

LAWYER MALPRACTICE SYLLABUS

FALL 2016

Prof. Bennett Wasserman

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Secretary: Joyce Cox; Room 216C, Ext. 36339.

Purpose of the Course and Learning Outcomes:

This course explores legal malpractice law, policy, practice and problems. In addition to studying the civil liability claims and defenses relating to legal malpractice, the course will survey the development of new theories of liability that over the past three decades have expanded the accountability of practicing lawyers to clients and non-clients alike, for their professional services. In addition, the course will cover the role of the Rules of Professional Conduct on lawyer liabilities and approaches to managing risk, prosecuting and defending legal malpractice claims and ethics violations.

This course is designed to: 1) enable students to learn the law and policy related to the professional liability of lawyers; 2) expose students to legal malpractice issues encountered by practicing lawyers in a variety of substantive areas of law; 3) familiarize the student about the central role played by expert witnesses in legal malpractice litigation; 4) enable students to identify, analyze, address and prevent common malpractice traps; 5) familiarize the students with the litigation process that is unique to legal malpractice litigation; 6) to survey how different states have developed their own unique approaches to legal malpractice law; 7) to conduct oneself in the practice of law in accordance with the Rules of Professional Conduct in such a way that would help to minimize liability risks to the lawyer and his or her law firm. The class will combine lecture and seminar style class discussion of assigned reading materials, a portion of which is taken from actual cases in which the professor has been professionally involved as either an advocate or expert witness. It is planned to have several guest participants, who are prominent practitioners on both the plaintiff and defense side of the bar. By the end of the course, students will have command of the most important concepts involved in legal malpractice law from both the plaintiff and defendant perspectives.

Course Materials, Course Outline and Reading Assignments:

The course will utilize materials that I have hyperlinked to the internet at www.legalmalpracticelawreview.com under the “CLE” tab on the horizontal navigation bar. After clicking on “CLE”, scroll down on the page entitled “Lawyer Malpractice: Cases and Materials” and you will find the **Course Outline and Reading Assignments**, with hyperlinked materials, for all fourteen class meetings during the Fall 2016 semester, except for the required text which will be:

JOHNSON, LEGAL MALPRACTICE LAW IN A NUTSHELL (WEST, Thompson Reuters 2011). It is available in the Book Store in paperback and can also be purchased from Amazon in paper or Kindle edition

Non-internet based materials that may be referred to during the semester include the following, all of which are available on Westlaw or at the Reference Desk of the Law Library.

- 1) Mallen & Smith, Legal Malpractice (Thomson/West)
- 2) Restatement of the Law Governing Lawyers (ALI, 2000)

Classes:

This class is scheduled to meet on **TUESDAYS between 10:10 am and 12 noon in KOPPL 0227**. The first class meeting is scheduled for August 23, 2016.

Attendance Policy. The rules of the New York State Court of Appeals, the American Bar Association, and the Law School all require law students to be in good and regular attendance in the courses for which they are registered. To comply with these rules, you must attend at least 85% of your regularly scheduled classes. A student enrolled in a two-credit course may thus miss no more than two 100-minute class sessions (in other words, two regularly scheduled classes).

Sign-in sheets will be provided for each regularly scheduled class, which shall be the dispositive evidence regarding your absence from a given class. Each student is responsible for signing in. No student may sign-in for another student. Falsification of sign-in sheets is a violation of the Code of Academic Conduct.

If you exceed the permitted absences by failing to sign in, you will be administratively withdrawn from the course. No prior notice may be given, and you will receive notification from the Office of Academic Records indicating the withdrawal. Any such withdrawal may have serious ramifications for your financial aid, academic standing, and date of graduation. If you are excessively

absent from several classes, you may face additional sanctions, including but not limited to denial of certification of good and regular attendance to the New York State Board of Law Examiners, or other state bar examiners.

If you believe you must be absent from class for more than the permitted number of classes, you should contact the Office of Student Affairs as soon as possible. Accommodations will be made for students who must be absent for religious reasons and in cases of truly compelling hardship. Any request for an exception made to the Office of Student Affairs must be accompanied with appropriate documentation.

Lateness: Students are expected to be on time to class. However, it is better to come to class late than not at all. You may walk in late if you have a good reason, as long as you don't abuse this privilege.

Expected Student Workload:

The American Bar Association requires that you spend at least four (4) hours per week outside of class studying for this 2 (two) credit course. This is an average amount of time required for out of class work per week over the course of the semester. The time you will spend during the semester reviewing the readings and researching, drafting and revising the writing assignments for this course will satisfy that time commitment. This is in addition to the two (2) hours of class time over the course of the fourteen (14) week semester.

Final Grade for the Course:

The final grade for the course will be determined as follows: Fifty percent (50%) will be based on class participation and your level of preparedness for class discussions. Fifty percent (50%) will be based on the quantity and quality of your writing assignments which, depending on the quality, may qualify to appear as posts at www.LegalMalpracticeLawReview.com, should the student be interested in having his or her work posted.

Final Writing Assignment:

There is no standard final exam in this course. Instead, students are required to submit their writing assignments on a weekly basis during the course of the semester. The details of the writing assignment will be discussed at the first class meeting. The writing assignment option is not expected to fulfill the Law School's Writing Requirement.

Computer Policy:

Because this course is based almost entirely on internet resource materials, access to a laptop computer with an internet connection is important for class

participation as well as for your assignments. During class, please do not use your computers to “surf the net”, email, text message or shop. If any student does not have access to a laptop, please see me so that arrangements can be made to have one available.

Communications:

The best way to communicate with me is by email at **legalmalguru@gmail.com**. I will get back to you within 24 hours. While I do not maintain regular office hours at the Law School, if you need to speak with me in person, we can set up an appointment either before or after class. You can also reach me by phone or text on my cell phone: (201) 803-6464, I am also available on Skype (benwasserman18) or Facetime (201.803.6464).

Prof. W.

August 16, 2016