Problems in Professional Responsibility

Law B510

Fall 2013

Professor Andrews

Syllabus

(Sept 17, 2013 Draft)

Preliminary Note: Most of the assigned materials other than those in Crystal will be found either in my WestlawNext Professional Responsibility Folder entitled “Fall 2013 Assigned Materials” which I have tried to share with all of you¹ or on the TWEN page I have created for the course.² In Crystal, there are Problems identified as such in each chapter. I plan to spend considerable time in class discussing those problems and you should prepare accordingly. Following each of these problems, there are ABA Model Rules listed with the instruction “Read.” I expect you to read the rules listed there and the comments in connection with the problems and I do not repeat those rule references in the Syllabus below. Where I have listed Model Rules below, or the Rules of other states, or the Restatement, they are intended to be in addition to the rules listed in Crystal and I would like you to read them because I believe they add to what is referenced in Crystal. In general, I expect you to read the comments of the Model Rules when these are assigned in Crystal, but I only expect you to read the black letter rules where rules are assigned other than the Model Rules unless I expressly assign the comments. For abbreviations in this syllabus, see footnote 3.³ Where I have underlined particular problem, it indicates that this problem provides a “practice exercise” opportunity to satisfy the 10% of your grade set aside for this. Where a “team” problem appears and is double-underlined, the problem provides a “team” exercise opportunity to satisfy the 10% of your grade set aside for a practice exercise. See Course Expectations. All extra problems (not found in book) may be found in the “Assigned Materials” folder on the TWEN page.

1 If you cannot find this on your WestlawNext page as a shared folder, please let me know.
2 I have tried to add everyone as a participant in this TWEN site, but if I have not included you, you should be able to add the course independently via TWEN. The TWEN site is at http://lawschool.westlaw.com/manage/homepage.aspx?courseid=121585 If you cannot access it, it probably means you were not in the drop down list that Westlaw provided me. Please talk to me about fixing this. Did you transfer from another school so that west thinks you are somewhere else?
3 Abbreviations: CB = Crystal, Professional Responsibility (5th ed 2012); WLN = WestlawNext (Andrews Shared Folder: PR/Spring 2013 Assigned Materials); TWEN = TWEN PR Webpage: “Assigned Materials” link on left; RLGL = Restatement of Law Governing Lawyers (find on Westlaw or Lexis)(see also WLN Folder titled “Restatement”); MR = ABA Model Rules (hotlinked on TWEN PR site on left); WRPC = Washington RPC (hotlinked on TWEN PR site on left); ELC = Washington Enforcement of Lawyer Conduct Rules (hotlinked on TWEN PR site on left); APR = Washington Admission to Practice Rules (hotlinked on TWEN PR site on left); GR = Washington General Rules (hotlinked on TWEN PR site on left); CJC = ABA Code of Judicial Conduct (hotlinked on TWEN site on left); Cf. = Recommended but not required reading.
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<td>1</td>
<td>Competing Approaches to Lawyering</td>
<td>CB 1-34, 52-55</td>
<td>Probs. 1-1 &amp; 1-4</td>
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<td>2</td>
<td>Admission to Practice</td>
<td>CB 34-38 Petition of Wright, 102 Wn. 2d 855 (1984)(WLN) In re Hale (IL Character &amp; Fitness (1998)(TWEN) Andrews on Admission to Practice (TWEN) Illegal Immigrants &amp; Admission (TWEN)</td>
<td>Extra Problem 1a (TWEN) Extra Problem 2 (TWEN) Extra Team Problem 1</td>
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| 5 | Fees & Property | CB 79-118  
WRPC 1.5(c)(4) & (f).  
WRPC 1.8(e) & 1.15A(i) | Probs. 2-3, 2-4, & 2-5 (put contract review & recommendations in writing, with justifications) |
|---|---|---|---|
| 6 | Confidentiality | CB 206-12, 127-48 & 197-206  
WRPC 1.6(b)  
MR 1.18  
Pillow Talk (TWEN)  
State v. Hansen, 122 Wn. 2d 712 (1993)(WLN)  
State ex rel. Sowers v. Olwell, 64 Wn. 2d 828 (1964)(WLN)  
RLGL 119 (WLN)(read comments & notes )  
ABA Standards for Criminal Justice 4-4.6 (WLN)  
Cf. In re Schafer, 149 Wn. 2d 148 (2003)(WLN) | Probs. 3-6, 3-1, 3-2, & 3-5  
Extra Problem 3a |
| 7 | Confidentiality, False Testimony & Fraud | CB 148-97  
MR 2.3  
WRPC 3.3  
WRPC 1.6(b)(7)  
| 8 | Conflicts of interest  
1 (Concurrent Client Conflicts) | CB 213-45  
MR 1.8, & 1.18, WR 1.8 | Prob 4-1 to 4-3  
Extra Probs 4, 5, & 6 (TWEN) |
| 9 | Conflicts of Interest  
2 (Concurrent conflicts in Context) | CB 245-67 (Insurance Defense & Criminal Defense)  
CB 472-85 (Family Practice)  
CB 485-93 (Real Estate Practice)  
Cf. CB 497-512 (Estate Planning & Probate Practice) | Prob. 4-4, 4-5(a), 6-5 & 6-6  
Prob. 4-5(b)(draft agreement with justifications) |
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<th>Conflicts of interest 3 (Former Client Conflicts &amp; Screening)</th>
<th>CB 268-92</th>
<th>Probs 4-6 to 4-8</th>
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<td>Zealous Representation 1</td>
<td>CB 293-328</td>
<td>Probs 5-2, 5-3, 5-4</td>
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<td>12</td>
<td>Zealous Representation 2</td>
<td>CB 329-46, Sleazy in Seattle (TWEN) CB 403-19 WRPC 3.8(g) &amp; (i) In re Andrew Thomas (AZ 2010)(pages 1-3 &amp; 233-46)(TWEN)</td>
<td>Probs 5-1, 5-5, 5-6, 5-11(a) &amp; (b) Prob. 5-11(c)(draft policy &amp; justify it)</td>
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<td>13</td>
<td>Discipline</td>
<td>CB 38-52 In re Scannell, 169 Wn. 2d 723 (2010)(WLN) or In re Sanai, 302 P.3d 864 (Wash. 2013)(WLN) Weiss v. Lonnquist, 293 P.3d 1264 (Wn.App. 2013)(WLN) Disciplinary Counsel v. Lapine, 128 Ohio St. 3d 87 (2010)(WLN) WRPC 8.3 ELC (To extent necessary to answer Problem 1-3), with a focus on Title 5 (Grievances), Title 6 (Diversion), Title 7 (Interim Suspensions, my personal favorite), Title 10 (Hearings) and Title 13 (Sanctions). <strong>Cf.</strong> In re Schafer, 149 Wn. 2d 148 (2003)(WLN)</td>
<td>Probs. 1-2 &amp; 1-3 <strong>Extra Team Prob. 2</strong> Visitor: Doug Ende (Chief Disciplinary Counsel for WSBA)</td>
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<td>14</td>
<td>Trial Ethics</td>
<td>CB 378-403 ABA Standards for Criminal Justice 3-5.7 &amp; 4-7.6 (TWEN) <strong>More TBA</strong></td>
<td>Prob. 5-9 &amp; 5-10 (evaluate the ethical issues raised in this problem &amp; be prepared to defend your resolution of each) <strong>Extra Prob. 7</strong></td>
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| 15 | Alternative Dispute Resolution | CB 346-77
Cf. RCW 7.07.010-.090 (Uniform Mediation Act)(WLN)
| 15 |  | Prob 5-7 & 5-8(a). Prob. 5-8(b)(draft statement called for, including an explanation of confidentiality) |
| 16 | Government Lawyers & Public Interest Practice | CB 448-72
MR 3.9
Goldmark v. McKenna, 172 Wn. 2d 568 (2011)(WLN)
State v. Stenger, 111 Wn.2d 516 (1988)(WLN)
Thirteen Principles (TWEN)
Fleischner & Schur (TWEN) |
| 16 |  | Prob 6-3
Prob 6-4
Vistor: Steve Fredrickson (NWJP) |
| 17 | Delivery of Legal Services to Low & Middle Income Clients | CB 537-61
WRPC 1.8(m) & cmts 25-29
Andrews on Pro Bono in WA (TWEN)
Indigent Criminal Defense Standards in Washington (2012)(TWEN) |
| 17 |  | Prob 7-4, 7-5, & 7-6(a) & (c) |
| 18 | Marketing Legal Services | CB 513-37
MR 7.6 |
| 18 |  | Prob 7-1 & 7-2 |
| 19 | Ethical Problems of Law Firms -- Intra Firm Regulation; MDP; and MJP | CB 563-89
MR 1.17
“How protected should communications between lawyers and a firm’s in-house counsel be?” (ABA Journal May 1, 2013)(TWEN)
Andrews on MDP (TWEN) |
| 19 |  | Prob 8-1 & 8-2
Prob 8-3(a) & (b)
Prob 8-3(c) |
| 20 | Review? |  |