



CLASS 1

Professional Responsibility and Legal Ethics

Introduction to Ethics in the Legal Profession

- Ethics rules are very comprehensive and strict;
- Rules apply to law firms and legal practices; BUT
- They are generally enforced by state Bar Associations, who only have jurisdiction over Lawyers, not paralegals
- **Except that:**
 - some ethical violations may also be criminal violations
 - unauthorized practice of law is a crime in all jurisdictions



Introduction to Ethics in the Legal Profession (cont.)

- **Basic concerns of the legal ethics** rules:
 - Preserve the Adversary System (“even guilty people are entitled to a fair trial”)
 - Preserve the attorney-client relationship
 - Preserve the integrity of the process
 - Preserve the search for the truth



Ethics Rules – Jurisdiction to Promulgate and Enforce

- **State Courts**

- Have no jurisdiction to discipline legal professionals for violating the ethical rules
- Can become involved if there has been a crime or tort committed

- **State Bar Associations**

- States require all lawyers to join
- Develop or adopt ethical codes
- Run disciplinary proceedings and can discipline lawyers
- Have full jurisdiction over all lawyers in the state



Ethics Rules – Jurisdiction to Promulgate and Enforce (cont.)

- **Voluntary Bar Associations**

- Have no authority to do anything binding on anyone

- **American Bar Association**

- Have written the “**Model Rules of Professional Conduct**” which many states have adopted as their own code of ethics
 - Has no actual authority; but many states require a degree from an ABA approved law school to take their bar exams
 - Has no jurisdiction whatsoever over the paralegal industry



Discipline for Legal Professionals

- **Methods available for disciplining attorneys by state bar association**
 - Private Censure
 - Public Censure
 - Suspension
 - Disbarment
- **Other Consequences of Malfeasance**
 - Monetary sanction by a court
 - Contempt of Court
 - Criminal liability, if applicable
- **Civil Liability for Malpractice**; Requires
 - proof of malpractice; AND
 - causation (would have won the case if not for the malpractice)



QUIZ TIME!



General Duties of the Legal Professional

- Duty to follow the ethical rules
- Duty to refrain from **getting around the ethical rules by using a non-lawyer**
- Duty to supervise subordinates (overseers can be disciplined for ethical missteps of subordinates if those were due to a failure of proper oversight).
- Duty to avoid committing serious crimes or crimes that reflect on trustworthiness even *outside the practice of law*
- Duty to **report** misconduct of others

