

THE Legal Ethics & Malpractice Reporter

*A monthly commentary on current ethical issues in law practice
for members of the Kansas and Missouri Bars*

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Contents

FEATURE ARTICLE

Does Generative AI Know Legal Ethics? 4

NEW AUTHORITY

Opinion 193. 9

ETHICS & MALPRACTICE RESEARCH TIP

**New Articles from the Current Index to Legal
Periodicals 11**

A BLAST FROM THE PAST

The Law the Lawyers Know About. 12

About This Publication

THE *Legal Ethics & Malpractice Reporter (LEMR)*, for short) is a free, monthly publication covering current developments in ethics and malpractice law—generally from the perspective of the Kansas and Missouri *Rules of Professional Conduct*. Founded in 2020, this publication was envisioned by KU Law professor Dr. Mike Hoeflich, who serves as its editor in chief. In partnership with Professor Hoeflich, JHC’s legal ethics and malpractice group is pleased to publish this monthly online periodical to help attorneys better understand the evolving landscape of legal ethics, professional responsibility, and malpractice.

In addition to the digital format you’re presently reading, we publish *LEMR* as mobile-friendly blog articles [on our website](#). We also share a digest newsletter to our *LEMR* email subscribers whenever a new issue is published. (You may [subscribe here](#) if you aren’t already a subscriber.)

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FEATURE ARTICLE

Does Generative AI Know Legal Ethics?

OVER the past year, LEMR has devoted a good bit of attention to working with generative AI without falling afoul of the Rules of Professional Conduct. This month we print a comparison of the answers generated by generally available AI platforms in response to a relatively simple prompt concerning a legal ethics issue. The prompt was developed and tested by Mike Hoeflich and Russ Fischer, CTO of Prima Vista AI, a Kansas-based AI consulting and training company.

The Prompt:

“If you are a licensed attorney in the state of Kansas, practicing in the State of Kansas, and you believe you have committed a breach of the rules of professional conduct in Kansas, are you required to self-report?”

ChatGPT

<https://chatgpt.com/share/68dad0b1-4ad4-800d-ba03-eeb43b75e8a1>

Result from ChatGPT:

Here is relevant text from the Kansas Supreme Court rules and Kansas Rules of Professional Conduct. These are the governing rules as published by the Kansas courts.

Kansas Rule 240, Rule 8.3 — Reporting Professional Misconduct

(a) A lawyer having knowledge of any action, inaction, or conduct which in his or her opinion constitutes misconduct of an attorney under these rules shall inform the appropriate professional authority. (Kansas Judicial Center)

(b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge’s fitness for office shall inform the appropriate authority. (Kansas Judicial Center)

Thus, the Kansas version of Rule 8.3 uses “any action, inaction, or conduct ... constitutes misconduct of an attorney under these rules” (not limited to misconduct by *others*). (Kansas Judicial Center)

Claude

<https://claude.ai/share/b6c1a8d7-d1bc-43c5-baa9-086e22e277e1>

Notes: When asked to quote the Kansas rule, Claude gets it wrong by including “another” into the text of the rule then relies on the word “another” to answer the question.

Result from Claude:

In Kansas, there is **no explicit requirement** for attorneys to self-report their own violations of the Rules of Professional Conduct.

Kansas Rule of Professional Conduct 8.3 governs the reporting of professional misconduct, but it specifically addresses when lawyers must report **other lawyers’** misconduct, not their own. Under Rule 8.3(a), a Kansas attorney must report another lawyer’s conduct that raises a substantial question as to that lawyer’s honesty, trustworthiness, or fitness as a lawyer.

However, there are important practical considerations:

1. **Duty of Candor:** If you’re involved in disciplinary proceedings or judicial proceedings, you have duties of candor under other rules (like Rule 3.3 regarding candor to tribunals and Rule 8.1 regarding bar admission and disciplinary matters) that would require truthfulness.
2. **Rule 8.1:** This rule specifically prohibits knowingly making false statements or failing to disclose facts in connection with a disciplinary matter or bar admission application.
3. **Strategic Considerations:** While not legally required to self-report, some attorneys choose to do so proactively, particularly if the violation is likely to be discovered anyway, as voluntary disclosure and cooperation can be viewed favorably in mitigation.
4. **Corrective Action:** Some rules (like Rule 1.4 on communication or Rule 1.15 on safekeeping property) may require you to take corrective action to remedy harm, even if they don’t require self-reporting the violation itself.

If you're concerned about a potential violation, consulting with an ethics attorney or the Kansas Bar Association's ethics hotline would be advisable to understand your specific obligations and options.

Supplemental Prompt: Can you quote the specific Kansas rule?

Here is Kansas Rule of Professional Conduct 8.3:

Rule 8.3 - Reporting Professional Misconduct

(a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.

(b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.

(c) This Rule does not require disclosure of information otherwise protected by Rule 1.6 or information gained by a lawyer or judge while participating in an approved lawyers assistance program.

As you can see, subsection (a) requires reporting of **"another lawyer"** - not oneself. There is no corresponding provision requiring self-reporting of one's own misconduct.

The Rule does contain the important exception in subsection (c) that protects confidential client information under Rule 1.6, meaning a lawyer doesn't have to breach client confidentiality to report another lawyer's misconduct.

Perplexity

<https://www.perplexity.ai/search/if-you-are-a-licensed-attorney-VLYtmJArQdOMQUTscsIU6g#1>

Notes: This result states, "A Kansas Supreme Court decision confirmed that Rule 8.3(a) does not impose a self-reporting requirement," but it does not cite the decision it references.

Result from Perplexity:

Kansas attorneys are generally not required to self-report their own breaches of the Kansas Rules of Professional Conduct. Under Kansas Rule 8.3(a), attorneys are required to report professional misconduct of other attorneys if they have knowledge of it, but there is no explicit duty to report their own misconduct. A Kansas Supreme Court decision confirmed that Rule 8.3(a) does not impose a self-reporting requirement; the obligation is to report others' violations rather than one's own.

However, attorneys are still subject to investigation and discipline for any misconduct, even if it is not self-reported. Some contexts, such as reporting discipline imposed in another jurisdiction, may create certain reporting duties, but there is no broad self-reporting obligation for the original breach itself.

Notes from the LEMR

Although it did not cite the case “confirm[ing] that Rule 8.3(a) does not impose a self-reporting requirement,” Perplexity is presumably referencing *In re Jensen*, which states:

Additionally, with regard to Ms. Schultz' complaint, the Disciplinary Administrator alleged that the Respondent violated KRPC 8.3(a) for failing to self-report his own misconduct and KRPC 8.4(b) for failing to report what he believed to be misconduct by Ms. Schultz in her capacity as a municipal court judge. The Hearing Panel unanimously concludes that the Respondent did not violate KRPC 8.3(a) for failing to report himself. KRPC 8.3(a) requires that an attorney report misconduct when he has 'knowledge of any action, inaction, or conduct which in his or her opinion constitutes misconduct of an attorney.' In this case, the Respondent believed, and continues to believe, that he did not engage in misconduct. As a result, no obligation to report flows from KRPC 8.3(a).

286 Kan. 1160, 1165 (2008). However, a careful reader would note that the Court very specifically concluded that KRPC 8.3(a) did not require Jensen to report conduct he genuinely believed did not constitute misconduct.

A prudent attorney would also be well served to consult J. Nick Badgerow, *The Beam and the Mote: A Review of the Lawyer's Duty to Report*, J. Kan. B. Ass'n

(February 2013), which answers our question with reasoning AI is not capable of performing. It also provides insight into some of the imperfections in the answers provided by the AI platforms consulted in this experiment. For example, by reviewing prior iterations of KRPC 8.3 (which used to specifically require reporting violations by “another lawyer” and reporting matters bearing on “honesty, trustworthiness or fitness”), Badgerow explains how he reached the conclusion that the current version of KRPC 8.3 requires Kansas licensed attorneys to self-report. *Id.* at 24. He then supports this conclusion by citing Kansas cases finding violations of KRPC 8.3 for failure to self-report. *Id.* (citing *In re Cline*, 289 Kan. 834, 217 P.3d 455 (2009); *In re Patterson*, 289 Kan. 131, 209 P.3d 692 (2009); *In re McGraw*, 289 Kan. 813, 217 P.3d 25 (2009)).

NEW AUTHORITY

Opinion 193

In July 2025, the Kansas Judicial Advisory Ethics Panel issued Opinion 193 on an extremely interesting problem that reflects the increasing tension between various organizations and the federal government. The question asked was:

A Kansas judge is serving in a non-leadership position of a division of a professional legal organization. The professional organization has filed litigation against the federal government alleging constitutional violations and seeking declaratory and injunctive relief.

The judge asks if our Code of Judicial Conduct requires the judge to disassociate from the extrajudicial activity under the circumstances.

The Panel analyzed the issues in terms of four provisions of the Kansas Code of Judicial Conduct: Rules 1.2, 2.1, 2.10, and 3.1. Since it is a brief and clear opinion, it is worth citing in whole:

1. The judge's association with the group is a permissible extrajudicial activity. Rule 3.1 allows a judge, within limitations, to engage in extrajudicial activities. Participation in professional legal organizations is a permitted extrajudicial activity. "Judges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, and the administration of justice." Rule 3.1, Comment 1.
2. The judge's participation with the professional organization does not run afoul of the judge's requirement to "act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety." Rule 1.2.
3. The content of the allegations in the litigation do not amount to impermissible judicial public statements attributable to the judge. Rule 2.10
4. The judge's association with the sub-division of the professional organization is not indicative of the judge being involved with a group frequently involved in litigation touching upon the judge's ability to perform the judge's duties. Rule 2.1.

5. Although the judge's role with the sub-division of the professional organization is not involved with the litigation, the litigation itself is related to matters involving the proper role of the law and legal system, and is not prohibited by the Code of Judicial Conduct.

A few points about this advisory opinion are notable. First, the Opinion recognizes that it is important to the legal profession to have judges be involved with legal associations. They provide a critical perspective on the courts and legal systems—often different from that of lawyers who have not served on the bench. Second, statements made by the organization in this case are not attributable to the judge. Were these statements made by the judge or endorsed by the judge directly, the Opinion might well come to a different conclusion. Third, the legal association considered in the case is not one that engages “frequently” involved in litigation involving the judge's duties. Thus, if the association were different and one of its key purposes was to bring litigation on behalf of legal reform, the Opinion's results might also have been different.

ETHICS & MALPRACTICE RESEARCH TIP

New Articles from the Current Index to Legal Periodicals

1. Gregory Short, *Recent development. Recent Ethics Opinions of Significance. Compilations*, 49 J. Legal Prof. 159 (2025).
2. Kyle Wise, *Recent development. Recent Law Review Articles concerning the Legal Profession. Compilations*, 49 J. Legal Prof. 165 (2025).

These are two useful bibliographies of legal ethics opinions and articles.

A BLAST FROM THE PAST

The Law the Lawyers Know About

THE law the lawyers know about
Is property and land;
But why the leaves are on the trees,
And why the winds disturb the seas,
Why honey is the food of bees,
Why horses have such tender knees,
Why winters come and rivers freeze,
Why faith is more than what one sees,
And hope survives the worst disease,
And charity is more than these,
They do not understand.

— H.D.C. Peplar, *The Law the Lawyers Know About* (St. Dominic's Press 1923).



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