



# CLASS 13

Professional Responsibility and Legal Ethics

# The "Business" of Law: Lawyer Advertising

- **Overarching principal:**

- Lawyer advertising is disliked by the law establishment. However, there are First Amendment issues that do not allow the outright banning of such advertising.
- First Amendment Rule: A state may not ban lawyer advertising as long as it is honest and not misleading, but it may fairly regulate it (lawyer advertising is "commercial speech").

- **Rules that apply to attorney advertising:**

- A. Must not contain any false or misleading information
- B. Must not create unjustified or unrealistic expectations
- C. Must not make comparisons or claims that cannot be verified or substantiated
- D. Must not claim to be a "specialist" in an area unless the lawyer is certified in that area; the attorney must identify the certificate and the certifying organization in any such advertisement



# The "Business" of Law: Solicitation of Clients

- **Rules** (again based on the balancing test between protecting client and freedom of speech):
  - In person solicitation of **strangers is not allowed**
  - In person solicitation **is allowed if**:
    - The potential client is a **relative or friend**
    - The potential client is a **past client of the attorney**
  - Mailing general advertisements are governed by the same rules as advertising
  - Targeted mail to people whom the lawyer knows suffers from a particular legal problem is allowed, so long as:
    - the mail is true and not misleading
    - it is clearly marked "Advertising Material"
    - it does not violate any of the other advertising rules



# QUIZ TIME!



# Online Referral Programs

- Features
  - Pay a Service Fee to get Leads
  - Some include bidding on services
  - Some are referrals from a subscription
  - Based website to the attorneys
  - Attorney-client matching websites
- Potential Ethical Violations
  - Model Rule 7.2(b): A lawyer shall not give anything of value to a person for recommending the lawyer's services.
  - Advertising in a state in which the attorney is not licensed!
- Solution: Be clear in message to clients!

