Law B510: Problems in Professional Responsibility
University of Washington School of Law

Summer Quarter 2015 (June 22 through August 1) | TTh | 9:05 – 11:40 a.m.* | Room 207
*NEW AGREED TIMES BEGINNING JUNE 30.

Instructor, Kim Ambrose | Room 243 | kambrose@uw.edu | 685-6806 | Office hours: W 10:30-12:30 p.m. or by appointment.

Course Assistant, Casey Leichter | Room 263 | 543-3450

Course Description: In this course, we will consider the Model Rules of Professional Conduct, as well as state and federal rules that govern lawyers and their responsibilities to their clients, the courts, the public, and the profession. While most of us do have strong moral codes that guide us through difficult decisions, it is important to understand at the outset that the ethical rules that govern our profession are not necessarily intuitive, and lawyers often face ethical dilemmas to which the rules and their interpretation provide no clear answer. Learning the basic rules and their application is very important – and will be tested when you sit for the bar – but this course also asks you to consider the gray, or more complicated, ethical questions that arise in every area of practice, as well as the meaning of ethics, morality, and the lawyer’s role in serving justice.

Course Expectations:

I will evaluate your work based on your performance on the final exam, your participation in class, and your work leading one in-class discussion, as follows:

- 30 points: Class participation. Because we will be covering a large amount of material in a shortened period, class attendance is critical. I will excuse two absences in the event of an emergency or a preexisting conflict. In the event of a known conflict, you must inform me no later than June 23rd (the first day of class) of that conflict, and I will provide a make-up exercise. Failure to do so will result in a loss of 1 point for each class missed.

  At the beginning of most classes we will do short warm up exercises similar to the types of multiple-choice questions found on the Multistate Professional Responsibility Exam (MPRE). You will earn 1 class participation point for each class session where you are present and complete the exercise. There will be approximately 12-15 warm up exercise points available.

  Additional points will be earned through active participation in class discussion.

- 20 points: In-class Presentation. Each student is responsible for giving one in-class presentation during the course. These student-led discussions will begin the second week of the quarter. The presentation may be no more than 20 minutes long and will be on a topic you will choose from a list I will distribute. I will provide detailed guidelines and topics for these presentations in a separate document. Within those constraints, you are free to handle the presentation as you like. For example, you may come prepared with discussion questions to lead the class, you may choose to conduct a group exercise, or give a slide presentation. Students will sign up for these
presentations during the first week of the quarter.

- 10 points: **Student Presentation Peer Review Memos.** Providing constructive feedback to colleagues is a useful practice skill for lawyers. 1 point is available for each Peer Review Memo submitted after a student presentation. These memos should be one page maximum and should be submitted within 48 hours of the student presentation.

- 40 points: **CLOSED BOOK final exam.** The exam will be given on **Monday, August 3, 2015 at 8:30 a.m.** If you need to reschedule, please work that out with Academic Services. The exam will last 90 minutes and will consist of some multiple-choice questions in the style of the Multistate Professional Responsibility Exam, along with other short essay questions. We will practice in class to prepare you for the format. The questions are very straightforward and will test whether you know the black-letter content of the rules and are prepared to handle the type of questions you will face on the bar exam. **You must earn at least 20 points on the exam to pass this course.** This should not be difficult. If you earn fewer than 20 points on the exam, you will be allowed to take it again. This exam will be graded anonymously, and you will receive grading numbers from Academic Services.

**Accommodations**
The UW is committed to ensuring that students with physical, mental, or sensory disabilities have equal access to its facilities and programs. To request accommodation, please contact Disability Services Office (DSO) at 206.543.6450 (TTY 206.543.6452), dso@u.washington.edu.

**Course Materials**


- The *Model Rules* of Professional Conduct. (MR). The textbook frequently prompts you to read the Model Rules and their commentary; when you see those references, please read the rules/commentary as directed.

- *The Washington Rules of Professional Conduct,* (WRPC)

- The Gallagher Law Library's [PR page](#) is an excellent resource for you both during and after this class.

Additional assigned cases and other readings are cited in the syllabus and are available online or on Canvas, as noted. Occasionally I may add or eliminate readings as the course proceeds. Therefore, if you must print any of the readings, I would not recommend doing so more than one week in advance.

**Important note about reading assignments:** This course is essentially an immersion course, where we cover a quarter’s worth of concepts in 6 weeks. That means the reading assignments are significant. Recognizing that we are all only human, I have edited some of the longer readings, and will let you know when you can skim and when you need to pay particular attention to an aspect of the reading.

**Syllabus Alert:** The syllabus will occasionally be updated. Check the website for the most recent version!
Syllabus

**Tuesday, June 23**

*Introduction to Model Rules of Professional Conduct; Admission to Practice; Legal Ethics & Philosophies of Lawyering*

- Crystal, 1-27, 34-38, 52-55
- Please read the [Preamble and Scope](#) section of the Model Rules. Also, familiarize yourself with the [Table of Contents of the Model Rules](#) and their overall structure.
- Review Washington [APR 21, 22 and 23](#)
- Review [WA Bar application](#)
- *In re Hale* (1998) ([excerpt on Canvas under Modules](#))
- *Petition of Wright*, 102 Wn.2d 855 (1984) ([excerpt on Canvas](#))
- [Shon Hopwood](#), UW '14, see also NYT, 2/2/2010, *A Mediocre Criminal But an Unmatched Jailhouse Lawyer*

**Wednesday, June 24 (50 minutes)**

*Lawyer Discipline*

- Crystal 38-52
- MR 8.3 and 8.4 (and commentary)
- **Skim** the Washington ELC and the [2013 WSBA Annual Discipline Report](#) (review process, sources of complaints and statistics on discipline p. 22-23)
- *In Re Christopher*, 153 Wn.2d 669, 105 P.3d 976 (2005) ([excerpt on Canvas](#)).
- [Lawyer at center of sex scandal](#) Seattle PI, August 19, 2002; [Sex contact with client could cost lawyer](#), Seattle PI, July 28, 2003; [High court suspends lawyer accused of having sex with murderer](#), Seattle Times, April 8, 2005.
- *In re Olson*, Order Washington Supreme Court (April 6, 2005) (on Canvas).
- Look Theresa Olson up on the [WSBA Lawyer Directory](#) to check her current status. Her WSBA Number is 16402.

**Thursday, June 25**

*The Attorney-Client Relationship: Formation, Competence, Scope, Diligence and Communication*

- Crystal 63-79
- MR 1.1, 1.2, 1.3, 1.4, 1.16 (including comments)
- [Miami-Dade’s overburdened PD’s office may decline new clients, Florida court says](#), ABA Journal, October 1, 2013.
Tuesday, June 30

**Student Presentation:** Washington Lawyers and Marijuana
(Lena Barough)

*The Attorney-Client Relationship: Scope, Allocation of Authority*

- Crystal 118-126, 481-484
- MR 1.2, MR 1.14, 2.1 (including comments)
- *In re Eugster*, 166 Wn.2d 293 (2009) (Facts only: excerpt on Canvas).
- *U.S. v. Boigegrain*, 155 F.3d 1181 (10th Cir. 1998) (Excerpt on Canvas)
- Clients with Diminished Capacity
- Skim the [Bybee Torture Memo](https://www.youtube.com/watch?v=TWHfHTGr6TI) and watch short CNN video featuring Prof. John Yoo.

Thursday, July 2

**Student Presentation:** Alternative Business Structures: Does the Law Need Investors? (Tesfahun Endeshaw)

*The Attorney-Client Relationship: Scope, Fees, Expenses, and Client Property*

- Crystal, 79-118
- MR 5.4
- WRPC 1.5(c)(4) & (f), WRPC 1.8(a) and (e), WRPC 1.15A(i)
- ABA Formal Opinion 464 (on Canvas)

*The Attorney-Client Relationship: Getting the Client: Marketing Legal Services*

- Crystal, 513-537
- MR 7.1, 7.2, 7.3 and comments

Tuesday, July 7

**Student Presentation:** The Storage of Confidential Information in the Cloud (Collin Glantz)

*The Lawyer’s Duties to the Client: Confidentiality, Attorney/Client Privilege, Physical Evidence, False Testimony*

- Crystal, 127-70.
- MR 1.6, 1.18, 2.1, 3.3, and comments
- WRPC 1.6, 3.3, and comments
- *State ex rel Sowers v. Olwell*, 64 Wn.2d 828 (1965)
- Fed Rules of Evidence 501, 502
- *ABA Standards for Criminal Justice Standard 4-4.6 Physical Evidence*
- *Lawyer Reveals Secret, Toppling Death Sentence*, NYT, January 19, 2008 (also available on Canvas).

**Thursday, July 9**

**Student Presentation:** *Ethics and Metadata* (Zhongyang Shu)

*Use of Technology, Fraud in Business Transactions*

- Crystal, 171-212
- MR 2.3, 4.1 and comments,

**Tuesday, July 14**

*The Lawyer’s Duties to the Client: Conflicts of Interest*

- Crystal, 213-267
- MR 1.7, 1.8, 1.13 and comments
- *US v. Schwarz*, 283 F.3d 76 (2d Cir. 2002) (edited version on Canvas)

**Thursday, July 16**

**Student Presentation:** *The Ethics of Ghost Writing* (Sergey Kachankov)

*Conflicts of Interest: Former Clients and Imputed Conflict; Conflicts in Context*

- Crystal, 268-292, 472-493, 497-512
- MR 1.7, 1.8, 1.9, 1.10 and comments

**Tuesday, July 21**

**Student Presentation:** *Lawyer Using Social Media* (Cheryl Lee)

*The Lawyer’s Duties to the Client: Limits on Zealous Representation*

- Crystal, 293-328
- MR 3.4, 4.2, 4.4, 5.2
- *How GM’s Lawyers Failed in Their Duties*, NYT, June 9, 2014

**Thursday, July 23**

**Student Presentation:** *Prosecutors and Evidence of Innocence Post-Conviction* (John Steinnes)

*The Lawyer’s Duties to Others: Lawyer as Officer of the Court, Discovery Abuse, Duties to Third Parties*
• Crystal, 329-346
• MR 3.4, 3.6, 3.8, 8.2 and comments.
• Stuart Taylor, Jr., Sleazy in Seattle, The American Lawyer (April 1994)
• ABA Center for Professional Responsibility, Testimony of Professor Lerman and Schrag.
• In re Gatti, 8 P.3d 966 (2000)(Excerpt on Canvas)

Special Duties of Prosecutors
• Crystal 403-419
• MR 3.8 and commentary
• State v. Monday, 171 Wash.2d 667 (2011)(Excerpt on Canvas)

Guest Lecturer: Sr. DPA, Rich Anderson, King County Prosecuting Attorney’s Office

Tuesday, July 28

Trial Ethics

• Crystal 378-403
• MR 3.4 and comments
• ABA Standards for Criminal Justice 3-5.7 (prosecution function) and 4-7.6 (defense function).

The Government Lawyer’s Duties to the Client (or the Public): Ethical Issues in Representation of the Public Interest

• Crystal 448-472
• Goldmark v. McKenna, 172 Wn.2d 568 (2011) (majority opinion only)

Thursday, July 30

Student Presentation: Deregulating the Lawyers: Washington’s Limited License Technician Rule (Ben Omdal)

Ethical Issues in Particular Areas of Practice: Alternative Dispute Resolution & Zealous Representation; Ethical Responsibilities in Access to Legal Services, Multidisciplinary Practice Professional Discipline; Judicial Ethics

• Crystal 38-52, 346-377, 537-561, 579-586
• Disciplinary Counsel v. Lapine, 128 Ohio St. 3d 87 (2010)(excerpt on Canvas)