

*Federation of Law Societies  
of Canada*



*Fédération des ordres professionnels  
de juristes du Canada*

# **Model Code of Professional Conduct**

**As amended December 12, 2012**

## TABLE OF CONCORDANCE

This Table of Concordance identifies changes to the numbering in the Model Code of Professional Conduct adopted in October 2009 and amended in March 2011 and December 2011.

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### 5.5 RELATIONS WITH JURORS

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#### Communications before Trial

**5.5-1** When acting as an advocate before the trial of a case, a lawyer must not communicate with or cause another to communicate with anyone that the lawyer knows to be a member of the jury panel for that trial.

#### Commentary

**[1]** A lawyer may investigate a prospective juror to ascertain any basis for challenge, provided that the lawyer does not directly or indirectly communicate with the prospective juror or with any member of the prospective juror's family. But a lawyer should not conduct or cause another, by financial support or otherwise, to conduct a vexatious or harassing investigation of either a member of the jury panel or a juror.

#### Disclosure of Information

**5.5-2** Unless the judge and opposing counsel have previously been made aware of the information, a lawyer acting as an advocate must disclose to them any information of which the lawyer is aware that a juror or prospective juror:

- (a) has or may have an interest, direct or indirect, in the outcome of the case;
- (b) is acquainted with or connected in any manner with the presiding judge, any counsel or any litigant; or
- (c) is acquainted with or connected in any manner with any person who has appeared or who is expected to appear as a witness.

**5.5-3** A lawyer must promptly disclose to the court any information that the lawyer reasonably believes discloses improper conduct by a member of a jury panel or by a juror.

#### Communication During Trial

**5.5-4** Except as permitted by law, a lawyer acting as an advocate must not communicate with or cause another to communicate with any member of the jury during a trial of a case.

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**5.5-5** A lawyer who is not connected with a case before the court must not communicate with or cause another to communicate with any member of the jury about the case.

**5.5-6** A lawyer must not have any discussion after trial with a member of the jury about its deliberations.

<b>Commentary</b>
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<p><b>[1]</b> The restrictions on communications with a juror or potential juror should also apply to communications with or investigations of members of his or her family.</p>
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