

**IC 33-43**

**ARTICLE 43. PRACTICE OF LAW**

**IC 33-43-1**

**Chapter 1. Practice of Law by Attorneys**

**IC 33-43-1-1**

**Oath**

Sec. 1. (a) A person, before proceeding to discharge the duties of an attorney, shall take an oath to:

- (1) support the Constitution of the United States and the Constitution of the State of Indiana; and
- (2) faithfully and honestly discharge the duties of an attorney at law.

(b) The oath taken under subsection (a) must be entered in the order book of the court.

*As added by P.L.98-2004, SEC.22.*

**IC 33-43-1-2**

**Court list of attorneys**

Sec. 2. At each term of the court, the clerk shall furnish the court with a list of the names of all attorneys having business in that court.

*As added by P.L.98-2004, SEC.22.*

**IC 33-43-1-3**

**Duties**

Sec. 3. An attorney shall do the following:

- (1) Support the Constitution and laws of the United States and of Indiana.
- (2) Maintain the respect that is due to the courts of justice and judicial officers.
- (3) Only counsel or maintain actions, proceedings, or defenses that appear to the attorney to be legal and just. However, this subdivision may not be construed to prevent the defense of a person charged with a crime.
- (4) Employ, for the purpose of maintaining the causes confided to the attorney, only those means that are consistent with truth and never seek to mislead the court or jury by any artifice or false statement of fact or law.
- (5) Maintain inviolate the confidence and, at every peril to the attorney, to preserve the secrets of the attorney's client.
- (6) Abstain from all offensive personality, and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which the attorney is charged.
- (7) Not to encourage either the commencement or the continuance of an action or proceeding from any motive of passion or interest.
- (8) Never to reject, from any consideration personal to the attorney, the cause of the defenseless or oppressed.

(9) To promptly account to and pay over to a client any money coming into the hands of the attorney to which the client is lawfully entitled.

(10) To abstain from direct or indirect solicitation of employment to institute, prosecute, or defend against any claim, action, or cause of action.

*As added by P.L.98-2004, SEC.22.*

#### **IC 33-43-1-4**

##### **Authority**

Sec. 4. Until superseded by another attorney or discharged, an attorney may do the following:

(1) Bind the attorney's client in an action or a special proceeding, by the attorney's agreement that is either filed with the clerk or entered upon the minutes of the court.

(2) Receive money claimed by the attorney's client during the pendency of an action or a special proceeding.

(3) Discharge a claim or acknowledge satisfaction of a judgment after the money claimed has been received under subdivision (2).

*As added by P.L.98-2004, SEC.22.*

#### **IC 33-43-1-5**

##### **Written authority of party prerequisite to certain judgments**

Sec. 5. Unless the written authority of a party is first produced and its execution is satisfactorily proved to the court, a judgment may not be rendered against any party:

(1) upon the agreement of an attorney; or

(2) by default;

when the party has not been notified or personally entered an appearance.

*As added by P.L.98-2004, SEC.22.*

#### **IC 33-43-1-6**

##### **Requiring attorney to prove authority**

Sec. 6. The court or judge may:

(1) on motion of either party that shows reasonable grounds; or

(2) without a motion;

require an attorney to produce and prove the authority under which the attorney appears. The court may stay all proceedings by the attorney on behalf of the party for whom the attorney assumes to appear until the attorney produces and proves authority to appear.

*As added by P.L.98-2004, SEC.22.*

#### **IC 33-43-1-7**

##### **Appearance of attorney without authority; relief of party**

Sec. 7. If a party alleges that an attorney appears on behalf of the party without the party's authority the court may, at any stage of the proceedings, relieve the party from the consequences of the attorney's act. The court may also, summarily or upon motion,

compel the attorney to repair the injury consequent upon the attorney's assumption of authority.

*As added by P.L.98-2004, SEC.22.*

### **IC 33-43-1-8**

#### **Deceit or collusion of attorney; penalty**

Sec. 8. (a) An attorney who is guilty of deceit or collusion, or consents to deceit or collusion, with intent to deceive a court, judge, or party to an action or judicial proceeding commits a Class B misdemeanor.

(b) A person who is injured by a violation of subsection (a) may bring a civil action for treble damages.

*As added by P.L.98-2004, SEC.22.*

### **IC 33-43-1-9**

#### **Refusal to deliver over money or papers; contempt**

Sec. 9. If, on request, an attorney refuses to deliver over money or papers to a person from whom or for whom the attorney has received them, in the course of the attorney's professional employment, the attorney may be required, after reasonable notice, on motion of any party aggrieved, by an order of the court in which an action, if any, was prosecuted or if an action was not prosecuted, by the order of any court of record, to deliver the money or papers within a specified time, or show cause why the attorney should not be punished for contempt.

*As added by P.L.98-2004, SEC.22.*

### **IC 33-43-1-10**

#### **Suspension of attorney from practice for refusal to deliver money or papers; additional remedies**

Sec. 10. If an attorney has been ordered to deliver money or papers under section 9 of this chapter, on a motion or in an action brought by the aggrieved party, the court may take any of the following actions:

(1) Suspend the attorney from practice in any of the courts of Indiana, for any length of time, in the court's discretion.

(2) Enter judgment for the amount of money withheld, deducting fees, if any are due, and costs paid by the attorney, with ten percent (10%) damages, that may be enforced by execution, without the benefit of stay or appraisal laws, and returnable within thirty (30) days.

(3) Render any judgment and make any order with respect to the papers or property withheld, that may be necessary to enforce the right of the party aggrieved. The judgement or order is subject to any liens the attorney has for fees.

*As added by P.L.98-2004, SEC.22.*

## **IC 33-43-2**

### **Chapter 2. Prohibition on Practicing Law by Nonattorneys**

#### **IC 33-43-2-1**

##### **Engaging in practice by person not admitted**

Sec. 1. A person who:

- (1) professes to be a practicing attorney;
- (2) conducts the trial of a case in a court in Indiana; or
- (3) engages in the business of a practicing lawyer;

without first having been admitted as an attorney by the supreme court commits a Class B misdemeanor.

*As added by P.L.98-2004, SEC.22.*

#### **IC 33-43-2-2**

##### **Burden of proof**

Sec. 2. In a prosecution under this chapter, the state is not required to prove that the defendant has not been admitted as an attorney. The burden of proving admission is on the defendant.

*As added by P.L.98-2004, SEC.22.*

### **IC 33-43-3**

#### **Chapter 3. Prohibition on Solicitation by Nonattorneys**

### **IC 33-43-3-1**

#### **Solicitation by nonattorneys prohibited**

Sec. 1. Soliciting another person to bring an action for damages by a person who is not an attorney is prohibited under IC 35-45-14.  
*As added by P.L.98-2004, SEC.22.*

## **IC 33-43-4**

### **Chapter 4. Attorney Entitled to Hold Lien on Judgment**

#### **IC 33-43-4-1**

##### **Authority**

Sec. 1. An attorney practicing law in a court of record in Indiana may hold a lien for the attorney's fees on a judgment rendered in favor of a person employing the attorney to obtain the judgment.

*As added by P.L.98-2004, SEC.22.*

#### **IC 33-43-4-2**

##### **Entry of intention to hold lien**

Sec. 2. (a) An attorney, not later than sixty (60) days after the date the judgment is rendered, must enter in writing upon the docket or record in which the judgment is recorded, the attorney's intention to hold a lien on the judgment, along with the amount of the attorney's claim.

(b) If an appeal is taken on a judgment, the lien may be entered not later than sixty (60) days after the date the opinion of the higher court is recorded in the office of the clerk of the trial court or after the date of final judgment where the cause is reversed and retried.

*As added by P.L.98-2004, SEC.22.*