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

Summer Quarter 2013 (July 8 through 31) | MWF | 9:30 – 12:20 | Room 207

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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. Given our very truncated schedule for this course, missing even one class may affect your ability to do well on the exam. I will excuse one absence in the event of an emergency or a preexisting conflict. In the event of a known conflict, you must inform me no later than July 8th (the first day of class) of that conflict, and I will provide a make-up exercise. There are 11 classes; you will earn 1 point for each day you attend class. You will earn an additional point for each warm up exercise that you complete at the beginning of each class. In addition to those 22 points, you may earn an additional 8 points for the quality of your participation.

- 30 points: In-class Presentation. Each student is responsible for giving one in-class presentation, along with another student, during the course. These student-led discussions will begin the second week of the quarter. The joint presentation may be no more than 20 minutes long, and related to one of the topics slated for discussion that day. 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.
• 40 points: **CLOSED BOOK final exam.** The exam will be given on **Monday, August 5, 2013 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. 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.*

• 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 4 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

Monday, July 8

*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 [Model Rules](#) in their entirety. It is not necessary to read the commentary for today’s class.
- Review Washington [APR 21, 22, 24.2](#)
- Review [WA Bar application](#)
- *Petition of Wright*, 102 Wn.2d 855 (1984)

Wednesday, July 10

*The Attorney-Client Relationship: Formation, Competency, & Allocation of Authority*

- Crystal 63-79, 118-126
- *In re Eugster*, 166 Wn.2d 293 (2009)
- Watch the 90-minute Frontline episode *The Torture Question*. Please pay attention to the discussion of legal memoranda provided to the Bush Administration by the Justice Department’s Office of Legal Counsel. You will be reading portions of one of those memos for Friday’s class.

Friday, July 12

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

*Getting the Client: Marketing Legal Services*

- Crystal, 79-118, 513-537
- WRPC 1.5(c)4 & f, WRPC 1.8(3e), WRPC 1.15A(i)
- The Bybee Memo (excerpts on Canvas)

Monday, July 15

*The Lawyer’s Duties to the Client: Confidentiality*

(Attorney/Client Privilege, Physical Evidence, Use of Technology)

*Special Duties of Prosecutors*

- Crystal, 127-48, 197-206, 403-419
- WRPC 1.6(b)
- *State ex rel Sowers v. Olwell*, 64 Wn.2d 828 (1965)
- ABA [Standards for Criminal Justice](#) 4-4.6
Guest lecturer: Anna Tolin, Innocence Project Northwest

Wednesday, July 17

Confidentiality Continued
(False Testimony, Fraud in Business Transactions, Work Product Doctrine)

- Crystal, 148-196, 206-212
- Fed Rules of Evidence 501, 502
- *State v. Berrysmith*, 87 Wn. App. 268
- WRPC 1.6(b)(7), WRPC 3.3

Friday, July 19

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

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

Monday, July 22

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

- Crystal, 268-292, 449-455
- The Margolis Memo, Jan. 25, 2010 (edited version on Canvas); available in its entirety [here](#).

Wednesday, July 24

The Lawyer’s Duties to the Client: Zealous Representation

- Crystal, 293-328

Friday, July 26

Ethical Issues in Particular Areas of Practice: Alternative Dispute Resolution & Zealous Representation

- Crystal, 346-377
- DOMS Negotiation Materials (to be distributed)
Guest Lecturer: Professor Elizabeth Ford

Monday, July 29

The Lawyer’s Duties to Others: Lawyer as Officer of the Court, Duties to Third Parties

- Crystal, 329-346, 378-403
- ABA Center for Professional Responsibility, *Testimony of Professor Lerman and Schrag.*

Wednesday, July 31

Ethical Responsibilities in Access to Legal Services, Multidisciplinary Practice Professional Discipline

- Crystal 38-52, 537-561, 579-586
- *In re Schafer,* 149 Wn.2d 148
- *Disciplinary Counsel v. Lapine,* 128 Ohio St. 3d 87 (2010)