

**KENTUCKY BAR ASSOCIATION
RULES OF THE SUPREME COURT OF KENTUCKY**

PRACTICE OF LAW

SCR 3.130(3.5) Impartiality and decorum of the tribunal

A lawyer shall not:

- (a) seek to influence a judge, juror, prospective juror or other official by means prohibited by law;
- (b) communicate ex parte with such a person as to the merits of the cause except as permitted by law or court order;
- (c) communicate with a juror or prospective juror after discharge of the jury if:
 - (1) the communication is prohibited by law, local rule, or court order;
 - (2) the juror has made known to the lawyer a desire not to communicate; or
 - (3) the communication involves misrepresentation, coercion, duress or harassment; or
- (d) engage in conduct intended to disrupt a tribunal.

HISTORY: Amended by Order 2009-05, eff. 7-15-09; adopted by Order 89-1, eff. 1-1-90

SUPREME COURT COMMENTARY

2009:

- (1) Many forms of improper influence upon a tribunal are proscribed by criminal law. Others are specified in the ABA Model Code of Judicial Conduct, with which an advocate should be familiar. A lawyer is required to avoid contributing to a violation of such provisions.
- (2) During the proceeding a lawyer may not communicate ex parte as to the merits of the cause with persons serving in an official capacity in the proceeding, such as judges, commissioners or jurors, unless authorized to do so by law or court order.
- (3) A lawyer may on occasion want to communicate with a juror or prospective juror after the jury has been discharged. The lawyer may do so unless the communication is prohibited by law or a court order but must respect the desire of the juror not to talk with the lawyer. The lawyer may not engage in improper conduct during the communication.
- (4) The advocate's function is to present evidence and argument so that the cause may be decided according to law. Refraining from abusive or obstreperous conduct is a corollary of the advocate's right to speak on behalf of litigants. A lawyer may stand firm against abuse by a judge but should avoid reciprocation; the judge's default is no justification for similar dereliction by an advocate. An advocate can present the cause, protect the record for subsequent review and preserve professional integrity by patient firmness no less effectively than by belligerence or theatrics.
- (5) The duty to refrain from disruptive conduct applies to any proceeding of a tribunal, including a deposition. See Rule 1.0(m).