SYLLABUS FOR PROFESSOR DESTEMANO’S COURSE
IN LAWYERS’ ETHICS

HOFSTRA LAW SCHOOL

Section: Spring 2016
Room: KOPPL 206
Professor: Hon. Vito M. DeStefano
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Course Materials


2. Steven Gillers
   Regulation of Lawyers: Stat. Supplement Concise
   (WoltersKluwer 2016)

3. Monroe H. Freedman and Abbe Smith
   Understanding Lawyers’ Ethics (4th ed.)
   (Lexis/Nexis)

Purpose of the Course: The rules of law governing lawyers’ professional conduct are studied through the ethics rules, lectures, text, cases, problems and class discussion. Principal attention is given to the lawyer’s role in an adversary system, lawyer-client confidentiality, and conflicts of interest. This is a required course that must be taken in either the second or third year for full-time students, or second, third or fourth year for part-time students.

Learning outcomes:

1. Students will learn to identify ethics issues arising within the legal profession.
2. Students will learn to apply attorneys’ ethics rules to issues arising from representation and to analyze problems relating thereto.
3. Students will learn to distinguish between the moral and “attorneys’ ethics” dimensions of such problems and analyze conflicts in regard to same.
4. Students will learn the sources of ethics rules.
5. Students will learn methods to avoid and resolve ethics issues and conflicts.

Communications: The best way to communicate with me is by email. I will try to get back to you within 24 hours. While I do not maintain regular office hours at the school, if
you need to speak with me in person, we can set up an appointment either before or after class, or at a mutually convenient time and place at school.

**Classes:** This is a two-credit class scheduled to meet every Thursday, in Room 206, from 6:10 p.m. until 8:00 p.m., commencing Thursday, August 20, 2015 and continuing through Thursday, November 19, 2015.

**Attendance and Preparation:** Participation in class will be considered in your final grade and attendance will be taken. Participation may raise your grade by one-half a grade. More than two unexplained absences may result in the lowering of your grade.

Discussions in class will primarily center on analysis of the problems set forth in the Lerman & Schrag text. Your preparation for the final examination will to a great extent consist of your engagement and participation in these discussions.

Sometimes you can’t avoid missing a class. If you know in advance that you will be missing a class for a compelling reason, or if you have missed a class due to illness or emergency, please send me an e-mail, briefly explaining the situation.

It is better to come to class late, or leave early, than to not come at all. If circumstances require you may walk in late, or leave early, as long as you do not abuse this privilege.

**Examination and Grades:** The course will be graded on the regular A-B-C grading scale.

Unless the enrollment for this class is 25 or less, the Mandatory Curve Grade Table and the Target Grade Table, set forth at pp. 21-22 of the 2015-2016 Hofstra Law School Student Handbook, will govern the distribution of grades in this class. Even if the enrollment is of 25 or fewer students, the Target Grade Table will be utilized as a rough guide to the distribution of grades.

The grade will be based mainly on the final exam. Your grade may be adjusted upwards based on class participation.

**Schedule:**

**WEEK 1: Thursday, January 14, 2016**

a. Introduction to the course.

b. Institutions that regulate lawyers

c. The New York Rules of Professional Conduct

d. Admission to practice
Pages Assigned for Week 1:  1-12, 24-76
and Freedman §§ 1.03-1.04, 4.02-4.04

Problems Assigned for Week 1:  1-2 and In re Mustafa

http://www.nybarexam.org/Admission/April2015/Part%20I_Application_04.21.15.pdf


WEEK 2: Thursday, January 21, 2016

a. Professional discipline

b. The basic principle of confidentiality

Pages Assigned for Week 2:  73-154, 160-184, and Freedman §§ 5.01-5.02 and 5.05-5.07

Problem Assigned for Week 2:  2-2, 3-1, 3-2, 3-3, 3-4 and 3-5

WEEK 3: Thursday, January 28, 2016

a. Risk of future injury or death

b. Other exceptions to the duty to protect confidences

Pages Assigned for Week 3:  185-228, and Freedman §§ 5.07

Problems Assigned for Week 3:  3-6, 3-7

* Except as noted, all “Pages” references are to the Lerman & Schrag text. “Freedman” references are to the late Professor Monroe Freedman’s book.
WEEK 4: Thursday, February 4, 2016

a. Attorney-Client Privilege and the Work Produce Doctrine compared

b. The privilege for corporations (beg. p.265)

Pages Assigned for Week 4: 231-277, 280-291
Problems Assigned for Week 4: 4-4, 5-1
NYS Bar Assn Ethics Opinion 837
Alton Logan Revisited

WEEK 5: Thursday, February 11, 2016

a. Lawyers’ duties of competence, honesty, communication, and diligence

b. Candor and communication

c. Candor in counseling

D. Terminating a lawyer-client relationship (p.370)

Pages Assigned for Week 5: 291-346, 357-377
CPLR 321
Problems Assigned for Week 5: 5-2, 5-5, 5-8

WEEK 6: Thursday, February 18, 2016

a. Judges and Judicial Ethics

Pages Assigned for Week 6: 621–642

Problems Assigned for Week 6: 10-2, 10-3

Silber v Silber, 84 AD3d 931 [2d Dept 2011]

22 NYCRR Part 100 (generally); 100.2; 100.3; 100.3(A); (D); 100.4
22 NYCRR Part 101

Advisory Opinion 10-122
http://search.nycourts.gov/search?site=acje&client=acje_frontend&output=xml_no_dtd&proxystylesheet=acje_frontend&proxy_custom=<HOME/>&filter=0

WEEK 7: Thursday, February 25, 2016

a. An introduction to conflicts of interest

Pages Assigned for Week 7: 380-421

Problems Assigned for Week 7: 6-1, 6-2, 6-3, 6-5

WEEK 8: Thursday, March 3, 2016

a. Conflicts continued
b. Representing both parties to a transaction
c. Representing organizations
d. Representing criminal co-defendants

Pages Assigned for Week 8: 423-450

Problems Assigned for Week 8: 7-1, 7-2, 7-3, 7-4, 7-5

Additional Assignment: Movie: Michael Clayton

WEEK 9: Thursday, March 10, 2016

a. The nature of conflicts between present and former clients
b. Duties to former clients

Pages Assigned for Week 9 471-517
Problems Assigned for Week 9  8-1, 8-2, 8-3

WEEK 10: Thursday, March 17, 2016
a. Conflicts between lawyers and clients

Pages Assigned for Week 10  522-605
Problems Assigned for Week 10  9-1, 9-2, 9-3, 9-4

WEEK 11: Thursday, March 24, 2016
a. Lawyers’ duties to the courts

Pages Assigned for Week 11:  644-727 and
Freedman §§ 6.01-6.03, and 6.13
Problems Assigned for Week 11:  11-1, 11-2, 11-3, 11-4, 11-5, 11-6

WEEK 12: Thursday, March 31, 2016
a. Concealment of documents and evidence in civil cases
b. Communications with lawyers and third persons

Pages Assigned for Week 12:  684-703, 729-787
Problems Assigned for Week 12:  11-7, 11-8, 12-4

WEEK 13: Thursday, April 7, 2016

Spring Recess
WEEK 14: Thursday, April 14, 2016

a. Advertising

b. Restrictions on legal services for non-lawyers

c. Pro hac vice admission

Pages Assigned for Week 13: 791-833, 906-918, 839-848

Problems Assigned for Week 13: 13-4, 14-1, 15-1, 15-2

WEEK 15: Thursday, April 21, 2016

a. Pre-examination review

WEEK 16: April 28, 2016 (or as otherwise scheduled during the exam period)

Final Examination