

NOTHING BUT THE TRUTH?: HONESTY AND CANDOR FOR MUNICIPAL LAWYERS

David King, Attorney, State Bar of California

Hon. Alma D. Puente, Judge, Los Angeles Superior Court

Annual Conference and Expo
September 25, 2026



Presenters

- **Hon. Alma D. Puente**

- Judge, Los Angeles Superior Court
- Owner of the Law Office of Alma D. Puente
- Former El Monte Mayor Pro Tem / City Council member
- LMU Loyola Law School (JD)

- **David King**

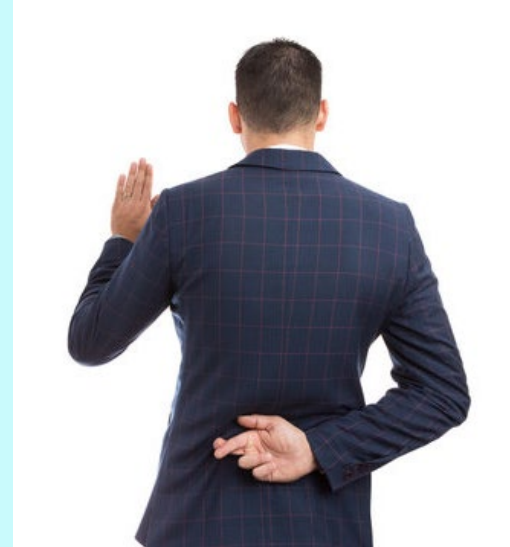
- Attorney, Office of Chief Trial Counsel, The State Bar of California
- Adjunct Law Professor
- Former Municipal Lawyer
- LMU Loyola Law School (JD)

Disclaimer

- The views and opinions expressed during this presentation by Judge Puente, David King and Michael Lawson **are their own** and must not be construed as reflecting the official policy, position, or opinions of their employers.

Today

1. “Post-truth”?
2. One cautionary tale
3. Definitions + Discussion re:
Identity of the Client
4. Hypos + Ethical Rules
5. Takeaways



“Post-truth”?

POLITICS

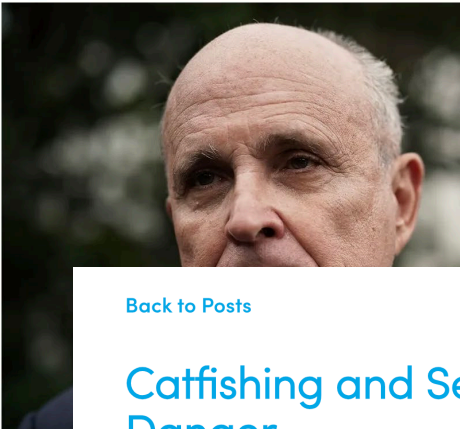
Donald Trump

Add Topic +

'Truth isn't truth': Trump lawyer Rudy Giuliani worries Mueller interview could lead to perjury charge

Fredreka Schouten USA TODAY

Updated Aug. 19, 2018, 3:54 p.m. ET



Rudy Giuliani

[Back to Posts](#)

Catfishing and Sextortion: Real World Danger

Jacob Stapledon
February 16, 2023

In 2012, MTV started in the online dating someone who creat is often done by cor (height, weight, age at first, but it is on th

BUFFETT BRIEF • JULY 2023

The Rise of Artificial Intelligence and Deepfakes

AI-generated deepfake media is a growing threat to interna deepfakes may also hold promise for counterterrorism. Thrcies, public awareness campaigns and technical counterme of deepfakes may be mediated, while the promise harnesse

DEEPPAKES THREATEN INTERNATIONAL SECURITY, HOLD

falsification of military sion among rank-and- iting political leaders a

OPINION

NOVEMBER 25, 2024 | 5 MIN READ

When a Nation Emb

A renowned psychiatrist and act nixatal historical moments in v



Trouble with 'truth decay': combating AI and the spread of misinformation



- OCT 29, 2024 3:58 PM

has become increasingly decades. "Truth decay" has led d, where misinformation and d where facts and data can be

EDITORS' PICK | LEADERSHIP > FORBESWOMEN

Medical Gaslighting Is Real. Women Leaders Are Raising Their Voices

By Cheryl Robinson, Contributor. © Dr. Cheryl Robinson covers areas of leade...

Follow Author

Published Jun 13, 2025, 11:00am EDT, Updated Jun 13, 2025, 08:25pm EDT

Share Save Comment 0

LOADING VIDEO PLAYER...

“Post-truth”?

One cautionary tale: **John C. Eastman**

- Education: University of Chicago (JD), Claremont Graduate University (Phd)
- Former professor and former dean at Chapman University School of Law
- Former law clerk to Supreme Court Judge Clarence Thomas
- Source: Wikipedia



One Cautionary Tale

- Following the 2020 election, Eastman developed legal theories under which Vice President Pence could delay or refuse to count certain electoral votes.
- Eastman continued advocating these theories despite substantial contrary legal authority and his own prior legal opinion that the Vice President lacked unilateral authority to reject electoral votes.
- He also relied on allegations of election fraud and irregularities that the State Bar Court later found were **false, misleading, or inadequately supported**.



One Cautionary Tale

- In 2023, the California State Bar charged Eastman with **11 counts of professional misconduct** arising from his post-election conduct.
- After a 34-day trial, the State Bar Court found him culpable on **10 of 11 counts**.
- Misconduct included:
 - Seeking to mislead a court
 - Misrepresentations and dishonesty
 - Acts constituting moral turpitude
- The State Bar Court Hon. Judge Yvette Roland recommended disbarment



One Cautionary Tale

- The State Bar Review Department upheld the State Bar Court's recommendation.
- April 2026: California Supreme Court ordered Eastman disbarred.
- **Takeaway: Zealous advocacy does not permit lawyers to disregard contrary law, distort facts, or advance claims without an adequate factual basis.**



Why Truth Matters

- The legal system depends on truthful representations
- *For municipal lawyers in particular:*
 - Public confidence requires trustworthy lawyers
 - Credibility is integral to public service



Honesty vs. Truthfulness

- *“Honesty and truthfulness are not the same thing. **Being honest** means not telling lies. **Being truthful** means actively making known all the full truth of a matter. *Lawyers must be honest, but they do not have to be truthful.*”*

Source: Dennis A. Rendleman, “*Truthiness*” and Professional Responsibility, Ethics in View (Dec. 2019), citing Matthew Frederick and Vibeke Norgaard Martin, 101 Things I Learned in Law School (2013)

Note: the terms “truthfulness” and “candor” are used interchangeably in California Rules of Professional Conduct.

The Municipal Lawyer's Client

- **The City is the Client**
- A municipal lawyer represents the **governmental entity itself**, acting through its authorized constituents. (CRPC Rule 1.13)
- Keeping the identity of the client in mind helps municipal lawyers preserve **professional independence** and serve as trusted advisors **to the public institution**, rather than to particular individuals



The Municipal Lawyer's Client

- **When City Officials Act for the Client**
- Authorized officials and employees serve as the city's **constituents**—often including the mayor, city council, and senior staff.
- **But a constituent is not personally the lawyer's client.**
- If a constituent is acting adversely to the city's interests, the municipal lawyer may need to clarify that the city—not the individual—is the client.
- Potential legal violations that could harm or be imputed to the city may require the lawyer to report the conversation / matter to appropriate city leadership. (CRPC Rule 1.13)

One Example: Closed Session Reports

- **Municipal lawyers must navigate three complementary obligations:**
 - **Transparency** (the Brown Act)
 - **Confidentiality** (closed-session discussions remain confidential and may also be protected by the attorney-client privilege)
 - **Honesty** (ethical rules)
- **Key distinction:** A lawyer may remain silent about confidential information—but should never affirmatively mislead the public.
- *Gov. Code §§ 54957.1, 54963; CRPC Rules 4.1, 8.4(c); Bus. & Prof. Code § 6106.*



One Example: Closed Session Reports

- **When there is “no reportable action”:**
 - It may be entirely accurate to state: “**There is no reportable action.**”
 - Avoid embellishing the report—for example, saying the council “**did not discuss**” a matter when it actually did.
 - Protecting confidential information does not justify an affirmative falsehood.
- **Best Practice:** Disclose what the Brown Act requires. Protect what the law makes confidential. Do not say anything that is untrue.
- *Gov. Code § 54957.1; CRPC Rules 4.1, 8.4(c).*

Candor Toward the Court

- **Heightened duties of candor in court**
- A lawyer may not knowingly:
 - Make a false statement of fact or law
 - Misquote or misrepresent legal authority
 - Offer evidence the lawyer knows is false
- A lawyer has an **affirmative duty to correct** material false statements and false evidence.
- “Remedial measures” may be required—even when contrary to the client’s interests. The lawyer must still protect client confidences
- **Key Principle:** When loyalty to the client conflicts with the lawyer’s duty of candor to the court, **candor to the tribunal prevails.**
- *CRPC Rule 3.3*



Candor Toward the Court

- **Fairness in Litigation**

- Lawyers may not obstruct access to, alter, destroy, or conceal evidence.
- Lawyers may not falsify evidence or assist witnesses in giving false testimony.
- **Zealous advocacy does not permit manipulation of the truth-seeking process.**

- **Meritorious Claims and Contentions**

- Lawyers may not pursue litigation **without probable cause and for the purpose of harassment or malicious injury.**
- Claims and defenses must have a good-faith basis in law and fact.
- Lawyers remain free to make good-faith arguments to extend, modify, or reverse existing law.
- *CRPC Rules 3.1 & 3.4.*

Candor Toward the Court

- **Representations to the Court**
- Lawyers must use **means consistent with truth**, must not mislead a judge through false statements, and must maintain only legal and just proceedings or defenses.
- **Honest Filings & Advocacy**
 - By filing a pleading, motion, or other paper, a lawyer effectively certifies after reasonable inquiry that:
 - It is **not presented for an improper purpose**, such as harassment or unnecessary delay.
 - Legal arguments are warranted by existing law or a nonfrivolous argument to change the law.
 - Factual allegations and denials have—or are likely to have—appropriate evidentiary support.
 - Violations may result in **sanctions** designed to deter similar conduct.
- *CCP § 128.7; Bus. & Prof. Code § 6068(c) & (d)*

Candor Toward the Court

- **Government lawyers have responsibilities *beyond* simply winning for their client.**
 - “A government lawyer in a civil action or administrative proceeding has the responsibility to seek justice and to develop a full and fair record.” — *People ex rel. Clancy v. Superior Court* (1985) 39 Cal.3d 740, 746.
 - For municipal lawyers, this principle is especially important because their advocacy and advice affect public institutions and public decision-making.
- **Bottom Line:** Effective advocacy must never come at the expense of truthfulness, fairness, or the administration of justice.



[Hypos]

Candor Beyond the Courtroom

- **Truthfulness to Others outside the courtroom**, including with opposing counsel, witnesses, members of the public, and other third parties.
- A lawyer may not knowingly make a false statement of **material fact or law**.
 - A lawyer may sometimes be required to disclose a material fact to avoid assisting a client's crime or fraud.
 - But lawyers generally have **no affirmative duty to disclose relevant facts** to an opposing party.
 - Client confidential information remains protected.
- *CRPC Rule 4.1 & comments [1]–[2].*

Candor Beyond the Courtroom

- **What about negotiations?**
- Not every statement is considered a statement of “material fact.” Estimates of price or value and statements about settlement intentions generally permit some negotiating latitude.
- *CRPC Rule 4.1 & comments [1]–[2].*



Candor Beyond the Courtroom

- **Communications With the Client**
- Interestingly, Rule 4.1 (previous slides) does not apply to communications between lawyers and their own clients.
- But lawyers still have important communication obligations:
 - Rule 1.4 requires lawyers to provide information reasonably necessary for clients to make **informed decisions**.
 - Other ethical rules prohibiting dishonesty continue to apply to lawyer-client communications.
- *CRPC Rule 1.4(b)–(c).*

Candor Beyond the Courtroom

- **Communications With the Client (cont.)**
- *In limited circumstances*, a lawyer may **delay—but not falsify—information** if the lawyer reasonably believes disclosure could cause imminent harm to the client or another person.
 - Example: a lawyer might withhold a psychiatric diagnosis of a client when the examining psychiatrist indicates that disclosure would harm the client.
- **Key Distinction: Withholding or delaying information – when ethically permitted – is different from affirmatively saying something that is untrue.**
- *CRPC Rule 1.4(b)–(c).*

Candor Beyond the Courtroom

- **Honesty in Lawyer Advertising**
 - False or misleading communications about a lawyer or the lawyer's services are prohibited.
 - Even a literally truthful statement can violate the rule if omitted information makes the overall communication materially misleading.
 - Rules apply to Lawyer's social media
- **Takeaway:** Ethical candor requires more than avoiding outright lies—it sometimes requires enough context to prevent a technically true statement from creating a false impression.
- *CRPC Rule 7.1.*



[Hypnos]

Candor Beyond the Practice of Law

- **Honesty On and Off the Job**
- CRPC Rule 8.4(c) makes it professional misconduct for a lawyer to engage in dishonesty, fraud, deceit, or reckless or intentional misrepresentation
- Unlike rules focused on aspects of legal representation, a violation of Rule 8.4(c) can occur **even when a lawyer is acting personally or is not acting in a professional capacity.**
- *CRPC Rule 8.4(c) & comment [1].*

Off duty lawyer



Candor Beyond the Practice of Law

- **Honesty as a Professional Qualification**
- Section 6106 authorizes professional discipline for acts involving:
 - Moral turpitude
 - Dishonesty
 - Corruption
- The statute applies whether the misconduct occurs “in the course of [the lawyer’s] relations as an attorney **or otherwise.**”
- Dishonest conduct may result in significant professional discipline because it calls into question the lawyer’s **integrity and fitness to practice law.**
- *Bus. & Prof. Code § 6106; see also CRPC Rule 8.4(c).*

Duty to Report Dishonest Behavior

- **Duty to Report Lawyer Misconduct**
- Effective August 1, 2023, a CA lawyer required to report to the State Bar or a tribunal when the lawyer **knows of credible evidence** that another lawyer:
 - Committed a **criminal act**, or
 - Engaged in **dishonesty, fraud, deceit, or reckless or intentional misrepresentation**
- **AND**
 - The conduct raises a **substantial question** about the lawyer's honesty, trustworthiness, fitness to practice law
- *CRPC Rule 8.3.*

Duty to Report Dishonest Behavior

- **Limits & Purpose**
- Rule 8.3 does **not** override other important ethical protections. A lawyer may not report:
 - Information protected by the **duty of confidentiality**
 - Protected information obtained through an approved **lawyer assistance program**
- ***Remember:** The rule targets serious misconduct—not minor or technical ethical violations.*
- *CRPC Rule 8.3 & comments [2], [4].*

Takeaways

1. Protect your credibility
2. Candor strengthens public trust.
3. Ethical compliance is the floor, not the ceiling.
4. Candor requires delivering unwelcome or unpopular advice.
5. Correct mistakes promptly.
6. Never sacrifice long-term credibility for a short-term victory.
7. Tread ethically during Brown Act report outs.
8. Omissions can be as problematic as affirmative misrepresentations.
9. Candor extends beyond the courtroom.



Conclusion

- *Questions? Comments?*
- *Thank you! Enjoy the rest of the conference!*

