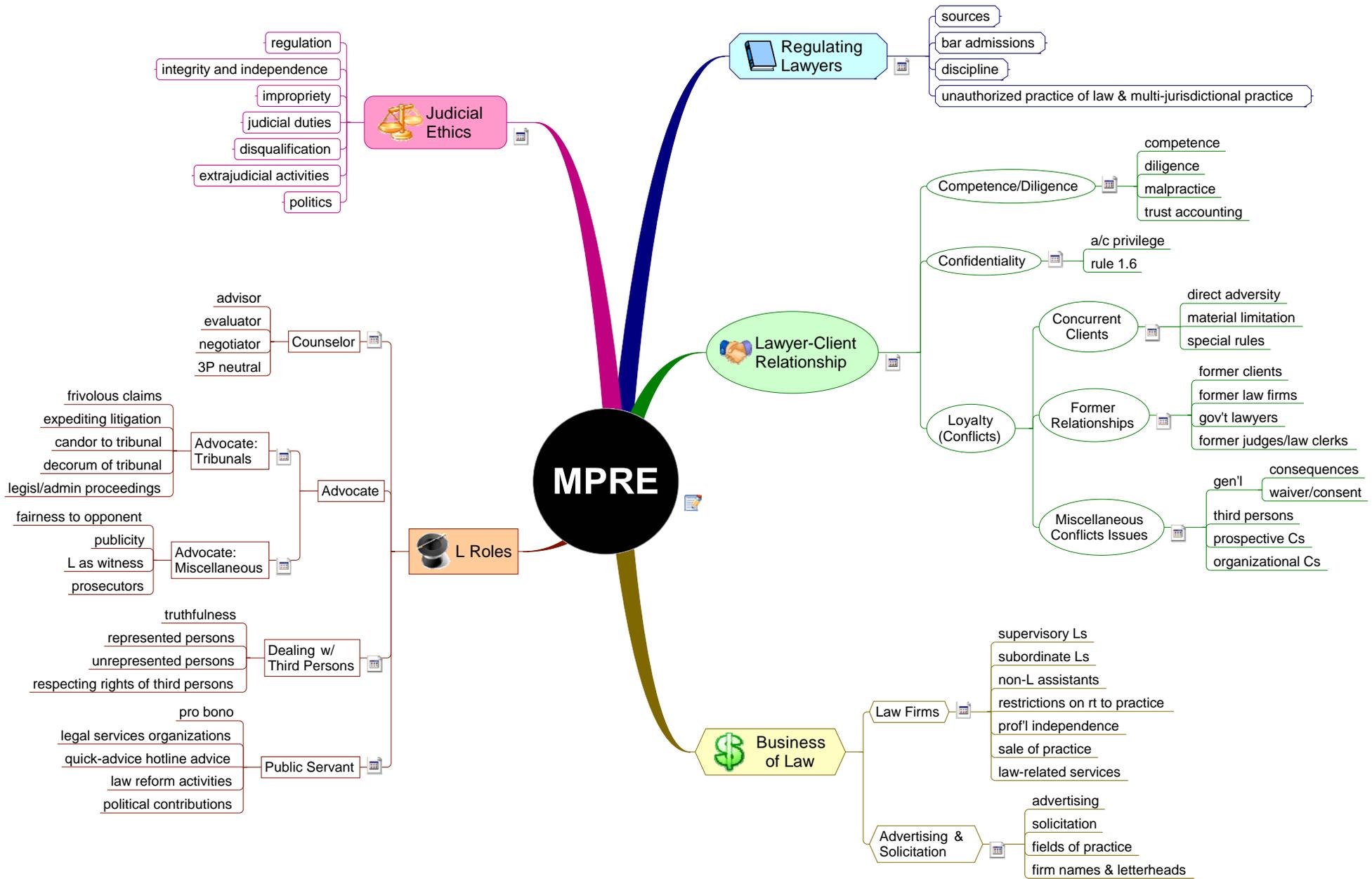


Multi-State Professional Responsibility MindMaps

by
Prof. Dane S. Ciolino



Regulating Lawyers

UPL/MJP

- UPL by L**
 - holding out that L is admitted in other jurisd
 - systematic or continuous presence in other jurisd
 - OK if L supervision and responsibility
 - improper delegation to staff
 - improper affil w/ suspended/disbarred L
- temporary MJP ok if**
 - L is admitted in another US or foreign jurisd
 - not suspended or disbarred
 - and either
 - assoc w/ *active* local counsel
 - pro hac vice admission
 - ADR arising out of home state practice
 - reas related to home state practice
- permanent MJP ok if**
 - in-house or gov't nonlitigating L
 - authorized by federal law

Sources

- state**
 - cts have inherent power to regulate Ls
 - not legislature
 - promulgate rules, most based on ABA MRs
 - ABA MRs
- feds**
 - fed courts regulate fed practice
 - gov't Ls must comply w/ state ethics rules

Admission

- application**
 - no false statements
 - must disclose
 - if need to correct known misapprehension
 - if lawful demand for info
 - unless confid under 1.6*
- character & fitness**
 - applicant bears burden of proof
 - right to due process
 - most conduct relevant
 - crim & noncrim
 - incl refusal to take oath
 - not nonviol political activity
- citizenship**
 - can't require citizenship (EP)
 - can't require in-state residency (P&I)

Discipline

- misconduct**
 - violation or attempted viol of Rules
 - crim acts reflecting on honesty, trustworthiness or fitness as L
 - any act of dishonesty, fraud or misrep
 - cond prej to admin of justice
 - implying ability to improperly influence official
 - knowinly assisting viol of judicial canon
 - harass or discrimin re race, sex, relig, ethnicity, age, sexual orient, gender id, disab, socioeconomic status in cond related to practice of law; except legit advocacy
- reporting**
 - known* misconduct
 - must report
 - that raises subst'l ques re L's honesty, trustworthiness or fitness
 - can't report if info is confid under 1.6
- process**
 - complaint; screening
 - right to DP
 - hearing
 - can assert 5th Amdmt; no discipl solely for 5th A invocation
 - state bears burden
 - sanctions: pub/priv reprimand; suspension; disbarment
 - choice of law
 - if misconduct in tribunal: apply its Rules
 - if not: apply jurisd where cond had predomin effect

Lawyer-Client Relationship

→ Creating

- prospective Cs
 - protect confid info & prop
 - use reas care re legal adv
- by agmt
 - preferably in writing
- by C's reas rel
 - if L d/n decline clearly
- by ct appmt
 - can's seek to avoid unless good cause
 - good cause
 - wld viol law or Rule
 - unreas fin burden
 - impairing repugnance

← W/D

- must
 - if C discharges w or w/o cause
 - L materially impaired mentally/physically
 - rep will require viol of law or Rule
- may
 - for *any* reason, if no materially adv effect
 - if C persists in crime/fraud
 - C has used L for past crime/fraud
 - C uncooperative or repugnant
 - financial h'ship on L or C breaks prom to L
- L's duties upon W/D
 - reas notice; time to get new L
 - refund all unearned fees, papers & prop

\$ Fees

- reas
 - must communicate basis
 - b/f or reas after commencement
 - if conting: *in signed writing*
 - fees & expenses
 - time/labor; novelty/difficulty; skill req'd; preclude other wrk; time limits imposed
 - factors
 - customary in locality; stakes/results; prior relationship; fixed/contingent/risk
- conting fees
 - no conting fee in crim case or domestic rel case (unless past-due amounts)
 - agree in *signed* writing: how fee calcul'd; expenses to be deducted; net v. gross
 - give disbursement stmt at end
- collection
 - L has charging lien on proceeds
 - L must retain disputed portion in trust
- splitting
 - no referral fees
 - but can have disclosed, nonexcl referral arrgmt
 - can share w/ *firm* Ls
 - can share w/ *non-firm* Ls if
 - total fee = reas
 - either
 - in prop to servs
 - or Ls assume joint respons
 - C agrees in writing that discloses Ls' shares

👓 Scope

- L may limit scope if reas & C gives informed consent
- C's decisions: to settle, plead, waive jury, testify in crim case, appeal
- L can't
 - assist in crime/fraud, but can discuss conseq's of proposed cond
 - provide assistance in viol of Rules
- dim cap C
 - L must try to maintain normal rel
 - if subst'l risk of harm, L may take protective action and discl confid info
 - if imminent & irreparable harm, L may take action on behalf

📞 Communication

- incl'dg all settlmnt offers
 - circs req'ing "informed consent"
 - status & means of accomplishing objectives
 - respond to reas requests for info
 - consult w/ C when C wants unethical assistance

can get quantum meruit \$

Competence/Diligence

Malpractice

- disting from discipline**
 - civil court not discipl tribunal
 - adversary is injured P
 - purpose is to compensate; not to punish or protect publ
- relev of Rule viol**
 - no presumption of malpr
 - relev evid re whether L's cond fell below std of care
- theories of liab**
 - int'l tort: fraud; misrep; malicious prosec; abuse of process; conversion
 - breach of fid duties of loyalty & confid
 - breach of K
 - neglig
 - duty of care
 - breach of duty
 - legal causation
 - damages
- misc**
 - L can limit prospective malpr liab *only if C is indep rep'd*
 - advises C *in writing* re advisability of indep L
 - gives C time to consult indep L
 - L can't settle malpr claim w/ unrep'd C unless L
 - malpr insurance: not req'd except Oregon

Competence

- legal knowledge/skill**
 - complexity/specialized nature
 - L's gen'l experience
 - L's training/experience in particular field
 - L's ability to prepare and study
 - feasible to consult w/ other L?
 - emergency situation?
- thorough preparation**
- must maintain competence through CLE**

Diligence

- must be zealous, but not uncivil
- must control workload
- must conclude matter & clarify end of L-C relationship
- solo L must have succession plan in place

Trust Acct'g

- L must notify, segregate, safeguard, deliver & account to C re prop
- in state of practice; only C money (excpt bank fees)
- indiv acct: necess if subst'l interest to earn
- trust acct
 - pooled acct
 - IOLTA gen'lly req'd (const'l post *Brown*)
 - advances for fees/costs
 - funds in
 - disputed funds
 - third-party funds
 - keep completed records for 5+ yrs

Confidentiality



rule: can't compel discl of confid communic b/w L and C if subj matter of communic concerns prof'l rel b/w L & C

"L"
 person authorized, or reas believed by C to be authorized, to practice law
 not acting in other capacity (friend, father, etc)
 includes L's agents

"C"
 person/entity seeking legal services; includes prosp'tv C
 communicate at direction of superior
 purpose of communic to obtain leg adv for corp
 corporate empee if
 subj of communic w/in scope of employees duties

"communic"
 usually *not* mechanical details of L-C rel (client ID, fee, existence of L-C rel)
 unless w/d discl commun
 not preexisting docs or things

"confid"
 intended to be confid
 reas belief no outsider will hear
 third-party OK if present to further L-C rel

misc
 C--not L--hold priv and decides to waive or assert; L has duty to assert
 duration: indefinite; survives term of L-C rel, and even death of C
 C seeks L's services to perp future crime/fraud
 communicate relev to brch of duties arising out of L-C rel

excep's
 civil litig b/w persons who were joint Cs of L
 L furnishes evid re competency or intention of C re disposition of prop by will or inter vivos xfr

Wrk Prod Doctrine
 prep'd by L for litig or in anticip of litig
 subst'l need
 and inability to gather w/o undue h'ship
 no discl unless
 no discl of Ls mental impressions or opinions

Gen'l

two sources
 ethics rules (1.6)
 attorney-client priv

rel b/w sources
 gossip v. compulsion
 1.6: prohibits vol discl
 a/c priv: prohibits compelled discl

kinds of info covered
 1.6: *all* info relating to rep
 a/c priv: *only* confid communications

use v. disclosure
 1.6: regulates disclosure *and* use
 a/c priv: regulates *only* disclosure

Rule 1.6

gen'l
 very broad obligation
 L can't disclose info "relating to representation"
 must make "reas" efforts to prevent inadvs discl

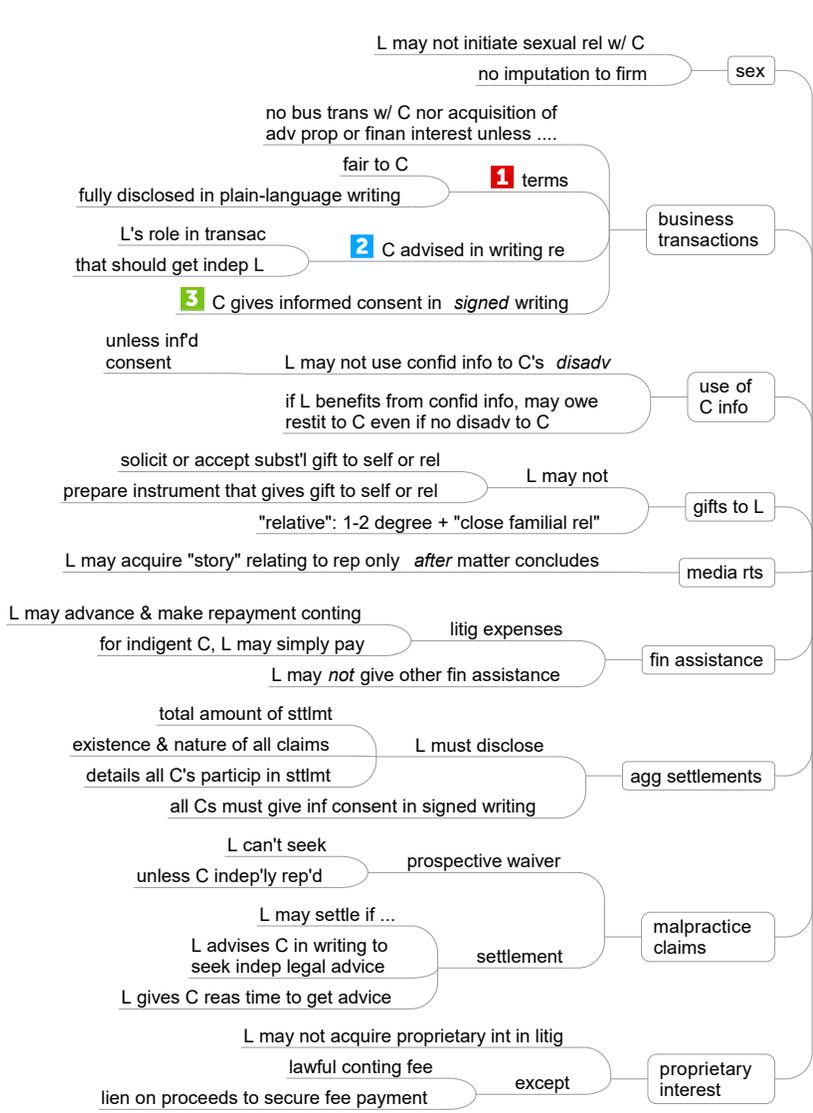
exceptions
 addresses only when disclosure is *permitted*, not when disclosure is *req'd*
 info generally known
 C gives informed consent
 L has implied authority
 to prevent reas certain death or subst'l bodily harm

to prevent fin harm if
 C will commit or has committed crime/fraud
 reas certain that subst'l fin harm will happen in future
 L's disclosure will prevent or mitigate harm
 C has used L's services re matter

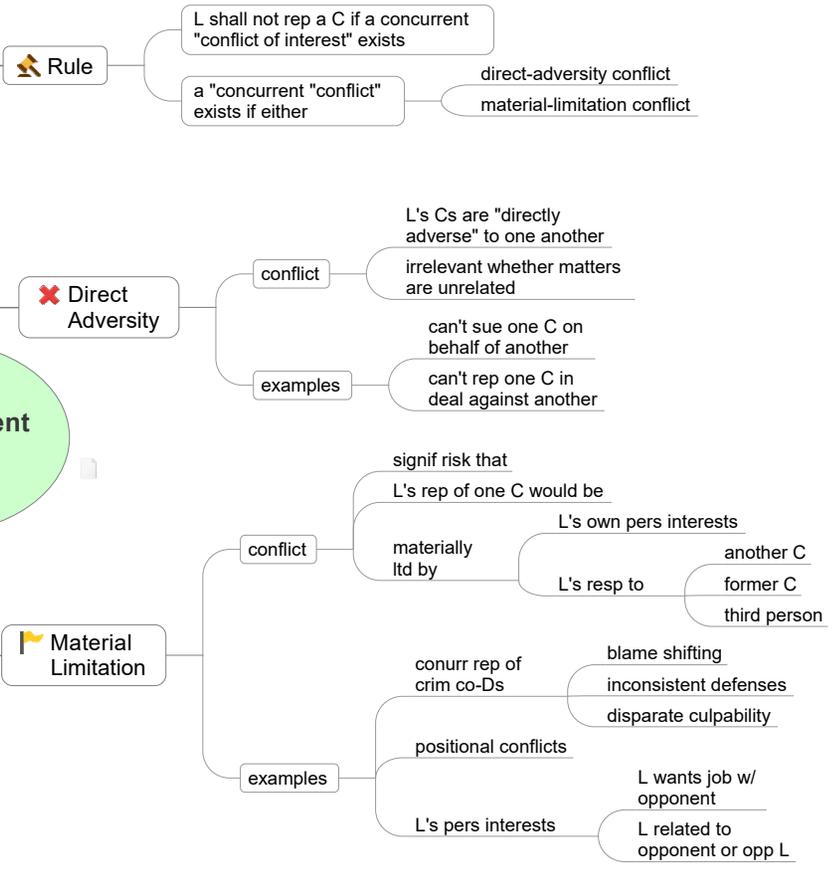
dispute re L's conduct
 reveal on as-need basis
 limit to those w/ need to know
 minimize risk of harm to C

to obtain legal ethics advice
 to comply with law or court order
 to find conflicts upon employment change

Concurrent Clients



Special Rules



Former Relationships

Former Judges

- former judge can't rep pvt C re matter he particip'd personally & subst'lly
 - imputation
 - conflict imputed to firm
 - unless inf'd written consent from all parties
 - unless screening w/ notice
 - law clerk must inform judge b/f negotiating employment w/ party or L for party if participating personally & subst'lly
 - rules also apply to arbitrators, mediators, etc.

Gov't L Conflicts

- former gov't L can't rep pvt client
 - pvt wrk after gov't serv
 - in "matter" in which L particip'd "personally & substantially"
 - "matter": very narrow meaning; particular matter re specific parties
 - imputation
 - conflict imputed unless...
 - L screened
 - L gets no share of fee
 - agency given written notice
 - use of info learned during gov't serv
 - imputation
 - conflict imputed unless...
 - L screened
 - L gets no share of fee
 - ordinary conflict rules apply see Rules 1.7 & 1.9 etc.
 - gov't serv after pvt wrk
- revolving door issue : L used to work for gov't; now wants to be adv to agency (or vice versa)

Former Clients

- L owes residual duties of confidentiality and loyalty
 - confidentiality
 - must preserve confid info
 - L can't be adv to C if confid info would be relev
 - loyalty
 - L can't be materially adv to former C in
 - same matter
 - substantially related matter
 - waiver/consent : affected Cs can give informed consent, confirmed in writing

Former Firms

- migratory L issue : L moves from old firm to new firm; DQ former or new firm from matter?
 - new firm
 - can't be materially adv to C of L's old firm if ...
 - former C of new L (not just new L's old firm), see 1.9(a)
 - same or subst'lly related matter
 - and L acquired confid info relev to matter while at old firm
 - OK to screen DQ'd L at new firm if
 - DQ'd L rep'd C at prior firm
 - new firm screens DQ'd L
 - new firm provides notice and certification to former C
 - old firm
 - can't be materially adv to departed C if ...
 - same or subst'lly related to matter handled by firm
 - and a L remaining at firm has confid info relevant to matter
 - waiver/consent : affected Cs can give informed consent, confirmed in writing

Miscellaneous Conflicts Issues

Organizational Cs

L represents org--not constituents
 L must assure that constituents understand role
 may rep org and constituents; if conflict waiver needed, get from non-rep'd constituent

reporting up/out
 if L knows person violated duty to org or law
 viol may be imputed to org
 viol likely to cause subst'l inj to org
 then L must act in "best interests of org"
 must do same if fired *must* report up to highest authority *in* org
 if no relief, L *may* report *out* of org if L reas believes it neces to prevent subst'l inj to org

Sarbanes-Oxley
 applies only to securities Ls
 L must report material violations of law to CLO or CEO
 CLO must then make "approp resp"
 if L d/n like CLO's resp, L *must* report to board
 L *may* reveal to SEC if reas neces to avoid subst'l inj to org or investors or to prevent perjury to gov't

Prospective Cs

confid
 L must preserve confid info

conflicts
 L can't be adv to prospec C in same or subst'lly rel matter ...
 ... if confid info could "significantly harm" prospec C
 can get prospec C to waive/consent

gen'l
 L tried to avoid exposure to confid info
 L screened and d/n share fee
 written notice given to prospec C
 no imputation if

Gen'l

conseq's
 if conflict pre-rep: L must decline
 if conflict during rep L must w/d
 L will be involuntarily DQ'd
 any conflict discipline
 malpractice liab, if resulting damage
 imputation Ls in "firm" treated as single unit for conflicts purposes
 "firm": trad firm; corp law dept; pub def office; etc.
 exception: personal interest conflicts

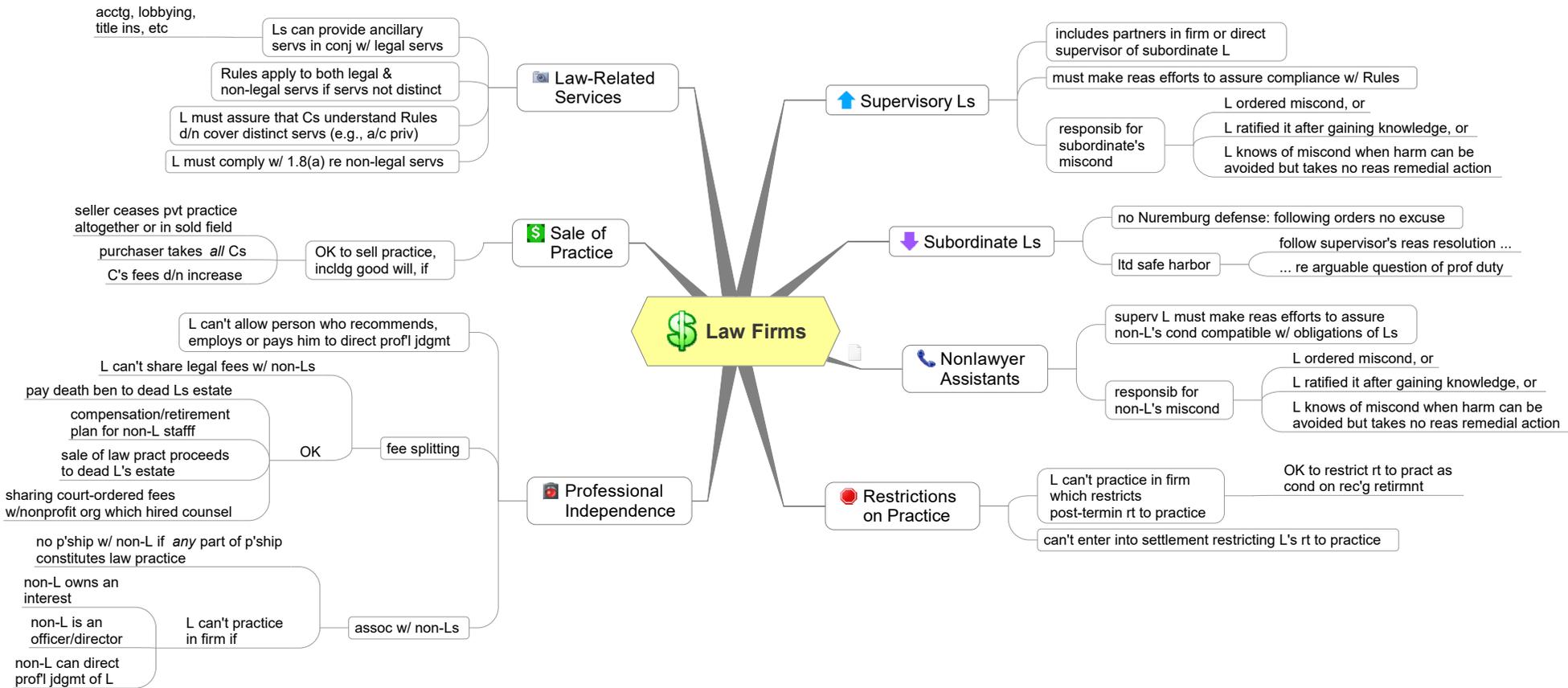
waiver/consent
 C can waive/consent to conflict if
consentable: reas L wld conclude conflict wld not impaire Ls rep
no direct suit: one C is not suing another C in same litig
informed consent: C must give inf consent
confirmed: inf consent must be confirm'd in writing

Third Persons

compensation from 3P
 L may not accept
 unless C gives informed consent in writing
 3P d/n interfere w/ L's independence
 C confid info is protected

insurance
 L typically reps *insured*
 poss conflicts b/w insurer & insured
 coverage
 settlement w/in limits
 limits on defense fees

Law Firms



acctg, lobbying, title ins, etc

Ls can provide ancillary servs in conj w/ legal servs

Rules apply to both legal & non-legal servs if servs not distinct

L must assure that Cs understand Rules d/n cover distinct servs (e.g., a/c priv)

L must comply w/ 1.8(a) re non-legal servs

Law-Related Services

Supervisory Ls

includes partners in firm or direct supervisor of subordinate L

must make reas efforts to assure compliance w/ Rules

responsib for subordinate's misconduct

L ordered misconduct, or
L ratified it after gaining knowledge, or
L knows of misconduct when harm can be avoided but takes no reas remedial action

seller ceases pvt practice altogether or in sold field

purchaser takes all Cs C's fees d/n increase

OK to sell practice, incldng good will, if

Sale of Practice

Subordinate Ls

no Nuremburg defense: following orders no excuse

follow supervisor's reas resolution ...
... re arguable question of prof duty

limited safe harbor

Law Firms

L can't allow person who recommends, employs or pays him to direct prof'l jdgmt

L can't share legal fees w/ non-Ls

pay death ben to dead Ls estate

compensation/retirement plan for non-L staff

sale of law pract proceeds to dead L's estate

sharing court-ordered fees w/nonprofit org which hired counsel

fee splitting

OK

Professional Independence

Nonlawyer Assistants

superv L must make reas efforts to assure non-L's cond compatible w/ obligations of Ls

responsib for non-L's misconduct

L ordered misconduct, or
L ratified it after gaining knowledge, or
L knows of misconduct when harm can be avoided but takes no reas remedial action

Restrictions on Practice

L can't practice in firm which restricts post-termin rt to practice

OK to restrict rt to pract as cond on rec'g retirmt

can't enter into settlement restricting L's rt to practice

no p'ship w/ non-L if any part of p'ship constitutes law practice

non-L owns an interest

non-L is an officer/director

non-L can direct prof'l jdgmt of L

L can't practice in firm if

assoc w/ non-Ls

Advertising & Solicitation

🤢 Advertising

- 1st Amdt rt
 - L adv is "comm'l spch" subj to intermediate scrutiny under 1st Amdt
 - 1** gov't must have subst'l int in regulation
 - 2** reg must directly & materially advance that int
 - 3** reg must be narrowly tailored
- no false or mislead'g comm of *any kind*
 - incl unjustified expectations
 - incl unsubst'd comparisons
- limits on ads
 - L must obtain C consent to use name
 - ad must ID name and address of at least one L
- L can't give anything of value for case
 - OK to pay usual charges of legal serv plan
 - OK to pay qualified lawyer referral serv
 - reciprocal referral agreements OK if
 - nonexcl
 - tell C
 - d/n interf w/ prof'l jdgmt of definite duration

🚩 Solicitation

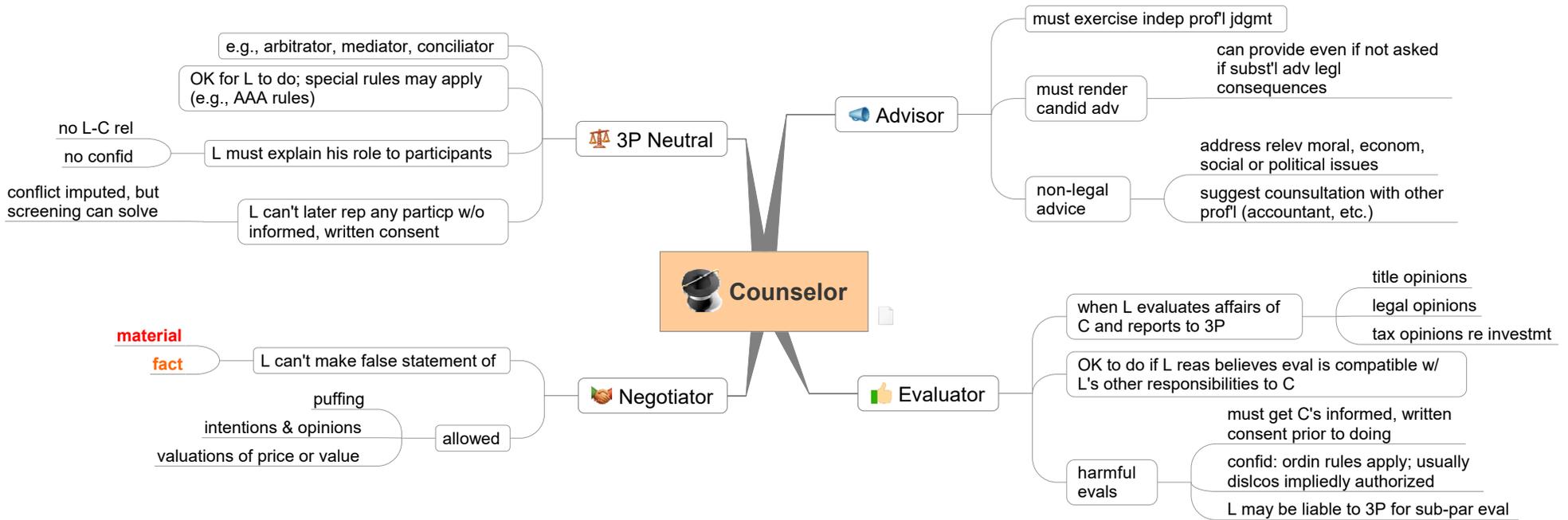
- no in-person, live phone or IM chat contact w/ prosp C
 - if "signif motive" was L's pecuniary gain
 - unless
 - prior prof'l relationship
 - close friend
 - family member
 - another L
- targeted mail OK
 - unless
 - coercive or harassing
 - prosp C says "don't contact me"
 - must label as "advertising material" on envelope, letter and "re" line
 - unless OK to solicit
- L particip in group or prepaid legal services plans OK
 - even though provider engaged in-person solicitation
 - L may market servs to providers

✉️ Firm Names

- can't imply association or p'ship if untrue
- if dead or retired
 - not if L is no longer practicing w/ firm and holds pub office during a subst'l period
 - partner's name can remain after departure
- can't mislead
 - trade names OK
 - can't imply connection to gov't
- if multi-state firm, must ID where Ls admitted to practice
- but single "firm" for conflicts purposes
 - firms can claim assoc if regular, on-going relationship

🔍 Fields of Practice

- L may communicate fields of practice
- state ABA
 - L certified as specialist may claim "specialist" if certifying body was approved by either
- patent and admiralty Ls can use designation



Counselor

3P Neutral

e.g., arbitrator, mediator, conciliator

OK for L to do; special rules may apply (e.g., AAA rules)

L must explain his role to participants

no L-C rel

no confid

conflict imputed, but screening can solve

L can't later rep any partic w/o informed, written consent

Advisor

must exercise indep prof'l jdgmt

must render candid adv

can provide even if not asked if subst'l adv legl consequences

non-legal advice

address relev moral, econom, social or political issues

suggest consultation with other prof'l (accountant, etc.)

Negotiator

L can't make false statement of

material

fact

puffing

intentions & opinions

valuations of price or value

allowed

Evaluator

when L evaluates affairs of C and reports to 3P

title opinions

legal opinions

tax opinions re investmt

OK to do if L reas believes eval is compatible w/ L's other responsibilities to C

harmful evals

must get C's informed, written consent prior to doing

confid: ordin rules apply; usually disclos impliedly authorized

L may be liable to 3P for sub-par eval

Advocate re Tribunals

Legisl/Admin Proceedings

- L must discl if appearing in representative capacity b/f legis, board, or other rule-making body
- applies if official hrg w/ evid/arg*
- L rep C in bilateral negotiaons w/ gov't
- L rep C in license applic
- gov't investigating C
- gov't is examining C's compliance w/ reporting req'ts
- d/n apply if
- duty of candor

Frivolous Claims

- L can't assert frivolous position
- L for crim D can force DA to prove every element of crime
- no gf arg under existing law
- no gf arg to change law

Expediting Litigation

- L must make reas efforts to expedite litig
- C's contrary int
- L d/n need to harm C's legit interests
- delay for fin benefit is not a legit int of C

Decorum of Tribunal

- 1.6 no limitation
- duty till end of proc'dg
- L must reveal corruption of proceedings by any person
- corruption
- L can't seek to infl judge, official or juror by improp means
- OK in cc'd writing
- judge
- during trial: none
- jurors
- after: OK unless
- no ex parte communic
- legal prohib
- harassmt
- juror stiffarms
- no cond intended to disrupt trib
- includes depos
- disruptive cond
- can't make knowing false stmt re qualif or integ of judge or candidate
- stmts re officials
- L running for office must comply w/ Code of Jud Cond

Candor to Tribunal

- re law
- can't knowingly make *any* false stmt of law
- must correct prior *material* false stmt of law
- must reveal directly adv author in controlling jurisd
- no gen'l oblig to find or report bad facts except ...
- in ex parte proc'dg, all material facts necc for infirm'd decision
- responses to lawful discovery
- if proscutor, *Brady* exculpatory info
- re facts
- L's assertions
- can't knowingly make *any* false stmt of fact
- must correct prior *material* false stmt of fact
- Ws & evid
- L must not offer *any* evid L "knows" is false
- if "*material*" evid inadvertently offered, L must take reas rem measures
- must rat out C
- 1.6 no limitation
- duty till end of proc'dg

Advocate re Miscellaneous

Prosecutors

- gen'l: must seek justice, not just conviction
- can't prosecute w/o prob cause
- must protect accused's rt to counsel
- can't seek waiver of important pretrial rts from unrep'd D
- re guilt, incl'd'g W impeachment
 - re punishment
 - must discl known exculpatory info
- no subpoena to L *unless* evid: not priv'd; essential; and, otherwise unavail
- no extrajud stmt if subst'l likelihood of heightening pub condemn of accused
- pub stmts
 - OK: dry facts re charge; pub info; scheduling info; request for inform; warnings to pub
 - OK: routine booking info re D
- wrongful convic
 - if new, credib evid that reas likelihood of wrongful conv, P must discl evid
 - if clear and conv evid of innoc def in P's jurisd, P must seek to remedy convic

Fairness to Opponent

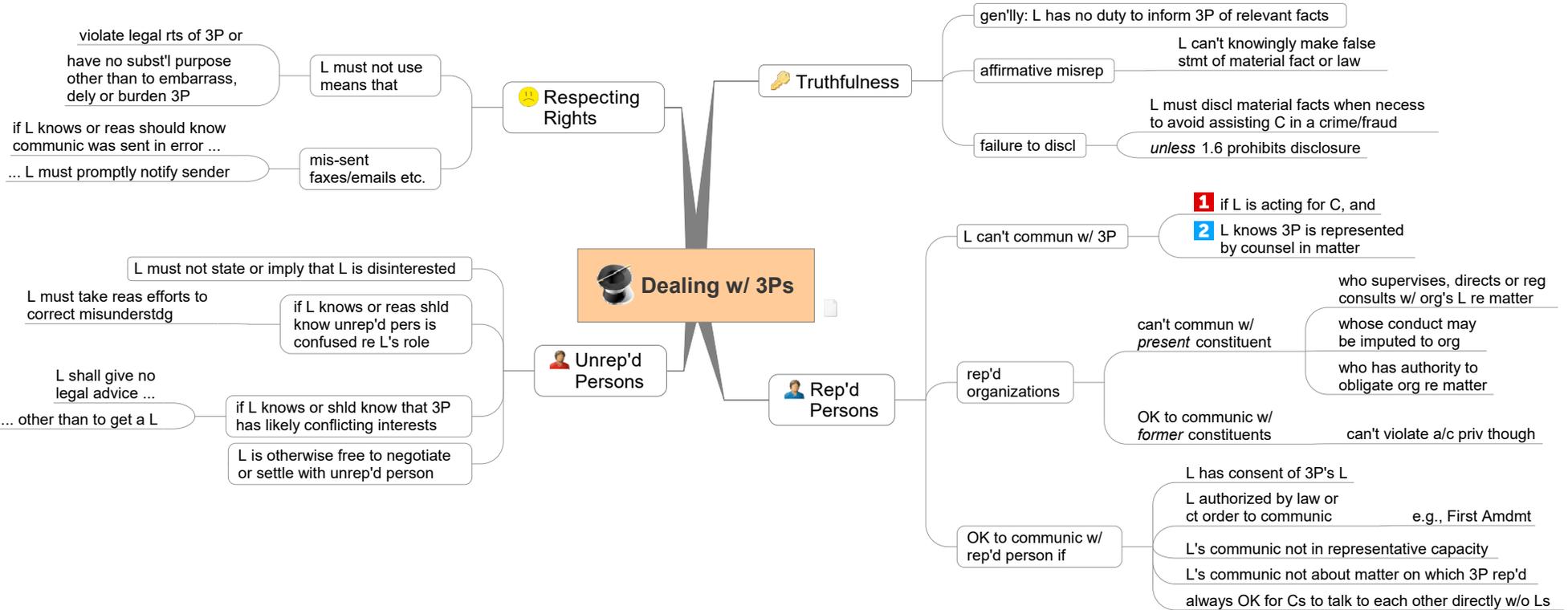
- L can't obstruct opponent's access to evid, incl'd'g via alteration or concealment
- L can't falsify evid, or assist a W to testify falsely
- paymnts to W
 - can't offer inducement to W prohibited by law
 - OK: travel, meals & lodging of W; reas comp for W's loss of time; expert fee for prep and testim; can't be conting on testim or outcome
- W non-coop
 - can't advise W to be unavail
 - OK to adv W to refrain from giving vol info if
 - W is C or rel, employee or agent of C
 - and, L reas believes W's int won't be harmed
- law/rules/orders
 - L can't knowingly viol law/rules/orders of court
 - exception: L can *openly* violate to challenge validity
- discov abuse
 - L can't make friv discov req
 - L must make reas effort to comply w lawful discov req
- trial tactics
 - L can't refer to irrelev or inadm evid
 - L can't assert pers knowledge of contested facts
 - L can't state pers opinion re justness of cause, credibility of W, guilt or culpab of party
- threats
 - L *can* threaten non-friv crim chgs to gain civil case adv, if closely related
 - L *can't* threaten disciplinary report re opp L to gain civ case adv

L as Witness

- pretrial wk OK
- no imputation
 - L can't be *trial* counsel and neces W
- OK:
 - L testim re uncontested issue or re formality
 - L testim re nature or value of L's legal servs
 - L DQ would cause C "subst'l hardship"

Publicity

- L can't make extrajud publ stmt L reas shld know has subst'l likelihood of materiallly prej case
- L may reply to recent pub not initiated by L or L's C



violate legal rts of 3P or have no subst'l purpose other than to embarrass, dely or burden 3P

L must not use means that

Respecting Rights

if L knows or reas should know communic was sent in error ...
... L must promptly notify sender

mis-sent faxes/emails etc.

L must not state or imply that L is disinterested
L must take reas efforts to correct misunderstdg

if L knows or reas shld know unrep'd pers is confused re L's role

Unrep'd Persons

L shall give no legal advice ...
... other than to get a L

if L knows or shld know that 3P has likely conflicting interests

L is otherwise free to negotiate or settle with unrep'd person

Dealing w/ 3Ps

Truthfulness

gen'lly: L has no duty to inform 3P of relevant facts

affirmative misrep

L can't knowingly make false stmt of material fact or law

failure to discl

L must discl material facts when neces to avoid assisting C in a crime/fraud
unless 1.6 prohibits disclosure

L can't commun w/ 3P

1 if L is acting for C, and
2 L knows 3P is represented by counsel in matter

rep'd organizations

can't commun w/ present constituent

who supervises, directs or reg consults w/ org's L re matter
whose conduct may be imputed to org
who has authority to obligate org re matter

OK to communic w/ former constituents

can't violate a/c priv though

OK to communic w/ rep'd person if

L has consent of 3P's L
L authorized by law or ct order to communic e.g., First Amdmt
L's communic not in representative capacity
L's communic not about matter on which 3P rep'd
always OK for Cs to talk to each other directly w/o Ls

Public Servant

Political Contributions

anti "pay to play" provision

L may not accept gov't legal wk or jud appt if L made or solicited political contrib *for purpose of obtaining employment*

uncompensated servs

appts based on indep selection process

appts based on random/rotating process

d'n affect

Law Reform Activities

L can serve as member of law ref group even though reform may harm L's Cs

need not identify C

if L knows reform may materially *benefit* L's C, L must disclose fact

Pro Bono

L has "prof resp" to provide legal servs pro bono

"should aspire" to do 50 hrs/year pro bono

no disciplinary enf

subst'l maj shld be for poor

Legal Servs Orgs

L *can* serve org that is adv to L's regular Cs

L who is officer of legal servs org d/n have L-C rel w/ Cs served by org

L *can't* knowingly particip in decis

if incompatib w/ gen'l conflict Rules

if wld adv affect org's Cs who are adv to L's pvt Cs

Quick-Advice Programs

L must obtain C's inf'd consent to ltd scope of rep

conflict Rules relaxed

ordin Rules apply if quick-advice C later hires L

only misconduct if L "knows" of conflict

conflict created by quick advice not imputed to L's firm

Judicial Ethics

Canon 4 Politics

- can't hold office in pol org; make speeches; endorse cand; make contribs; attend pol events; be a candidate; seek endorsements from pol orgs
- can't personally solicit contribs; use campaign contribs for private ben; use court staff to campaign
- can't make knowing or reckless false smts
- can't make pledge inconst w/ impartial perf of adjudicative duties of office
- can seek personal indorsements
- can raise funds through campaign committee

Canon 1: Independ.

- must promote integrity and impartiality
- must comply with law
- must avoid impropriety and appearance of impropriety
- must not use prestige of office to advance personal or economic interests

Canon 3: Extrajud.

- no particip in activ that interfere w jud. duties or will cause freq. DQ
- no participate in activ that is coercive or undermines impartiality
- no appearance b/f gov't body unless re legal system or pro se
- no service on gov't board unless re law or legal system
- no disclosure of nonpub info lrnd in jud capacity
- OK to attend isolated event at facility
- no affiliation w org that discriminates
- non except for family if no interfer
- fiduciary positions
- no pvt arbitration or mediation
- other services: no law practice; but can give family members advice
- business: can manage investments for self and family; can't serve as officer of business entity unless family related
- no fin activities that lead to frequent DQ or interfere
- no fin activities with Ls or those likely to come b/f court
- solicit funds from family & judges
- participate in legal, educational, civic & relig orgs
- encourage Ls to do pro bono
- OK: compensation, if d/n undermine indep and integrity; reimbursement of expenses for judge and spouse if extrajud activity is permitted by Code
- must report
- OK: plaques, certifs, etc; gifts from those who would be DQ's anyway; ordin social hospitality; things available to nonjudges
- no gifts or loans if illegal or appears to undermine indep and integrity

Canon 2: Jud. Func.

- judicial activities must take precedence over other
- must apply law fairly and impartially
- must not be biased or prejudiced
 - race, sex, gender, religion, origin, disability, age, sexual orient, status, party, etc.
 - must require lawyers and staff to do same
- must not permit external influences on jud conduct
 - public clamor
 - personal or family interests
- must be competent, diligent and cooperative w/ other officials and judges
- must give all a right to be heard; can encourage but not coerce settlement
- must decide matters unless DQd
- must require order and decorum; must be patient, dignified and courteous and require staff to be same; must not commend or criticize verdict
- ex parte
 - no ex parte communic except
 - nonsubstantive administrative purpose and judge notifies others after
 - disinterested expert on law if parties have opp to respond to advice rec'd
 - court staff and officials
 - settlement negotiations if consent of parties
 - no indep factual investigation
- no public stmts that affect the outcome or interfere w/ proceeding; no pledges or promises inconsistent w/ impartial perf. can explain court proceedings; can respond to allegations in media re a judges conduct
- DQ
 - if impartiality might reas be questioned
 - bias or prej re party or lawyer
 - personal knowledge of facts
 - judge knows 3d deg relative is L, has de minimis + interest or is witness
 - has received certain campaign contributions
 - has made public statement committing to ruling in certain way in the proceeding
 - judge was L or associated w/ L in matter
 - judge was material witness
 - previously presided over matter in other ct.
 - judge must keep informed re personal, fiduciary and economic interests
 - parties my remit DQ after discoure outside of presence of judge
- must make appointments on merit w/o nepotism or favoritism; no appointments in exchange for contributions
- judge must report disabled or impaired Ls and judges; must report substantial misconduct of Ls or judges; must cooperate and not retaliate