



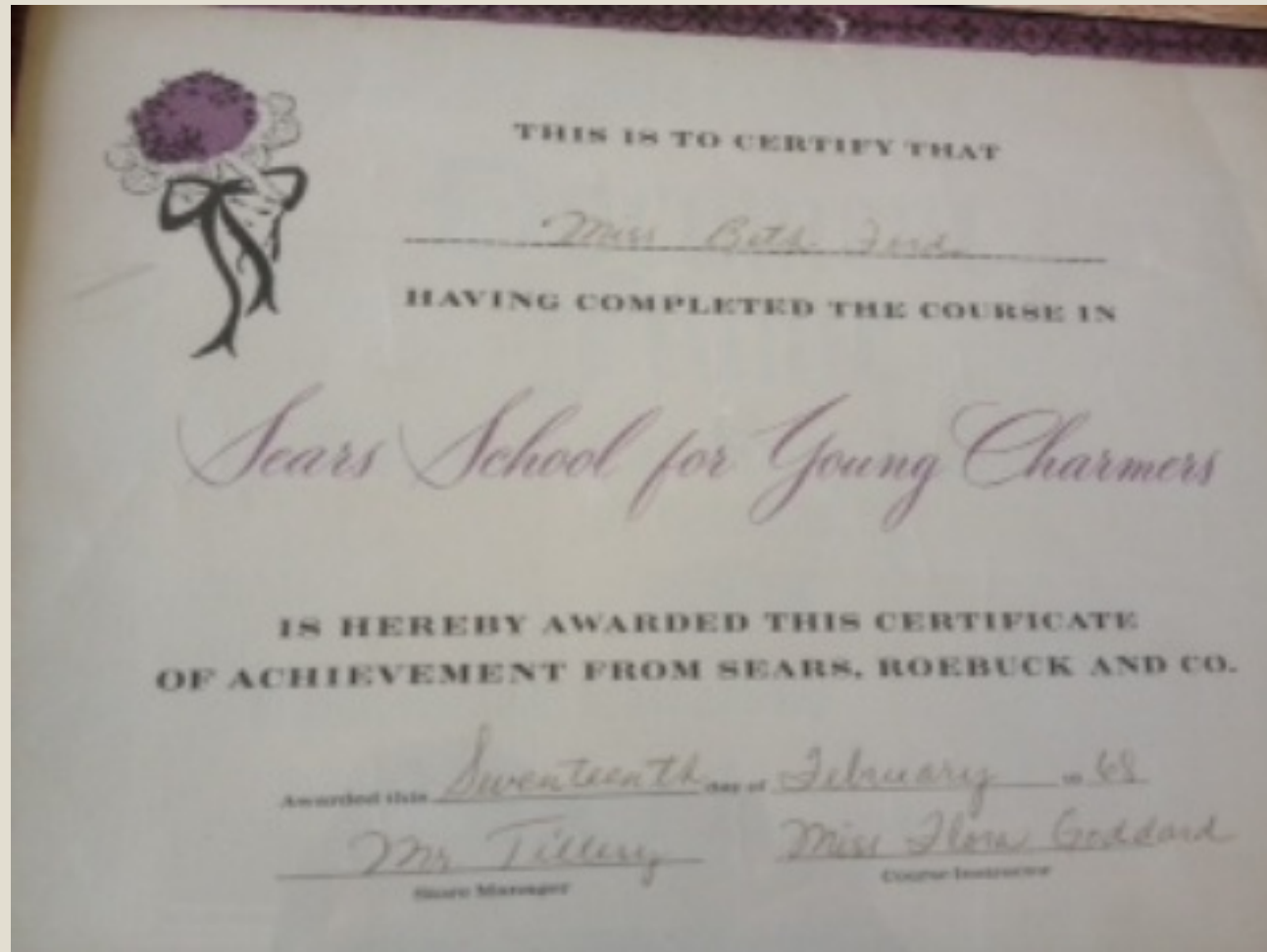
CHARM SCHOOL & ETHICS

How charm school principles can make you a more ethical lawyer in Missouri



INTRODUCTION

Certificate of Achievement



Let's Listen and Learn about Charm

- Friendship and Popularity
- Manners
- Physical Grace
- Posture and Exercise/Eating for Good Health
- Fashions
- Foundations



FRIENDSHIP & POPULARITY

Civility and Communication

Civility and Communication



1. Civility

- Chattanooga Bar Association
 - BALANCE
- Senator Howard H. Baker, Jr.
 - “The other guy may be right.”
- ABA
 - Is it important to act with civility?
 - Are civility codes a good idea? How should they be enforced?

Why are we discussing this?

- Civility and professionalism among all lawyers is essential to the operation of our legal system. Principal 1

- Preamble to Rules of Professional Conduct
- Candor toward the tribunal (Rule 4-3.3)
- Fairness to the opposing party and counsel (Rule 4-3.4)
- Impartiality and decorum of the tribunal (Rule 4-3.5)
- Truthfulness in statements to others (Rule 4.1)
- Respect for rights of third persons (Rule 4-4.4)
- Misconduct, such as engaging in conduct that is prejudicial to the administration of justice (Rule 4-8.4)

In re Elam
211 SW2d
710

- **RULE 4-4.4: RESPECT FOR RIGHTS OF THIRD PERSONS**

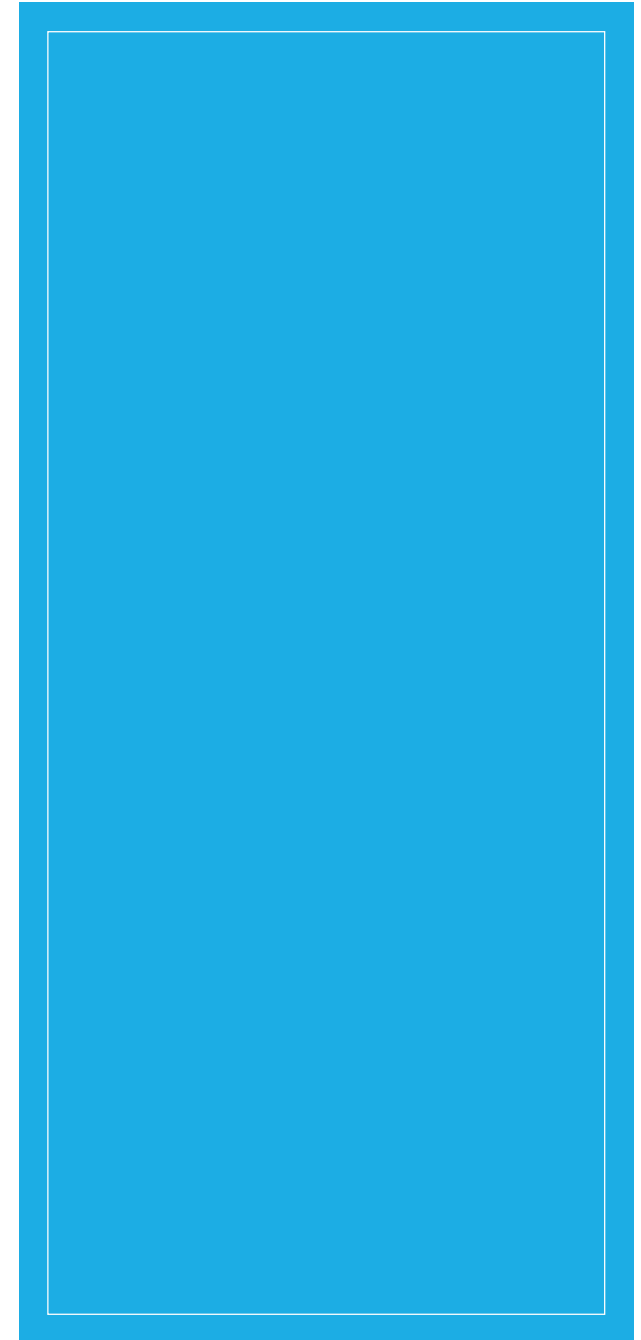
(a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person or use methods of obtaining evidence that violate the legal rights of such a person.

(b) A lawyer who receives a document or electronic stored information relating to the representation of the lawyer's client and knows or reasonably should know that the document or electronically stored information was inadvertently sent shall promptly notify the sender.

- **RULE 4-3.5: IMPARTIALITY AND DECORUM OF THE TRIBUNAL**

A lawyer shall not:

- (a) seek to influence a judge, juror, prospective juror, or other official by means prohibited by law;
- (b) communicate ex parte with such a person during the proceeding unless authorized to do so by law or court order;
- (c) communicate with a juror or prospective juror after discharge of the jury if:
 - (1) the communication is prohibited by law or court order;
 - (2) the juror has made known to the lawyer a desire not to communicate; or
 - (3) the communication involves misrepresentation, coercion, duress, or harassment; or
- (d) engage in conduct intended to disrupt a tribunal



- Law schools
- Judges
- Be a role model
- Mentor
- Listen to your conscience
- Socialize
- Spread the word
- Organizations

Nine
suggestions
for improving
civility

“The Topic is
Civility” *Oregon
State Bar
Bulletin*,
January 1999

2. Communication

RULE 4-1.4 COMMUNICATION

- (a) A lawyer shall:
 - (1) keep the client reasonably informed about the status of the matter;
 - (2) promptly comply with reasonable requests for information; and
 - (3) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows the client expects assistance not permitted by the Rules of Professional Conduct or other law.
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.
- See Comment 4



MANNERS

Confidences, listening

Rule 4-1.6 CONFIDENTIALITY OF INFORMATION

- (a) 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 Rule [4-1.6\(b\)](#).

(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

- (1) to prevent death or substantial bodily harm that is reasonably certain to occur;
(2) to secure legal advice about the lawyer's compliance with these Rules;
(3) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;
(4) to comply with other law or a court order; or
(5) to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client.
- (c) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of the client.
-

Rule 4-1.6 continued

Comments: Acting Competently to Preserve Confidentiality

(15) Must make reasonable efforts to prevent the access or disclosure.

(16) No special security measures if the method affords a reasonable expectation of privacy.

Rule 4-1.1, comment 6

(6) To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and practice, including the benefits and risks associated with relevant technology...

See Pennsylvania Formal Opinion 2011-200 and ABA “Issues Paper Concerning Client Confidentiality & Lawyers’ Use of Technology”

(Sept. 20, 2010)

https://s3.amazonaws.com/bpr_website/pdf_downloads/pdfs/000/000/105/original/CRIMINAL_LAW_PRACTICE.pdf

What is reasonable care?

- Where is the server? Have you investigated the provider?
- What do the terms of service provide?
- Is data backed up? Firewalls installed? Encryption?

Practical Pointers to Avoid Complaints

Rule 4-1.6 Confidentiality of Information

- **Don't** be careless.
- **Do** keep a reputation for strict adherence to guarding confidences.
- **Don't** share client information with their relatives or friends without consent.
- **Do** maintain your client's trust by never speaking about the cases of other clients to them.
- **Don't** have confidential discussions with your client in a crowd.
- **Do** be sure your client feels secure to discuss matters without others overhearing.
- **Don't** fail to warn of potential situations where loose lips sink ships.
- **Do** tell clients that attorney-client privilege is at risk if a third person is present.
- **Don't** give client their files without checking file for other client's information.
- **Do** caution legal assistants.

WHAT IS A CHARMING LAWYER TO DO?

- Donnie defendant filed a 2255 against you alleging the you sold him out to the government. How do you respond?

2013-F-156 - Criminal Defense Attorney

FORMAL ETHICS OPINION 2013-F-156

May a criminal defense lawyer alleged by a former criminal client to have rendered ineffective assistance of counsel voluntarily provide information to the prosecutor defending the claim outside the court supervised setting?

QUESTION

A formal ethics opinion has been requested as follows:

Outside of the court-supervised setting contemplated by ABA 456, may a Tennessee lawyer accused of ineffective assistance of counsel disclose information about the former representation to the extent that the lawyer believes it is reasonably necessary to establish a defense to the accusation? Specifically, in response to prosecutors' inquiries, but before a court has ordered the lawyer to do so, may the lawyer disclose information about the representation of a former client that the lawyer believes is reasonably necessary to respond to a claim of ineffective assistance of counsel in the former client's petition for post-conviction relief?

OPINION

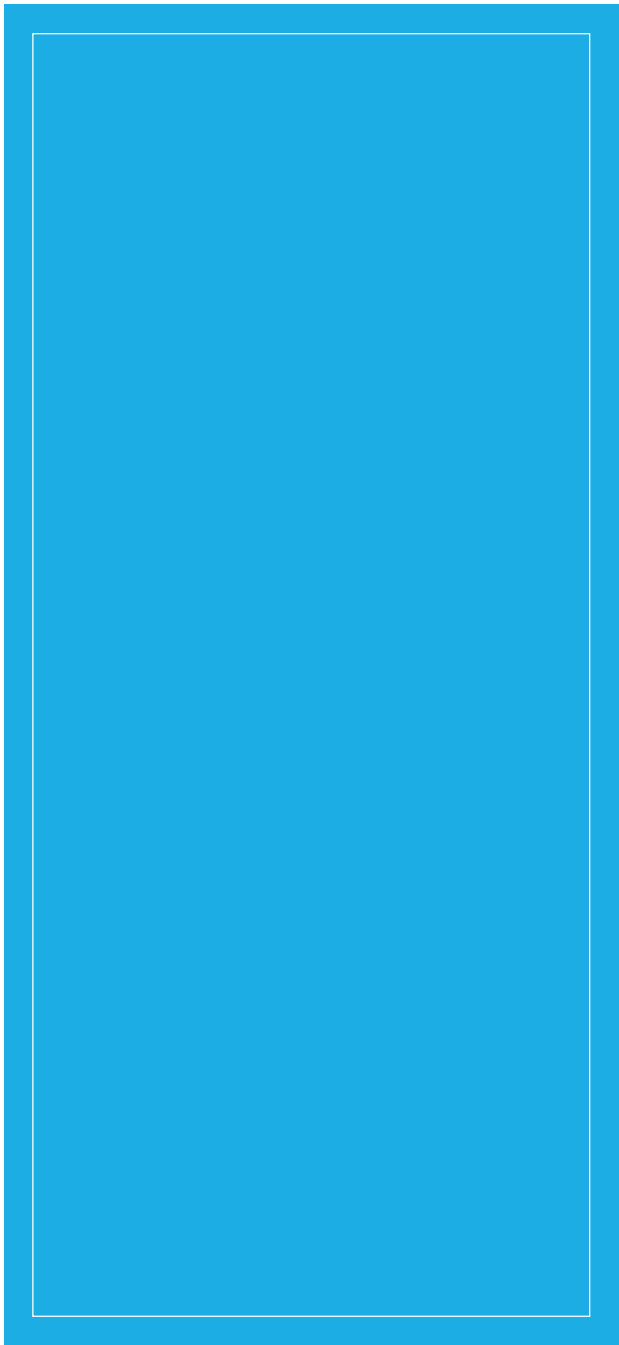
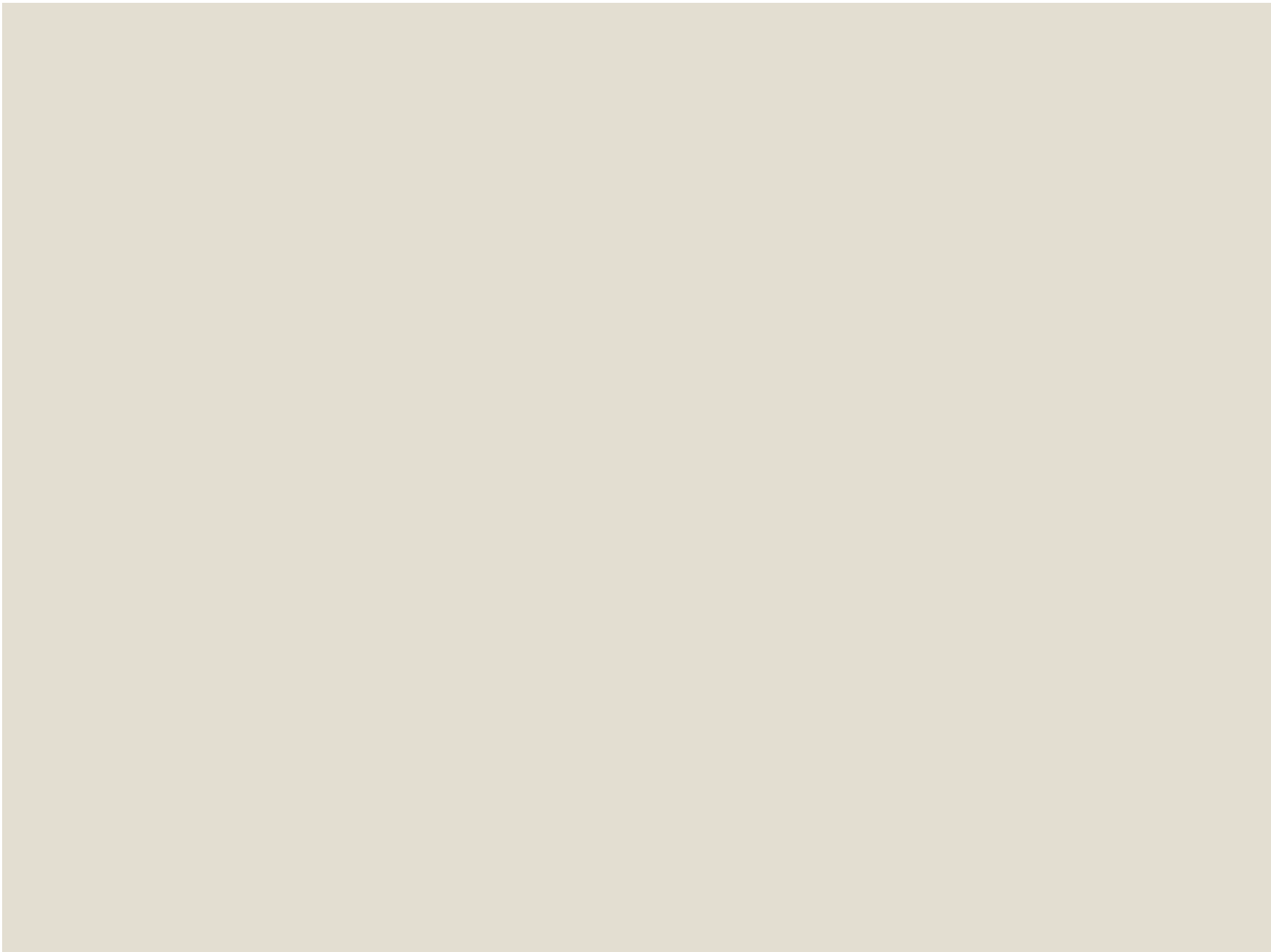
Exceptions to the confidentiality rules permit, but do not require, the former defense lawyer alleged to have rendered ineffective assistance of counsel to make limited voluntary disclosure to the prosecution of information relating to the representation of the former client outside the in-court proceeding without judicial supervision or approval. Indiscriminate, unlimited nor carte blanche disclosure of information relating to the former representation possessed by or in the file(s) of the former defense lawyer is not permitted. The disclosure must be limited only to information (1) which the lawyer reasonably believes necessary to respond to the specific claims or allegations in the petition as required by RPC 1.6(b)(5) or (2) which has become "generally known" as defined in RPC 1.9, cmt. [8a]. The lawyer must carefully evaluate and determine (1) whether it is reasonably necessary to make any disclosure and, if so, (2) narrow the disclosure only to what and how much information is reasonably necessary to meet the merits of the petition in light of the particular facts, the specific allegations of the petition and content of the lawyer's file(s). The disclosure should be no greater than reasonably necessary to accomplish the exceptions purposes. If no disclosure is reasonably necessary, no disclosure can be made outside the in-court proceeding.

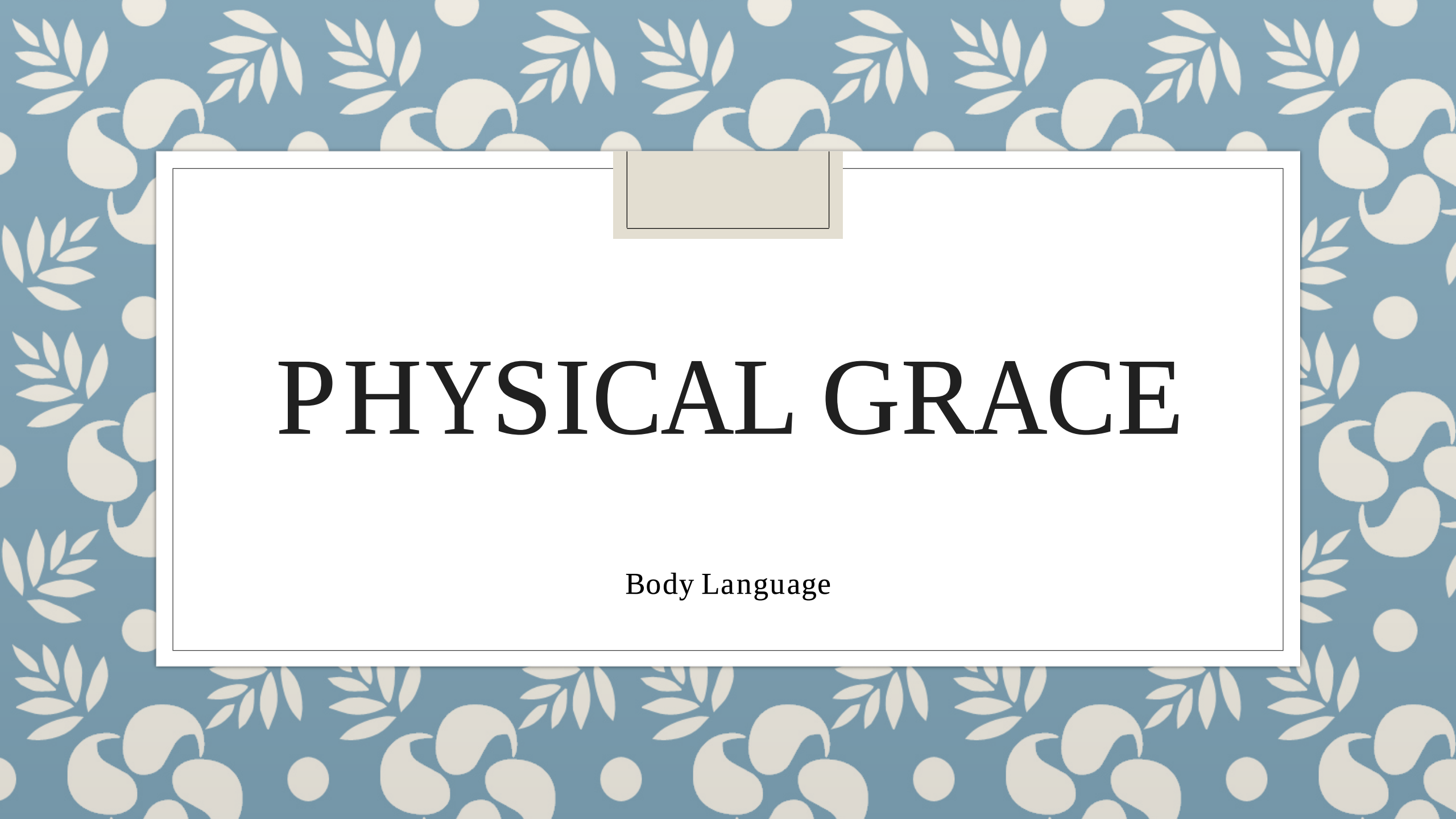
Consideration must be given to whether and/or how the information disclosed could subsequently be used by the prosecution against the former client should the former client's claim be successful. Any disclosure which is not reasonably necessary outside the in-court proceeding must be revealed by the former defense lawyer only in the in-court proceeding consistent with RPC 1.6(c)(2) where the disclosure will be subject to objection by the former client and to the supervision and rulings of the court.

DISCUSSION

Rule 4-1.6

Rule 4-1.9





PHYSICAL GRACE

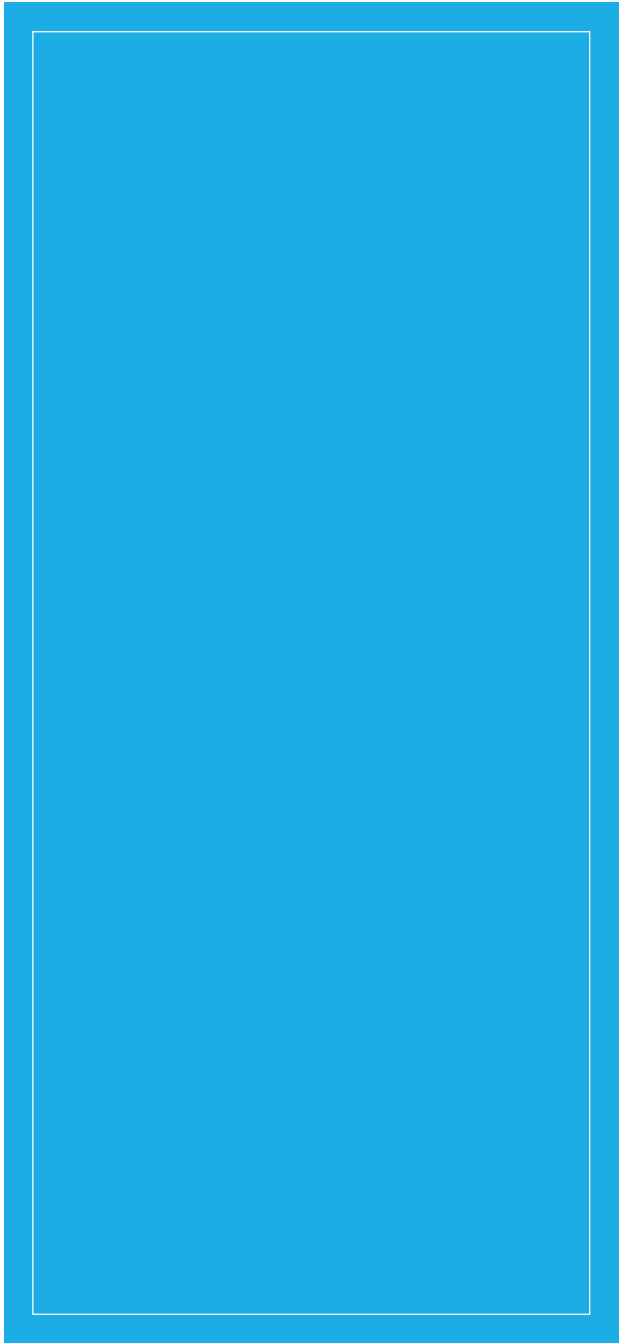
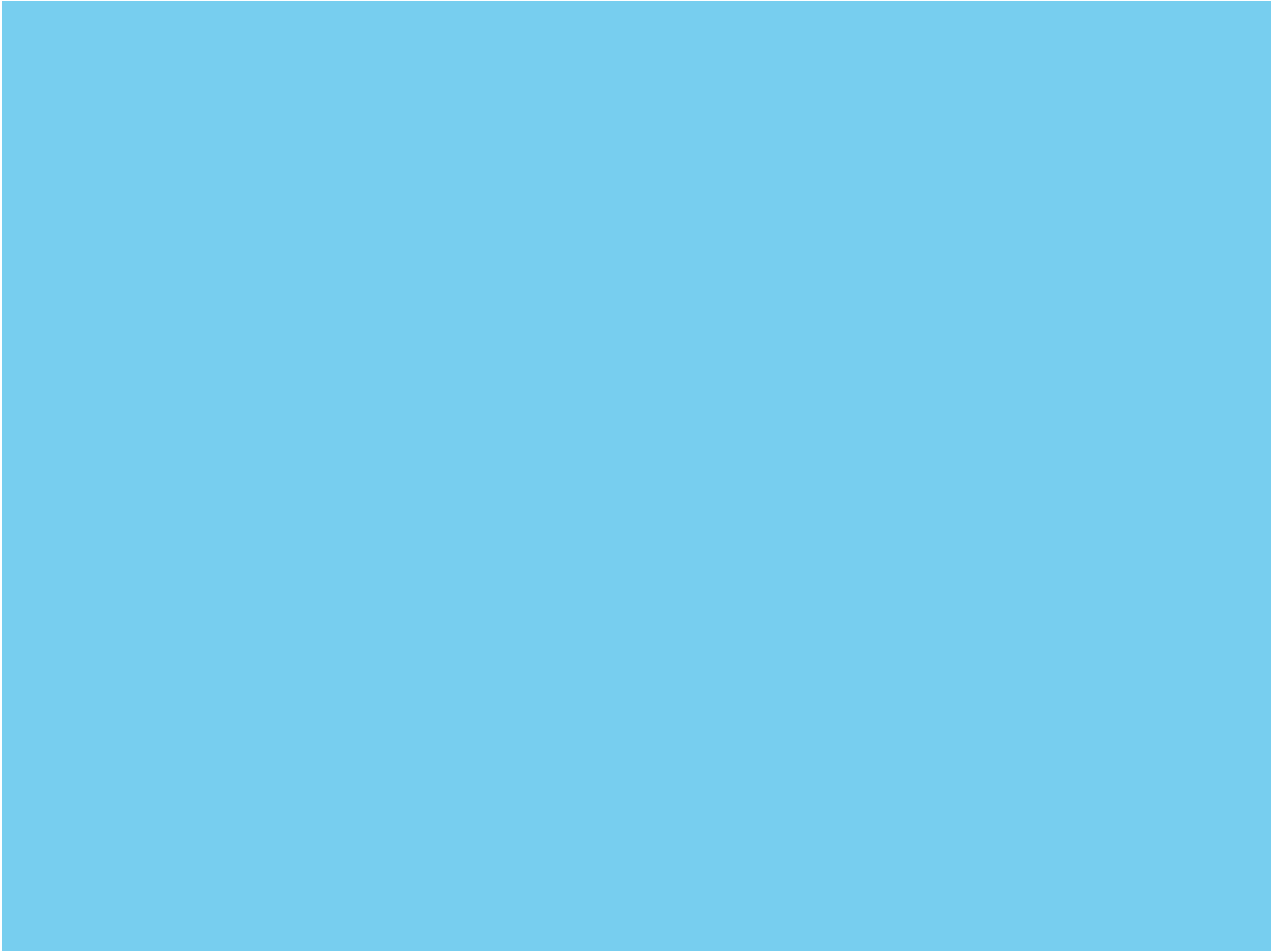
Body Language

Be respectful.



POSTURE, EXERCISE, EATING WELL

Wellness



Eating for good health is just as important. What you eat shows in your smile, in your hair, and in your shape

Sleep/rest

Emotional/social

Physical

Nutrition

BETH'S RULES

1. Put your family relationships first.
2. Make friends who are not lawyers.
3. Learn to prioritize and manage time.
4. Take care of your health- mental, physical, spiritual.
5. Sleep.
6. Do nice things for others and show gratitude to others.
7. Take cleansing breaths at the beginning and at the end of the day. Try meditation.
8. Have a hobby or two.
9. Live beneath your means.
10. Give away time and money.

Another Resource

- *Board Notes, Special Edition 2016, Mental Health & Substance Abuse Information for Tennessee Attorneys*
- https://s3.amazonaws.com/bpr_website/pdf_downloads/pdfs/000/000/129/original/Special_Board_notes_FINAL.pdf?1467314156
- <https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportFINAL.pdf>



(800) 688-7859

Free and Confidential

Anne Chambers, Director

Missouri Lawyers' Assistance Program

The Missouri Lawyers' Assistance Program is a professional, confidential counseling program for members of the Missouri Bar, immediate family members who reside with them, and law students. Through a variety of free services, MOLAP helps individuals overcome personal problems such as substance abuse, depression, stress and burnout.

Services include:

- ▶ **Counseling.** All Bar members have unlimited, 24/7 access by phone to a licensed clinical social worker (800) 688-7859). MOLAP also makes referrals to professional resources as indicated.
- ▶ **Crisis intervention.** MOLAP coordinates crisis intervention services for individuals and law firms.
- ▶ **Education and Prevention.** MOLAP offers educational programs and articles on topics such as substance abuse, stress, depression and quality of life. In addition, a series of questionnaires helps members screen themselves for a variety of problems.

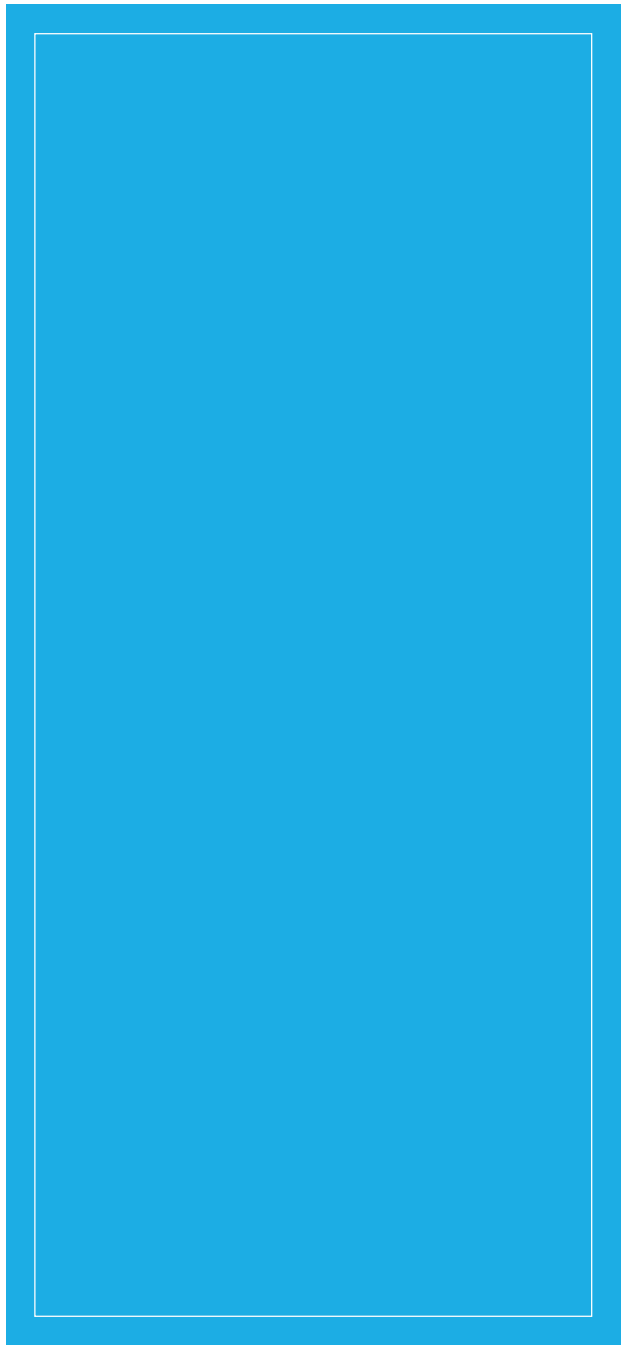
All MOLAP services are free of charge and strictly confidential.

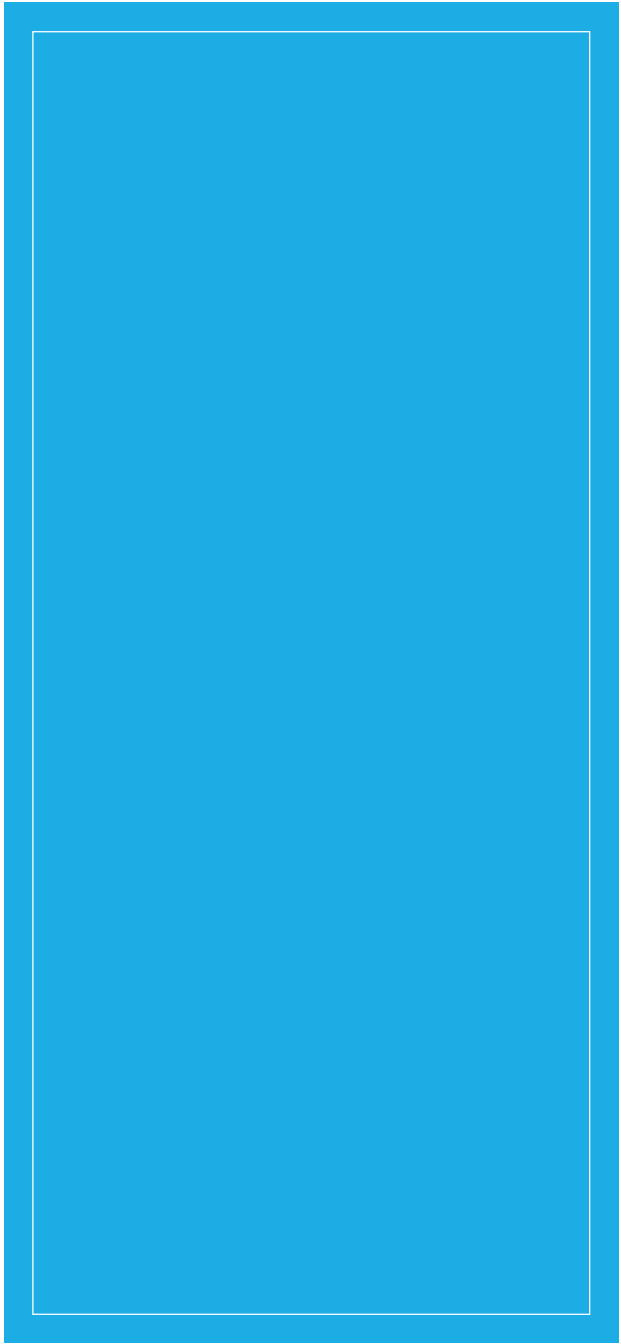
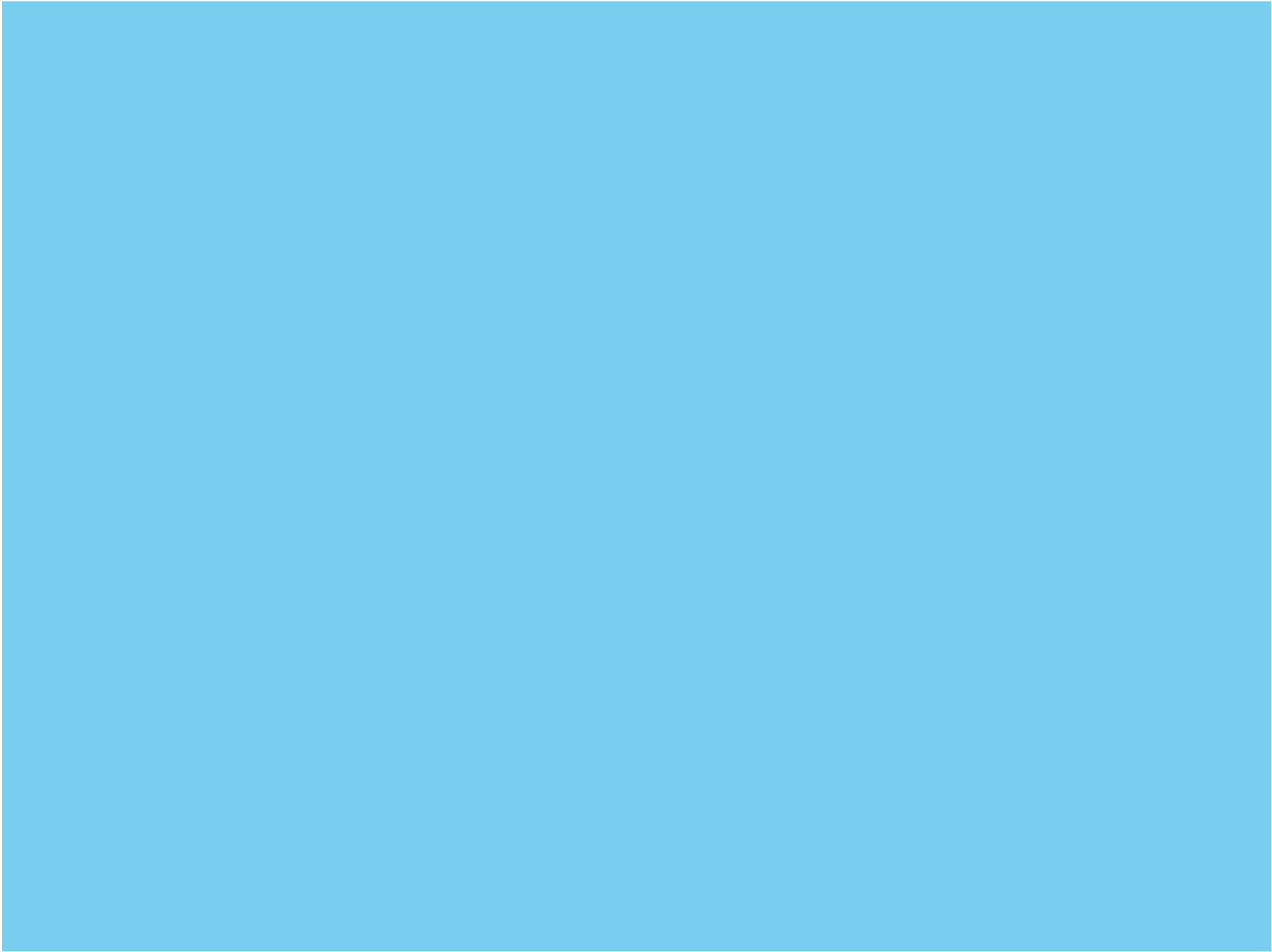




FASHIONS

Respect

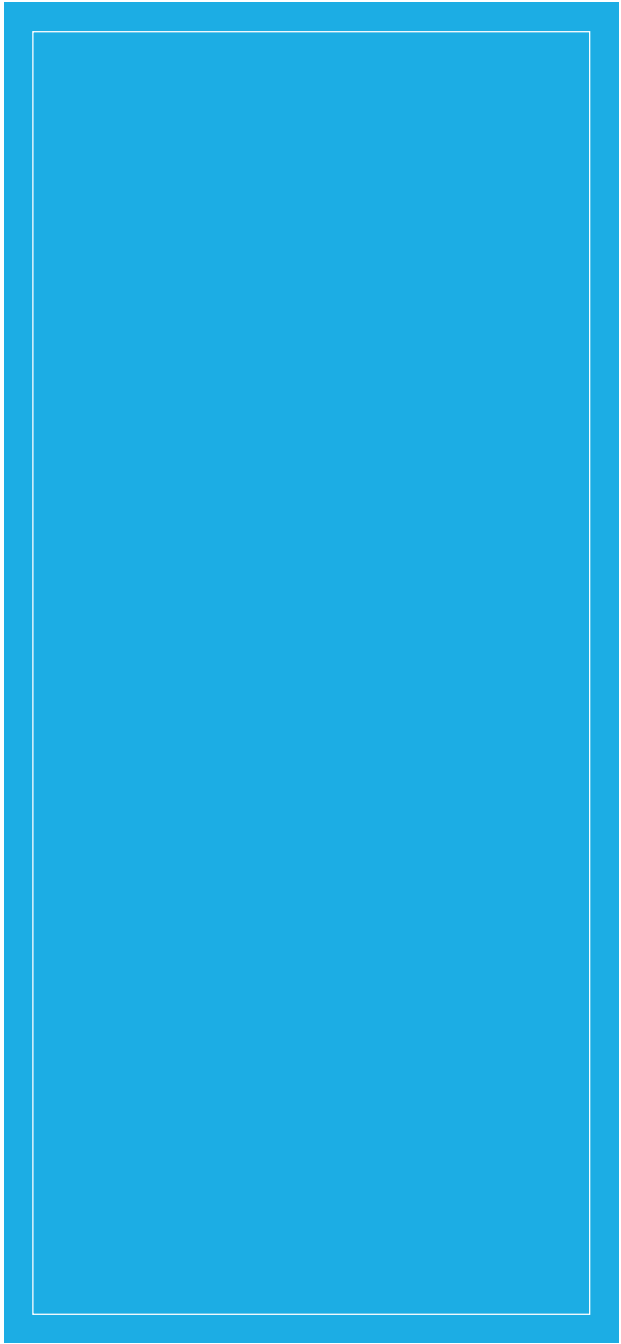
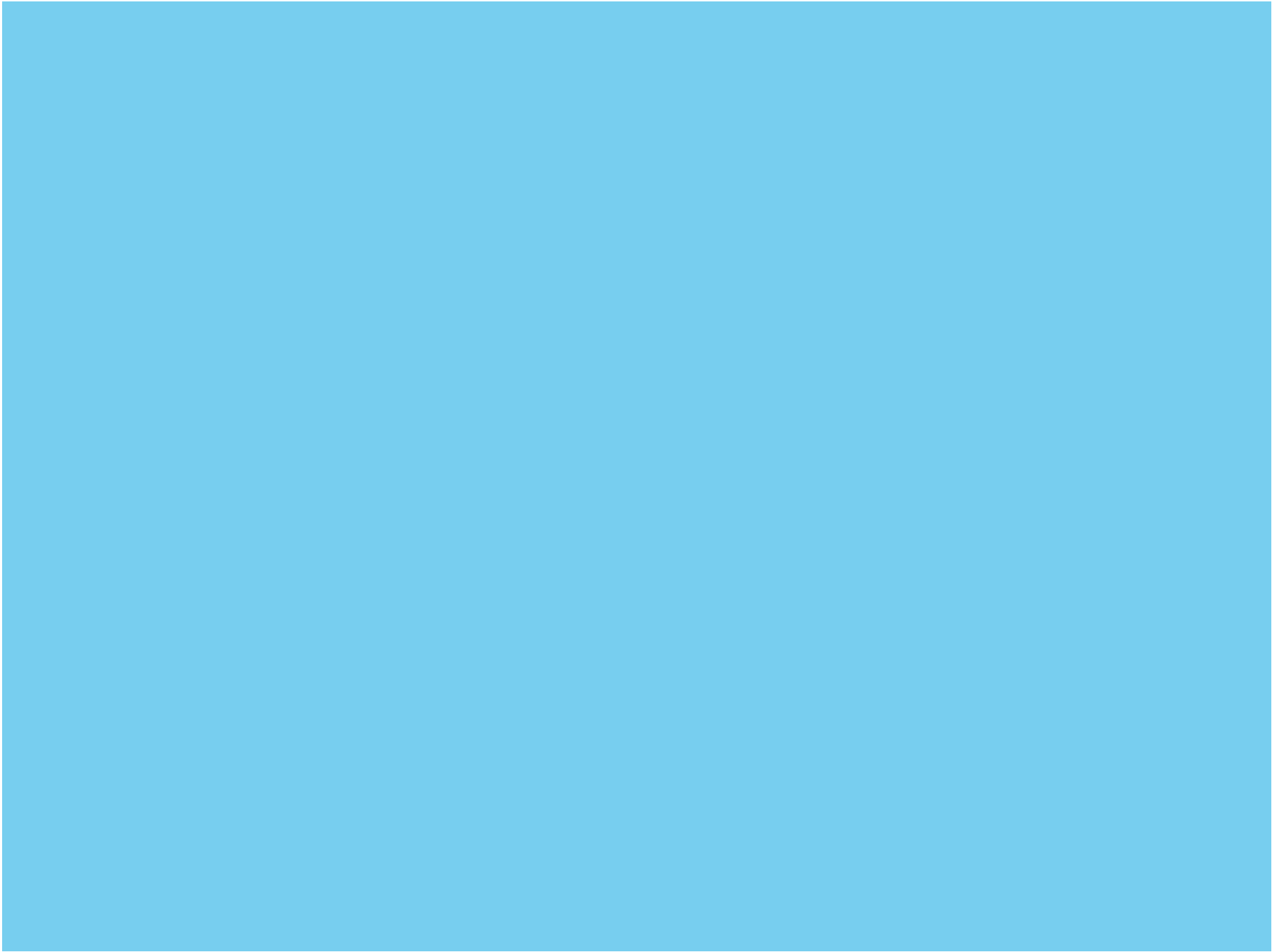






FOUNDATIONS

Files



1 NAME OF ATTORNEY (State Bar #)
NAME OF LAW FIRM
2 ADDRESS
PHONE
3 FAX

4 Attorney for Plaintiff

5
6
7
8
9
10
11
12
13
14
15
16
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Sample pleading provided for evaluation purposes. See instructions on last page.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF TYPE COUNTY

NAME OF PLAINTIFF,

Plaintiff,

vs.

NAME OF DEFENDANT.

Defendant.

Case No. Type Case Number

TYPE TITLE OF PLEADING

Are there
ethical
implications
when writing?

How long do I
have to keep
these files?



CERTIFICATE OF ACHIEVEMENT

(Your Name) having completed the course in
Charm School and Ethics is hereby awarded
this Certificate of Achievement.