

Appellate Ethics
Idaho State Bar – Appellate Practice Section
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- I. Governing ethics rules
 - A. Idaho Rules of Professional Conduct
 - B. 9th Circuit specific rules
 - C. Idaho State Bar Formal Ethics Opinions
 - D. Restatement of the Law Governing Lawyers
 - E. Model Rules of Professional Conduct
- II. conflicts of interest
 - A. general conflicts rules – IRPC 1.7, 1.8, 1.9, 1.10, 1.11, 1.12
 - B. issue or positional conflicts
 - C. conflicts caused by attorney’s self-interest in not alerting client to potential appeal issues
- III. competence
 - A. IRPC 1.1
 - B. Is appellate law a specialty that requires expertise or association with counsel?
 - C. requirements for competence
- IV. whether to file the appeal / what issue to raise on appeal
 - A. is the appeal frivolous? IRPC 3.1
 - B. what issues to raise
 - C. attorney fees – new 12-121 standard – *Hoffer v. Shappard*
- V. diligence
 - A. IRPC 1.3
 - B. IRPC 3.2
 - C. on appeal
- VI. candor to the tribunal
 - A. IRPC 3.3
 - B. representations of fact
 - C. representations of law – duty to cite directly adverse authority
 - D. ghost-writing amicus briefs – Idaho Appellate Rule 8
 - E. professionalism
- VII. withdrawal
 - A. IRPC 1.16(d)
- VIII. duty to report professional misconduct
 - A. IRPC 8.3