a sufficient request for reports under the statute and rendered judgment for the landowner.

Final Thoughts & Tips

Tips

Attorneys should:

- Train landmen on legal/ethical boundaries
- Review or approve leases, offers, and title opinions
- Set clear limits on what landmen may say or disclose
- Implement reporting mechanisms
- Document instructions
- Establish compliance protocols
- Prevent negotiation tactics that could be construed as fraud
- Intervene when unethical conduct is suspected

Landmen should:

- Act with loyalty
- Avoid self-dealing or conflicts of interest
- Maintain honesty and avoid misrepresentations
- Perform work with competence, diligence, and accuracy
- Protect confidential information
- Follow all legal, ethical, and company policies
- Adhere to fair dealing, professionalism, and integrity in all interactions

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