

Lawyers Lie...



...Well, then again, maybe the clearer statement is they don't tell the whole truth.

A familiar story to illustrate my point: God says to Abraham that he and Sarah will have children. They are old. Abraham laughs saying to God, essentially: "With that old woman I am going to have kids?" Sarah overhears the laughing and asks God why Abraham is laughing. God doesn't tell her the truth the whole truth and nothing but the truth.

What is lying? Many people, when realizing they made an honest error of fact, say "oh sorry, I lied." In truth, that is not a lie, just like God avoiding Sarah's question is not a lie. On the other hand, telling Sarah part of the conversation with Abraham and leaving out the reason for the laughter, well that, in my world does constitute a lie.

Does what constitutes the truth change in context? Do clients pay lawyers to lie?

First of all, lawyers are not permitted to make a statement of a fact they know to be false. A lawyer cannot offer an alibi for a client if the lawyer knows it to be a lie. A lawyer owes a duty of candor in the courtroom. A lawyer can not put a witness on the stand if the lawyer knows the witness will lie. A lawyer can not make a legal argument to the court without disclosing precedent both pro and con.

In social circumstances with friends one expects a high degree of candor. A frank statement of the truth is called for. If I were sharing a candy bar with a friend and I knew one side had much more chocolate (I do love chocolate) but the friend did not realize it, I would know the honest thing to do before allowing the friend to choose which piece she wanted would be to tell her which piece had more chocolate. But if I were negotiating with another lawyer on behalf of my client and for example let's say I knew the property my client was trying to buy had oil on it (the good kind, as in black gold, Texas tea) and I knew that the other lawyer did not know anything about it, I would absolutely not tell the other lawyer about the oil.

To state what I know to be obvious: In personal relationships we owe our friends a high degree of frankness and disclosure. On the other hand, in a lawyer/client relationship, that same degree of frankness and disclosure could get a lawyer disbarred.

So do lawyers lie? Did God lie? It depends on how you define lying and it depends on the circumstances. ■

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