

## Abstract

Doing the “Right” Thing: An Analytical Model Examining the Interplay Between Ethical Professional Conduct, Morality, and Justice

Paul J. Cain  
Managing Attorney  
Northern Illinois University College of Law  
Zeke Giorgi Legal Clinic

This article explores the sometimes very difficult decisions that lawyers and practicing law students must make in balancing their obligations under the applicable Code of Professional Responsibility or Model Rules of Professional Conduct, their own moral code of conduct and their sense of justice. In Professional Responsibility and Legal Ethics courses, law schools often focus primarily on the “lawyer codes” that students must learn to practice ‘ethically’ and to pass the Multiple-Choice Professional Responsibility Exam (MPRE). However, circumstances sometimes arise in which lawyers must look beyond the legal ethics code to make complex decisions in determining what is the ‘right’ thing to do.

I first propose an analytical model, using a series of questions and related issues, to explore and analyze what is the ‘right’ thing to do in a methodological manner. Then, I apply the analytical model utilizing three examples or scenarios. The first example is from my own law practice experience involving the decision of whether or not to testify before a grand jury regarding confidences told to me by a client who was murdered by his wife, who was the subject of the grand jury proceeding. The second example is a Colorado case, *In the Matter of Pautler*, 47 P.3d 1175 (2002), in which a prosecutor deceived a murder suspect into believing that the prosecutor was a public defender in order to get the murder suspect to surrender to police. The prosecutor’s actions resulted in disciplinary sanction. The third example involves law students whom I supervised representing an elderly Middle-eastern woman in political asylum removal proceedings whose story was not quite credible, but who likely would be arrested and killed by the government if deported and returned to her country of origin. The students struggled with the decision of how far they could push the ethical envelope in their representation of her.