

LAWYER ETHICS
Fall 2013

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Office hours: Open door policy. In addition, I will normally be present from 1:00 p.m. to 4:00 p.m. on Tuesdays and Thursdays.

I. COURSE DESCRIPTION AND OBJECTIVES

The course will study the law of lawyering. The following outlines the course objectives:

- A. to provide a basic foundation for dealing with ethical problems that customarily confront the practicing attorney;
- B. to study and apply the ABA Model Rules of Professional Conduct;
- C. to expose students to the disciplinary rules of the state where the student intends to practice;
- D. to examine the duties, roles and responsibilities of practicing attorneys and to understand the corresponding liabilities and obligations; and
- E. to expose students to the legal issues and problems of professional liability and to suggest practical approaches to avoiding professional malpractice claims.

II. LEARNING OUTCOMES

- A. Students will learn the legal principles that apply to the regulation of lawyers, including those that apply to admission and discipline of lawyers.
- B. Starting with the commencement of the attorney-client relationship, students will learn how to identify legal ethics concerns that arise in the daily practice of law.
- C. Students will learn to analyze and address legal ethics problems that arise in representing

clients, dealing with non-clients, and serving as an officer of the tribunal.

- D. Students will learn how to avoid legal ethics problems, disciplinary complaints and legal malpractice traps.
- E. Students will obtain experience in analyzing professional responsibility problems, including many based on actual controversies and dilemmas faced by practitioners.

III. COURSE FORMAT

The class format will combine lecture and class discussion. Through exercises and hypothetical situations, students will be expected to apply legal principles and rules introduced in the reading. Students should be prepared to answer the problems in the readings, as well as the supplemental problems distributed or posed by Professor Fortney. Students will use responder units to answer questions that test students grasp of the material and provide a springboard for discussion.

IV. REQUIRED READING

Students should obtain the following:

- A. Any book that contains a complete copy of the ABA Model Rules of Professional Responsibility (published since 2012)
- B. ETHICAL PROBLEMS IN THE PRACTICE OF LAW by Lisa G. Lerman and Philip G. Schrag (3rd ed. 2012) (the Text).

Students should also read the supplemental material posted on TWEN and distributed by Professor Fortney.

V. SUPPLEMENTAL REFERENCES

THE LAW OF LAWYERING, by Geoffrey C. Hazard and W. William Hodes

MODERN LEGAL ETHICS, by Charles Wolfram

PROFESSIONAL RESPONSIBILITY: A STUDENT'S GUIDE (WEST 2012-2013) by Ronald D. Rotunda and John S. Dzienkowski

RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS (American Law Institute)

CONCISE RESTATEMENT OF THE LAW GOVERNING LAWYERS (edited by Fortney and Johnson)

LEGAL MALPRACTICE by Mallen and Smith

LEGAL MALPRACTICE LAW: PROBLEMS AND PREVENTION by Fortney and Johnson

LEGAL MALPRACTICE NUTSHELL by Johnson

For additional sources, see the *Basic Guide for Researching Legal Malpractice* and the *Hofstra Law Library Guide for researching Legal Ethics and Professional Responsibility for Lawyers*.

VI. CLASS SCHEDULE AND ASSIGNED READINGS

For a list of readings, please see the Course Schedule distributed and posted on TWEN. The schedule identifies required readings from the *ETHICAL PROBLEMS IN THE PRACTICE OF LAW* by Lisa G. Lerman and Philip G. Schrag (3d 2012) (the Text) and specific ABA Model Rules. When a Model Rule is assigned be sure and read the comments following the rule.

VII. COURSE REQUIREMENTS AND EVALUATION

A. CLASS PARTICIPATION

Students are required to attend class and to complete all reading assignments and problems. When preparing for class, students should outline the answers to the discussion questions. You are encouraged to volunteer during class discussion.

Promptness is required. If you are not present at the beginning of class, you are encouraged to join the class, but will be counted absent for the day.

Use of laptops, cell phones, and other electronic devices are prohibited during class. If you use such a device during class you will earn no points for class participation and are subject to other available discipline.

B. EVALUATION

1. CLOSED-BOOK EXAMINATION (70%)

The final exam will consist of multiple choice questions. The format of the multiple choice questions will be similar to the format used by the National Conference of Bar Examiners in the Multistate Professional Responsibility Examination (MPRE).

2. CLASS PARTICIPATION (10%)

Your class participation grade will be based on your completion of class assignments along with your contributions to class discussion.

Five absences are permitted. If you miss six classes, your grade will be lowered one step. If you miss seven classes, you must withdraw from the course.

Although you are encouraged to volunteer, you are subject to being called on during class. Failure to be prepared will affect your class participation grade. If you prefer not to be called on for a particular class, you should advise Professor Fortney in writing, before class commences, that you would like to take a "pass." You are allowed two passes during the semester.

3. WRITING PROJECT (20%)

This project requires that you conduct a "legal ethics" review of one full-length movie that focuses on lawyers conduct. The review requires that you read and apply the disciplinary rules applicable in a state where you may want to practice law.

This project is to be completed as a group exercise. The group will submit one paper and everyone earns the same grade on the paper. The group will consist of four persons. Additional instructions on organizing the group and group work will be distributed.

After viewing the movie, your group should write a short review, outlining and analyzing the legal ethics issues, dilemmas, and violations you see. In your discussion, note applicable violations under the state rules you elected to apply. You should also include observations related to your group discussion of legal ethics issues.

The review will be evaluated on the basis of content, preparation, analysis, composition and organization. Your review should demonstrate that you can

recognize ethical problems and apply disciplinary rules. No outside research is necessary.

The review **shall not exceed five double-spaced pages, using a traditional 12 point font and one inch margins.** The review is due November 20th at noon. No credit will be earned for papers turned in after that time.