

Topic

- I. **Regulation of Attorneys**
 - A. **Entity that Regulates**
 - State regulates all aspects of the practice of law
 - each state has its own regulations & disciplines
 - There's no national body of law.
 - The Attorneys have an ethical obligation to aid in regulating Attorneys.
 - If Attorney knows or rsnbly should know of an ethical violation,
 - Attorney has duty to report it.
 - B. **Regulating who may practicing law in a particular state**
 - State may restrict the practice of law to those who are members of the bar of that state
 - Permissible Stds for Admission to State's bar
 - Note: Std must bear rational relationship to "fitness" to practice law
 - (not just b'c of someone's morals)
 - **OK**
 - Educational - JD Requirement
 - Testing Qualifications - Pass bar
 - Those w/ "good moral character"
 - refusal to answer Qs,
 - for making false stmt,
 - financial probity,
 - fraud, etc...
 - **NOT**
 - Citizenship Req'ts for State or Country NOT allowed
 - Political beliefs, unless:
 - Attorney refuses to swear allegiance to
 - United States; or
 - Abide by the constn
 - Attorney affiliates w/ organization
 - that has illegal objectives,
 - knowingly and
 - w/specific intent to further obj's
 - Only practice in an admitted state Except:
 - Pro hac vice(This occasion only):
 - Affiliating w/ admitted Attorney
 - Specific case: Approval by Ct
 - Non-Litigation work ** new rule**
 - 1. Attorney is doing work that "arose" in state where he's admitted
 - 2. Attorney is doing work for org. he's employed by.
 - C. **Bar has duty to prevent unauthorized practice of law.**
 - Unauthorized Practice of law
 - **Appearing in Ct:**
 - Only an Attorney can appear in ct. Except
 - Pro se/pro per (self representation)
 - Attorney can help non-Attorney appear pro se
 - Cannot help non-Attorney represent someone else)
 - Corporations cannot appear pro se
 - Law students can appear in ct pursuant to restrictions
 - Ex: Supervision by other Attorneys
 - **Drafting legal documents:**
 - Only Attorney can draft legal documents except
 - People can draft their own documents (i.e. contracts, wills),
 - **but** can't pay a non Attorney to do it
 - **Give legal advice.**
 - Traditional Attorney given advice cannot be given by Non-Attorney
 - Traditional Non-Attorney given advice is OK.
 - Responsibilities of an Attorney in preventing the unauthorized practice of law

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- 1. Attorney cannot aid non-Attorney in the unauthorized practice of law.
- No sharing legal fees w/ non-Attorneys, except:
 - (i) Salary payments to non-Attorneys.
 - (ii) Payments to deceased partner's estates.
 - (iii) Ct awarded Attorney fees can be shared w/ a non-profit organization **if**
 - The non-profit organization
 - Employed the Attorney or
 - Recommended the Attorney.
- d. Attorneys cannot enter into partnership w/ non-Attorneys if any part of the partnership's biz is involved w/ the practice of law.
know this rule
- **D. How Bar Ensures Compliance w/ its rules**
 - Examples of Attorney Misconduct
 - Violation of Disciplinary rule (i.e. violation of Model Rules)
 - Criminal Acts reflecting adversely on Attorney's honesty or trustworthiness.
 - i.e. cheating on income tax b'c that's dishonest
 - Conduct involving dishonesty, fraud, or deceit.
 - (i) Does not have to be criminal act.
 - (ii) Can be outside the practice of law.
 - Conduct prejudicial to the administration of justice
 - Example: if Attorney attempts to improperly influence a tribunal.
 - Example: if Attorney states or implies ability to influence a tribunal. (i.e. if Attorney says to client that he has control w/ jury)
 - Attorney Duties
 - Reasonable efforts to supervise subordinates and responsibilities.
 - Reasonable efforts to make sure sub Attorneys comply w/ codes of professional
 - To make independent judgments.
 - Responsibility over ethical violations of another Attorney in these circumstances:
 - 1. Attorney cannot order or ratify unethical behavior
 - 2. Attorney (in supervisory position) must act against subordinate rules violations, otherwise Attorney is responsible.
- **II. Regulating the Formation & Ending of Attorney-Client Relationship**
 - **A. Duty to ACCEPT representation.**
 - No duty to accept representation
 - Duty to accept if Court appointed, unless:
 - Representation
 - Will impose unreasonable financial burden.
 - Is likely to result in violation of law and disciplinary rule
 - Cause is "so repugnant" that it would interfere w/ Attorney's representation.
 - **B. Duty to REJECT representation**
 - If it will result in violation of law or disciplinary rule
 - Attorney can accept representation and refuse to do the illegal act
 - However, if representation will require an illegal act, then you cannot take the job.
 - No filing frivolous claims
 - Not frivolous if Attorney thinks a good faith effort can be made to change the law.
 - Lack of competence in matter
 - OK if Attorney
 - "Reasonably believes" that Attorney can become competent w/ adequate study.
 - Gets "co-counsel" for the part he's not competent for.
 - In emergency situations, in order to protect the client.
 - **C. Ability to withdraw**
 - ** Rule: if matter is in litigation, withdrawal req's ct permission **
 - Ct will balance
 - the reason for withdraw w/
 - the hardship that system will experience w/ granting it
 - Must withdraw if:
 - Obvious that client's primary purpose is to harass or delay;
 - Rep will require a violation of law or disciplinary rule;
 - Attorney's mental or physical health makes it unreasonably difficult to provide effective rep;
 - Client fires the Attorney
 - if litigation has begun, Attorney still needs to seek permission from ct to withdraw
 - May withdraw if:

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- Client...
 - Used Attorney services to perpetrate a crime or fraud;
 - or wishes to pursue an act Attorney deems
 - criminal or fraudulent
 - “repugnant” or “imprudent”
 - Disregards an agreement
 - Ex: fees/expenses
 - Attorney must first give reasonable warning
 - Freely agrees
 - If litigation has begun, req’s ct permission
 - Unreasonable financial burden on Attorney due to Rep or
 - Rep is rendered unreasonably difficult by the client;
f. Client
- Upon withdrawal Attorney must...
 - Give client timely notice
 - Opportunity to get another Attorney;
 - Return to client all funds not used or expended;
 - Return all of the client’s papers (Copies?)
 - Attorney cannot withhold papers until client pays bill
- **III. Attorney’s Duties to the client**
 - **A. Duty to avoid Conflicts of Interest**
 - Conflict of Interest exists if
 - Representation of client would be materially limited by Attorney’s responsibilities to:
 - Another client, or
 - to a 3rd person, or
 - Attorney’s own interests,
 - Unless - 2 Requirements
 - (i) Attorney reasonably believes that the reps will not be adversely affected, and
 - (ii) The client gives Informed consent;
 - Attorney must convey information to client and provide alternatives to client
 - *One Attorney in office is DQ, then all Attorneys in office are DQ.
 - Screening of Attorney does not avoid DQ
 - (i) Except: former govt Attorneys or former judges.
 - (ii) They’re DQ from former matter, but this does not mean DQ of all members in office so long as: (if former Attorney/judge goes into private practice after govt’l work)
 - (a) Former Attorney/judge is screened from any participation in the matter (fictional wall must be built around Attorney/judge)
 - (b) Former Attorney/judge is apportioned no part of the fee
 - (c) Written notice is given to the former govt agency or tribunal.
 - Among Current Clients
 - May not sue current client,
 - Even in an unrelated matter
 - May represent multiple parties in lawsuit so long as:
 - (i) Attorney can represent them all effectively, and
 - (ii) they all give informed consent
 - (consent need not be in writing)
 - Aggregate settlement or guilty plea requires each client’s informed consents in writing.
 - d. Attorney may act as neutral third party but Attorney must clearly explain that rule, especially to unrepresented individuals. (Attorney can be mediator and/or arbitrator)
 - e. Attorney can provide evaluations for other than the client so long as it’s consistent w/ duties to client.
 - Imputed Disqualification
 - While lawyers are associated in a firm, none of them shall knowingly represent a client when any 1 of them practicing alone would be prohibited from doing so by rule
 - Between Attorney’s interests and a client’s interests
 - Note: the rule of imputed DQ does not apply here
 - a. Attorney shall not solicit a substantial gift from client or prepare instrument giving Attorney a substantial gift. (this includes Attorney’s family; i.e. Attorney can’t draft will if Attorney’s daughter is beneficiary to will)
 - (i) Except: Attorney is drafting instrument for family members
 - b. Attorney shall not give financial assistance to client in connection w/ contemplated or pending litigation
 - (i) Except: Attorney may pay or advance ct costs and expenses of litigation for an indigent client
 - (ii) Example: can’t give \$\$ for client to pay rent or to buy rent.

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- c. Business Deals:
 - (i) Rule: There's always suspicion where Attorney is party to and Attorney to a transaction
 - (ii) Except: Attorney can be part of biz deal if:
 - (a) Terms of transaction are fair and reasonable
 - (b) Terms must be disclosed in writing in matter that client can reasonably understand
 - (c) Client is advised in writing to seek opinion of another Attorney, and given a reasonable chance to do so.
 - (d) Written consent of Client.
 - d. Prior to completion of rep, Attorney shall not acquire literary or media rights to client's story (CA is the only state that does not have this rule!)
 - e. Attorney shall not acquire a proprietary interest in the cause of action that's the subject of litigation.
 - (i) Except: Lien to secure the Attorney's fees or expenses (this is permissible)
 - (ii) Except: Contract for reasonable contingency fee.
 - f. No sexual relationship w/ client unless
 - a consensual sexual relationship existed between them when the Attorney/client relationship commenced.
 - g. Cannot be both advocate and witness in same trial, unless:
 - Testimony relates to uncontested issue
 - Testimony relates to nature & value of the legal services provided
 - Substantial hardship to client
 - Organizations and Representation
 - a. Attorney represents entity, not the directors/officers/shareholders.
 - b. If Attorney's rep of client is paid for by other than client:
 - 2 Requirements
 - (i) client must give informed consent (writing not important), and
 - (ii) representation must not be interfered with
 - c. In dealing w/ organization's directors/officers/employees, Attorney shall explain the identity of the client where Attorney knows or reasonably should know that the organization's interests may conflict w/ the individual's interests. (this is Attorney's affirmative duty)
 - d. Attorney may represent both entity & individual if all the parties consent (does not need to be in writing)
 - e. If Attorney for entity believes that entity is violating the law, Attorney shall act as reasonably necessary to protect the organization; Attorney should:
 - (i) Ask for reconsideration of the matter; (ask the people to reconsider what they're doing)
 - (ii) Ask for separate legal opinion;
 - (iii) Refer the matter to higher authority within the organization

** Note: this does not authorize Attorney to go outside the entity **
 - 5. Conflicts w/ Past Clients
 - a. Attorney shall not be materially adverse to a former client if the current matter is substantially related to the former representation. ("substantially related": common sense std)
 - b. Attorney shall not be adverse to a former client if the Attorney acquired confidential information that's material to the current representation

Note: client consent must be in writing if client chooses to waive these conflicts
- **B. Attorney's Duty of Competence**
 - 1. Duty to provide competent rep to a client
 - 2. Cannot contractually limit malpractice liability
 - Subject to discipline Except
 - Attorney is allowed to contractually limit malpractice liability ONLY IF client is represented by another Attorney for purposes of this agrmt
 - 3. Cannot settle malpractice claims w/o advising the client in writing to see another Attorney
- **C. Attorney's Duty to follow Client's instructions**
 - 1. General Rule: client controls the ENDS, Attorney controls the MEANS
 - a. Client decides the objectives of representation
 - b. Attorney decides the techniques
 - 2. Client controls the following: (Attorney is req'd to follow the client's instructions)
 - In Civil Case whether to
 - Sue
 - Accept a settlement
 - Appeal
 - In Criminal Case whether to
 - Plead guilty
 - Waive a jury trial
 - Testify
 - Appeal
 - All other matters, Attorney can decide, and does not need to follow the client's instructions.

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- 3. Duty to keep client reasonably informed
- 4. Attorney may limit the objectives of representation if client consents
- 5. Representing a client w/ disabilities
 - a. Attorney shall as much as possible maintain a normal a/c relationship.
 - b. Attorney may seek the appointment of a guardian if Attorney rsnbly believes that client can't protect his/her own interests
 - c. Attorney can reveal confidential information that's necessary in order to obtain the guardian. **** new rule****
- **D. Duty to protect client confidences **** Major Topic ******
 - Protected confidential information
 - Rule: Attorney must keep confidential all learned information during rep
 - Attorney Can't
 - Reveal the information or
 - Use it to the client's detriment
 - Includes what Attorney learns from:
 - Client
 - Others
 - Someone seeking representation from Attorney
 - Exceptions to the duty of confidentiality
 - Waiver: client can waive the a/c privilege,
 - Must be informed consent,
 - Not need to be in writing
 - Future crimes:
 - Attorney may reveal information to prevent reasonable certain death or substantial bodily harm
 - (i) Permissive, not mandatory
 - (ii) Only reasonably certain death or substantial bodily harm
 - Legal Self-defense: Attorney may disclose confidential information to:
 - Defend against
 - a claim against Attorney, or
 - against disciplinary matters
 - To secure legal advice about Attorney's compliance to the rules - new rule
 - To comply with other laws or a ct order - new rule
 - Handling the "fruits or instrumentalities of crime" (i.e. the weapon, the loot)
 - Must turn it over to the police in the way that's least likely to incriminate the client.
 - Not allowed to
 - Take or keep items!!!
 - Hide it, or alter it.
 - If you know client has or will commit perjury
 - Three-Step process:
 - Should urge client to rectify the fraud, **if refuses then**
 - Should seek to withdraw, **if not possible**
 - Attorney shall reveal the fraud to the court even if it means disclosing confidential information
 - Note Attorney must tell client of these steps & of his duty to disclose if client seeks to continue
- **IV. Protecting the integrity of the system**
 - **A. Duty to prevent abuse of the system**
 - Shall not..
 - Take action towards frivolous claims (good faith req't)
 - Seek to influence a judge or a jury in manner prohibited by law
 - disrupt a tribunal, or intend to
 - Shall expedite litigation consistent w/ the interests of the client - Reasonable efforts
 - **B. Duty of candor to a tribunal**
 - No false stmt of material fact or law to a tribunal - No Lying
 - Affirmative duty to correct a false stmt made by Attorney to tribunal or ct
 - Must disclose previously false stmt
 - Shall not fail to disclose a material fact when fact disclosure is necessary to avoid assisting a criminal or fraudulent act by the client.
 - Only in adjudicative proceedings.
 - Only where client has engaged in fraudulent act related to that proceeding.
 - If client is using that proceeding to perpetrate a crime or fraud,
 - then Attorney needs to take remedial steps, including disclosing confidential info.
 - No offering false evidence.
 - Affirmative duty to correct all false evidence, even if it comes from client's own testimony
 - Must disclose adverse legal authority - "Reasonable Attorney Standard"

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- That is on point and is from the controlling jdx
- Ex parte proceedings
 - Where other side is not present
 - Must inform the tribunal of all material facts
- **C. Fairness to opposing Party:**
 - Shall not:
 - Obstruct another person's access to evidence or
 - Unlawfully alter, destroy, or conceal a document or other material having potential evidentiary value
 - Falsify evidence or
 - counsel a witness to testify falsely
 - Make a frivolous discovery request or
 - Fail to comply w/ discovery in good faith
 - Make a false stmt of material fact or law to a third party
 - Accidentally receiving document from opposing party
 - Attorney shall promptly notify the sender.
 - Need not return.
- **D. Trial tactics**
 - No allusion to any matter that is not supported by admissible evidence
 - *2. Assert personal knowledge about the justness of a cause or personal knowledge of facts,
 - Except when testifying as a witness.
 - Cannot assert personal beliefs
- **Prosecutors have duty:**
 - Only to proceed where probable cause
 - Timely disclosure of all potentially exculpatory evidence,
 - including evidence that might be mitigating in sentencing
 - Confirm accused person has been advised of the right to counsel **and**
 - Been given reasonable oppty to retain an Attorney
 - Not to seek a waiver of rights for an unrepresented individual.
 - Make sure they have a lawyer
 - *Not to subpoena another Attorney for a grand jury/criminal proceeding unless all of the following:
 - (i) Prosecutor must believe that the information sought from Attorney is not confidential
 - (ii) Evidence is essential to the successful completion of the proceeding
 - (iii) There is no alternative source for the information
 - Not make public stmts that have substantial likelihood of heightening the public condemnation of the accused.
 - No pronouncements of guilty
 - Duty to control subordinates statements to public
- **E. Voluntary pro bono work**
 - Rule: Professional responsibility to provide legal services to those that cannot pay
 - 50 hrs of pro bono service per year
 - May serve as an officer/director/member of legal services organization, even if it has interests adverse to the Attorney's clients
- **F. Attorney as advisor**
 - Shall not counsel a client to engage, or assist client, in conduct that Attorney knows to be criminal or fraudulent
 - Attorney cannot advise client to break the law
 - But can tell client "no one has ever been prosecuted for violating this law"
 - May discuss the legal consequences of any course of action **and**
 - May assist client to determine the meaning and application of the law
 - Shall give candor advice and may refer not only to the law, but also to moral, economic, social, and political considerations
- **G. Permissible Nature of Attorney contact w/ those other than clients**
 - 1. Communication w/ Adversaries
 - a. Attorney shall not communicate directly w/ person Attorney knows to be represented by another Attorney in matter unless:
 - Other Attorney consents or
 - By Court order
 - Attorney can communicate w/ a person who's not represented by an Attorney,
 - *But cannot give legal advice or represent that he/she is disinterested in the matter
 - 2. Communication w/ Witnesses
 - Cannot
 - Harass any witnesses
 - Encourage a witness to leave the jdx to avoid testifying
 - Can

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- Contact all witnesses, even those for opposing party
- Pay non-expert witness only the expenses incident to testifying (i.e. travel, lost wages)
- Pay expert witness a reasonable fee in addition to expenses
- *NO witness can pay witness on contingency basis.
- 3. Communication w/ Jurors
 - **Before trial**, no communication is allowed w/ a member of the panel from which the jury will be selected.
 - Allowed to investigate prospective jurors
 - Not to directly contact juror
 - **During trial**, no communication allowed w/ jurors outside official court proceedings
 - **After trial**, Attorney can speak to juror, unless:
 - Prohibited by law, or
 - Jury has indicated desire not to speak to Attorney, or
 - Going to harass the juror
- 4. Communications w/ the Court
 - Ex parte communications are allowed only
 - In emergency circumstances
 - If law specifically authorizes it)
 - Communication must be disclosed to the other side
 - No gifts to court personnel
- 5. Communication w/ the Press: Attorney cannot make stmts:
 - a. That are rsnbly likely to be public disseminated, or
 - b. If there's a substantial likelihood of materially prejudicing an adjudicatory proceeding
- **V. Regulating the market for legal services**
 - **A. Advertising and Solicitation**
 - No false or misleading stmts
 - Attorney can advertise that they do or do not practice in a specific field
 - Specialization is okay
 - Can only be certified in specialty if there's an accredited body to certify.
 - That body is identified in the ad.
 - Solicitation
 - In-person solicitation of clients profit is prohibited includes communications:
 - Face-to-face
 - Live telephone
 - Real-time electronic (IM)
 - Exceptions, can solicit:
 - Other Attorneys
 - Family members or those with close personal relationships
 - Those he has a prior professional relationship
 - If prospective client wishes not to be solicited, then Attorney cannot.
 - Mail solicitation must say "advertising material"
 - Non-Realtime Electronic communication requires "advertising material" before and after.
 - Advertising: Cannot be false or deceptive.
 - **B. Structuring the practice of law**
 - 1. Name of law firms
 - OK to keep dead Attorneys,
 - Any firm name so long as unless it's deceptive to do so.
 - Must remove Attorney names from firm if they enter public service
 - i.e. if they become judge or become elected official;
 - Not a CA rule
 - c. Trade names are allowed so long as it does not imply a false connection to govt or legal services
 - 2. Firms may incorporate if state law permits it, so long as all officers, directors, and shareholders must be Attorneys
 - 3. Buying and Selling law firms: this is OK if the following requirements are met:
 - **C. Fees**
 - 1. Fees should be set as soon as possible in the course of representation, preferably in writing
 - a. Attorney's obligation to make sure fees are set
 - b. Attorney's obligation that the terms are reasonable
 - 2. Attorney's fee must be reasonable:
 - a. Attorney cannot receive "unreasonable" fee
 - b. Factors to be considered in determining "reasonableness" are:
 - (i) Time & skill req'd

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- (ii) Extent of preclusion of other legal work
- (iii) Fee customarily charged for like work in community
- (iv) Amt charged
- (v) Experience of the Attorney

3. Contingency Fees

Rule: Attorneys are allowed (in civil cases) to represent clients on contingency basis

- a. Contingency fee agrmts must be in writing.
- b. Attorney must notify client of expenses that the client is responsible for, ** new rule **
- c. Contingency fees are not allowed in criminal cases
- d. Attorney cannot take domestic relations on contingent fees where the fee is contingent on:
 - (i) Securing a divorce
 - (ii) The amt of alimony
 - (iii) The amt of property settlement

4. Fee splitting w/ other Attorneys: It's permissible to share fees w/ other Attorneys so long as the following req'ts are met:

- a. Total fee is reasonable
 - b. Client is advised and does not object to the participation of all the Attorneys
 - c. Fee is divided proportionate to the way the work that was done or by written agrmt by the client.
5. Attorneys shall not enter into agrmts that restrict the ability of Attorneys to practice after termination of their employment
- a. Covenants not to compete are not allowed in practice of law
 - b. If Attorney leaves one firm, firm cannot give \$\$ to Attorney in exchange for Attorney's agrmt not to practice in that area.

• D. **Attorney's duty to protect the client's money or property**

- 1. Attorney must not commingle client funds and personal funds, ** most imp't ** know this **

- a. Attorney must keep client's funds in a trust acct
 - b. Attorney cannot put client's \$\$ in Attorney's acct
 - c. Attorney cannot put personal \$\$ in client's acct
 - d. Except: Attorney can put personal \$\$ in client's acct for the sole purpose of paying bank service charges, and can only put the exact amt of the bank service charges
2. Attorney must keep a record of client funds for at least five yrs after representation
3. Attorney must keep a client's property safely (i.e. safe deposit box, labeling it as appropriate)
4. Attorney must pay all money owed to the client promptly.
- a. If there's a dispute, Attorney must keep amt in dispute in trust for the client.
 - b. Attorney can give undisputed \$\$ to client, and can take the undisputed \$\$ that's Attorney fees.

• VI. **Ethical Stds for Judges** (10% of test)

• A. **Judge is disqualified in following situations:**

- 1. If judge has personal knowledge of disputed evidentiary facts
- 2. If judge served as Attorney in matter in controversy
 - a. Judge is DQ if the matter was handled by the judge's former law firm while judge was Attorney at that law firm
- 3. If judge has a financial interest in the case
 - a. Must be "legal" or "equitable" interest: an interest distinct from the rest of the population
 - b. If judge has same interest as general population, judge is not DQ.
 - c. If judge has stock in company, then judge is DQ from hearing case re: company.

Note: Includes financial interest of judge's spouse, children, parents, and any family members living at home
- 4. If judge or family member is involved in the case: judge is DQ if family member is:
 - a. Attorney in proceeding
 - b. A party, or is an officer, director, trustee of a party
 - c. Likely to be a material witness in case
 - d. Has more than a de minimus interest that can be substantially affected

• Note: "family member": any member, other than a cousin, is considered sufficient
- 5. Exceptions:
 - a. Remittal: (consent) Requirements:
 - (i) Judge must disclose on the record the basis for the DQ.
 - (ii) All parties must voluntarily agree to allow the judge to participate
 - (iii) Consent must be on the record
 - b. Rule of Necessity:
 - (i) Rule: if every judge in the jdx is disqualified for the same reason, then any judge can do the case
 - (ii) Example: case re: federal judge's salary.

• B. **Appropriate conduct of Serving Judge: "on-the-bench" conduct**

- 1. Judge shall:
 - a. Comply with all constnal, statutory, and procedural law
 - b. Require order and decorum in ct proceedings
 - c. Be patient, dignified, and courteous
 - d. Perform judicial duties w/o bias or prejudice
 - (i) judges must refrain from actions or words that can be perceived as sexual harassment
 - e. Dispose of all judicial matters promptly, efficiently, and fairly
- 2. Judge avoid and shall require Attorneys to avoid expressing bias based on race, national origin, religion, gender, age, disability, sexual orientation, and socio-economic status.
- 3. Judge shall not:
 - a. Engage in ex parte communications

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- (i) these are only allowed where there's emergency
- (ii) Must be disclosed to other side as soon as possible
- b. Command or criticize jurors for their verdict, except in ct order or opinion (i.e. jdgmt n.o.v.)
- c. Disclose or use any nonpublic information gained in a judicial capacity (i.e. judge cannot buy stock)
- d. Make comments about any pending proceeding that can be rsnbly expected to affect its outcome
- (i) This applies to cases in other cts in other states
- (ii) Judge can't make comments if it's rsnbly expected to affect its outcome

• C. Appropriate off-the-bench Judicial Conduct

- 1. Judges are not allowed:
 - a. To engage in practice of law
 - (i) Judges are not allowed to serve arbitrators/mediators except in cases before them in their ct (judges can't have outside employment as arbitrator)
 - (ii) Judge cannot accept appointment to govt commissions other than those dedicated to the improvement of the legal system
 - b. To serve as fiduciaries
 - (i) Judges cannot be executors, administrators, trustees or guardians
 - (ii) Except: Judge may do this for members of his immediate family if it's a matter that's not likely to come before the Judge's own ct (federal ct judge can serve as parent's trustee b'c probate doesn't go to fed ct)
 - c. To hold membership in any org. that practices invidious discrimination based on race/sex/religion/nat'l origin
 - d. To appear as a character witness unless subpoenaed
 - e. To engage in financial transactions that risk a conflict of interest
 - (i) Judge may hold and manage investments for self and for family members
 - (ii) Judge shall not serve as an officer, director, or in any other capacity for a business except for a close corporation owned by the Judge's family members.
 - f. To accept and urge family members to accept gifts from those likely to appear before the Judge.
 - (i) Gifts incident to public testimonials (publicly honored) or from law book publishers are allowed.
 - (ii) Ordinary social hospitality is allowed
 - (iii) Judge may receive a loan from a lending institution if: (Judge can get a mortgage, can borrow money)
 - (a) It is in the regular course of business of loaning money, and
 - (b) The terms are the same as are available to non-judges ** know this **
- 2. Judges may:
 - a. Serve in charitable or civic organization so long as it does not reflect adversely on judge's impartiality
 - (i) Organization cannot be for the financial or political gain of its members
 - (ii) Judge shall not participate in fund-raising or membership solicitation or allow his/her office to be used
 - (iii) Judge shall not participate if it's likely that the organization will be involved in litigation that might come before the Judge's ct.
 - b. Receive compensation for their non-judicial conduct, where permitted (i.e. Judge teaching as adjunct Prof)
- 3. Judge shall comply with the law in all of his or her activities.

• D. Permissible political activities by Judges or Judicial Candidates

- 1. Judges and Candidates for Judicial Office may not:
 - a. Hold office in any political organization
 - b. Publicly endorse or oppose a candidate for office
 - c. Make speeches on behalf of a political organization
 - d. Attend political gatherings
 - e. Solicit funds or make contributions or buy tickets to political events
- 2. Judges must resign from bench if running for non-judicial office (i.e. judge must resign if he wants to run for VP)
 - a. Except: judge does not need to resign if running to be a delegate to a constnl convention
- 3. In campaigning for election or retention to the bench, a judge shall not:
 - a. Personally solicit or receive funds
 - (i) Judge can create a committee to raise funds
 - (ii) Judge just cannot personally ask for money
 - b. Make pledges or promises of conduct in office
 - c. Knowingly misrepresent own qualifications or facts concerning an opponent.