

	<p style="text-align: center;"><b>American Bar Association CPR Policy Implementation Committee</b></p> <p style="text-align: center;"><b>Variations of the ABA Model Rules of Professional Conduct</b></p> <p style="text-align: center;"><b>Rule 3.1: Meritorious Claims and Contentions</b></p> <p>A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.</p> <p>Variations from ABA Model Rule are noted. Based on reports of state committees reviewing recent changes to the model rules. For information on individual state committee reports, see <a href="http://www.abanet.org/cpr/jclr/home.html">http://www.abanet.org/cpr/jclr/home.html</a>.</p> <p>Comments not included.</p> <p>*Current links to state Rules of Professional conduct can be found on the ABA website: <a href="http://www.abanet.org/cpr/links.html">http://www.abanet.org/cpr/links.html</a>*</p>
<p>AL Effective 2/19/09</p>	<p>Adds (a): <i>In his representation of a client, a lawyer shall not file a suit, assert a position, conduct a defense, delay a trial, or take other action on behalf of the lawyer's client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.</i></p> <p>(b) is identical to second sentence of MR.</p>
<p>AK Effective 4/15/09</p>	<p>Adds “non-frivolous” before “basis” and deletes “that is not frivolous;” replaces “which includes” with “including;” In last sentence, adds “or involuntary institutionalization” after “incarceration.”</p>
<p>AZ Effective 12/1/03</p>	<p>Adds “good faith” before “basis in law and fact”; substitutes “may include” for “includes”; and adds “nonfrivolous” before “argument for an extension”</p>
<p>AR Effective 5/1/05</p>	<p>Same as MR</p>
<p>CA Current Rule</p>	<p>[California’s Rules of Professional Conduct are structured differently from the ABA Model Rules. Please see California Rules : <a href="http://calbar.ca.gov/calbar/pdfs/rules/Rules_Professional-Conduct.pdf">http://calbar.ca.gov/calbar/pdfs/rules/Rules_Professional-Conduct.pdf</a>]</p>
<p>CO Effective 1/1/08</p>	<p>Same as MR</p>
<p>CT Effective 1/1/07</p>	<p>Same as MR</p>

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DE Effective 7/1/03	Same as MR
District of Columbia Effective 2/1/07	Replaces “incarceration, may” with “involuntary institutionalization, shall, if the client elects to go to trial or to a contested fact-finding hearing” and replaces language after “require that” with “the government carry its burden of proof”
FL Effective 5/22/06	Same as MR
GA* Effective 1/1/01	<p><i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i></p> <p><i>In the representation of a client, a lawyer shall not:</i></p> <p><i>(a) file a suit, assert a position, conduct a defense, delay a trial, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another;</i></p> <p><i>(b) knowingly advance a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by good faith argument for an extension, modification or reversal of existing law.</i></p> <p><i>The maximum penalty for a violation of this Rule is a public reprimand.</i></p>
HI* Effective 1/1/94	<p><i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i></p> <p>Same as MR</p>
ID Effective 7/1/04	Same as MR
IL Effective 1/1/2010	Same as MR
IN Effective 1/1/05	Same as MR
IA Effective 7/1/05	Same as MR
KS Effective 7/1/07	Same as MR
KY Effective 7/15/09	Same as MR
LA Effective 3/1/04	Same as MR
ME Effective 8/1/09	Adds “non-frivolous” before “basis” and deletes “that is not frivolous.”

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<p>MD Effective 7/1/05</p>	<p>A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis <del>in law and in fact</del> for doing so that is not frivolous, which includes, <del>for example,</del> a good faith argument for an extension, modification or reversal of existing law. A lawyer <del>for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration,</del> may nevertheless so defend the proceeding as to require that every element of the <u>moving party's</u> case be established.</p>
<p>MA Rules effective 9/1/08</p>	<p>Same as MR</p>
<p>MI Rules effective 10/1/88</p> <p>Amendments affective 1/1/2011</p>	<p>Deletes clause, “which includes...existing law;” Adds after first sentence: “A lawyer may offer a good-faith argument for an extension, modification, or reversal of existing law;” deletes “nevertheless.”</p> <p>Amendments make no changes in the current rule, but modify the accompanying commentary to clarify that a lawyer is not responsible for a client’s subjective motivation.</p>
<p>MN Effective 10/1/05</p>	<p>Same as MR</p>
<p>MS Effective 11/3/05</p>	<p>Same as MR</p>
<p>MO Effective 7/1/07</p>	<p>Same as MR</p>
<p>MT Effective 4/1/04</p>	<p>Rule is split into (a) and (b). (b) is the same as the 2<sup>nd</sup> half of the MR. (a) reads: “A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein:</p> <p style="padding-left: 40px;">(1) without having first determined through diligent investigation that there is a bona fide basis in law and fact for the position to be advocated;</p> <p style="padding-left: 40px;">(2) for the purpose of harassment, advancement of a nonmeritorious claim, or solely to gain leverage; or</p> <p style="padding-left: 40px;">(3) to extend, modify, or reverse existing law unless a bona fide basis in law and fact exists for advocating doing so.”</p>
<p>NE Effective 9/1/05</p>	<p>Same as MR</p>
<p>NV Effective 5/1/06</p>	<p>Same as MR</p>
<p>NH Effective 1/1/08</p>	<p>Same as MR</p>

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NJ Effective 1/1/04	A lawyer shall not bring or defend a proceeding, nor assert or controvert an issue therein unless <u>the lawyer knows or reasonably believes that there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law, or the establishment of new law.</u> ...
NM Effective 11/2/09	Changed to Rule 16-301.
NY Effective 4/1/09	(a) is similar to MR body but deletes clause, “which includes...existing law;” Adds paragraph (b): <i>(b) A lawyer’s conduct is “frivolous” for purposes of this Rule if:</i> <i>(1) the lawyer knowingly advances a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by good faith argument for an extension, modification, or reversal of existing law;</i> <i>(2) the conduct has no reasonable purpose other than to delay or prolong the resolution of litigation, in violation of Rule 3.2, or serves merely to harass or maliciously injure another; or</i> <i>(3) the lawyer knowingly asserts material factual statements that are false.</i>
NC Effective 3/1/03	Same as MR
ND Effective 8/1/06	Adds “or commitment” after “incarceration”
OH Effective 2/1/07	Replaces “therein” with “in a proceeding”
OK Effective 1/1/08	Same as MR
OR Effective 12/1/06	<i>In representing a client or the lawyer’s own interests, a lawyer shall not knowingly bring or defend a proceeding, assert a position therein, delay a trial or take other action on behalf of a client, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law, except that a lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration may, nevertheless so defend the proceeding as to require that every element of the case be established.</i>
PA Effective 7/1/06	Same as MR
RI Effective 4/15/07	Same as MR

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SC Effective 10/1/05	Same as MR
SD Effective 1/1/04	Same as MR
TN Effective 1/1/2011	Adds after “an issue therein, unless”: “after reasonable inquiry the lawyer has”
TX Rules effective 4/6/95	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i>  Deletes “in law and fact;” deletes language after “frivolous.”
UT Effective 11/1/05	Same as MR
VT Effective 9/1/09	Same as MR
VA Effective 1/1/04	Same as former MR
WA Effective 9/1/06	Same as MR
WV* Effective 1/1/89	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i>  Same as MR
WI Effective 7/1/07	<i>(a) In representing a client, a lawyer shall not:</i> <i>(1) knowingly advance a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by good faith argument for an extension, modification or reversal of existing law;</i> <i>(2) knowingly advance a factual position unless there is a basis for doing so that is not frivolous; or</i> <i>(3) file a suit, assert a position, conduct a defense, delay a trial or take other action on behalf of the client when the lawyer knows or when it is obvious that such an action would serve merely to harass or maliciously injure another.</i> <i>(b): Same as second sentence of MR but replaces “incarceration” with “deprivation of liberty”</i>
WY Effective 7/1/06	(a): first sentence of MR (b): second sentence of MR Adds: (c) <i>The signature of an attorney constitutes a certificate by him that he has read the pleading, motion, or other court document; that to the best of his knowledge, information, and belief, formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose such as to harass or to cause unnecessary delay or needless increase in the</i>

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<i>cost of litigation.</i>
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