



CLASS 7

Professional Responsibility and Legal Ethics

Duties to Opposing Party

- 1) Don't obstruct the other party's investigation or destroy evidence
- 2) Don't falsify evidence or put a witness on the stand who will lie
- 3) Don't ignore a judge's order unless you're challenging the legality of that order and have a good faith basis to believe that it is invalid
- 4) Don't make frivolous discovery demands and try to live up to the discovery demands made of you
- 5) Don't bring up, at trial, facts that are irrelevant or overly prejudicial or improper issues
- 6) Don't use the disciplinary process to intimidate or harass your opponent



Candor to the Court

- **This includes the duties to:**

- Avoid making false statements of fact or law in court
- Avoid using misleading case law in a brief
- Disclose a case or law that is helpful to the opposition, if the case or law is binding
- Remedy falsities that have already been presented in the case by that attorney
- Avoid entering evidence that the lawyer knows is false
- Note: If the lawyer thinks it may be false, but doesn't know whether it's true or false, he has a choice as to whether to enter it



False Testimony – The “Perplexing Problem of Perjury”

- **Rule for witnesses and/or civil defendants:**
 - One MAY NOT allow a witness to testify if the lawyer knows that the witness will lie.
 - If the attorney is unsure as to whether the witness will lie, she may refuse to call the witness
 - If it is a criminal defendant who wants to lie on the stand, there is a problem
 - (A criminal defendant has a Constitutional right to testify on his own behalf)



False Testimony – The “Perplexing Problem of Perjury” (cont.)

- **Some options for the attorney in such as case:**
 - Convince the defendant not to testify or not to testify falsely
 - Try to withdraw (may be refused in mid-trial because it could be prejudicial to the client's case)
 - Allow the defendant to testify in the “narrative”
 - Some states allow the attorney to question the defendant normally even if he will lie



QUIZ TIME!

