



# CLASS 14

Professional Responsibility and Legal Ethics

# The Ethics of Dealing with Judges

- Because of the power judges wield and the strong inference of corruption that goes along with questionable dealings with judges, impropriety or even the appearance of impropriety must be avoided at all costs.
- **Ex Parte communications:**
- General Rule: An attorney working on a case must not discuss the case with the judge outside the presence of opposing counsel
- Exceptions:
  - Some proceedings are meant to be done *ex parte* (such as obtaining a temporary restraining order).
  - Meetings that are solely for scheduling or administrative purposes are okay.
- Note: Even where an *ex parte* proceeding is allowed, the other party must have a right to be heard on the issue within a reasonable period of time.



# The Ethics of Dealing with Judges (cont.)

- **Business transactions between legal professionals and judges**
  - Transactions are prohibited between judges and attorneys who practice in their courtrooms
  - Campaign contributions to judges are strictly regulated
  - Gifts to judges by attorneys are disallowed, except:
    - resources for official use
    - family gifts if the judge is in the family
    - ordinary social hospitality
    - gifts incident to an award ceremony or testimonial
    - gifts that are so small that they do not appear to be attempts to buy influence



# Communications with Jurors

- Strictly prohibited during the trial
- Any act of friendliness or favor taken by an attorney toward a juror can lead to the appearance of impropriety
- Improper communication with a juror can be a crime ("jury tampering") as well as an ethical violation



# Communications with Jurors (cont.)

- Conduct toward jurors includes what is said IN the courtroom
  - An attorney may NOT:
    - vouch for the credibility of a witness
    - allude to or assert facts not in evidence
    - insert personal opinions that are not derived from facts in evidence
    - make statements that are irrelevant or overly prejudicial
- Post-trial interaction with jurors is generally allowed, but heavily regulated



# QUIZ TIME!

