

The Client Relationship: Fall 2017

Law 6022 3 credit hours

Monday 6:00pm - 8:45 pm Room 241

This course satisfies the Professional Responsibility requirement and is taken instead of Law 6020.

Anonymous suggestion or complaints are welcome: [Anonymous Suggestion Box](#) (operated by Survey Monkey – IP addresses are not recorded)

Professor Clark D. Cunningham, Office 210

Office Hours: Tuesday, 5:05pm – 5:30 pm in Room 241 (classroom) and by appointment

Home page: www.ClarkCunningham.org

Senior Administrative Coordinator: Karen Butler, Office 202, kpbutler@gsu.edu

No textbook to purchase at bookstore

The course is administered through a Westlaw TWEN website.

All required readings are either handed out in class and/or linked to the on-line syllabus which is updated and posted on TWEN.

Duplicated materials to be handed out (no charge) at the first class:

- (1) Materials on Georgia Legal Ethics ("GLE") (which include the Georgia Rules of Professional Conduct)
- (2) Case Studies: Volume I: The Garrow Case -- Privileged Information by Tom Alibrandi & Frank Armani (edited)
- (3) Case Studies: Volume II: (A) Suellyn Scarnecchia and the Baby Jessica Case, (B) Constance Baker Motley and the James Meredith Case

An on-line guide to Legal Ethics in Georgia is available at www.clarkcunningham.org/GeorgiaLegalEthics.htm

COURSE INFORMATION

COURSE GRADE:

The course grade will be calculated as follows:

40%: Paper: 6-8 double-spaced pages, due mid-semester (See Learning Objectives, below)

30%: Composite score based on in-class quizzes, assignments, bonus points and class participation (See Firms and Quizzes, below)

30%: Final exam: 2-hour completely closed-book, multiple choice exam (See Exam, below)

The College of Law mandatory mean for required courses applies to this course.

Therefore, the class mean (i.e. the average grade) must fall between 2.9 and 3.1.

LEARNING OBJECTIVES:

In this course students will learn how to develop effective and ethical relationships with clients, become competent in recognizing moral dilemmas in the real-

life situations encountered by lawyers, and begin to acquire the professional judgment necessary to resolve the kinds of complex problems that arise in legal practice. Students will become skilled in interpreting and applying the Georgia Rules of Professional Conduct and will understand the attorney discipline system in Georgia as well as basic common law principles arising from malpractice and attorney disqualification decisions. In order to put student learning in the context of real-life law practice, the course is taught primarily from the standpoint of the Georgia rules and Georgia law. However, students will still be well-prepared to take the Multistate Professional Responsibility Examination (MPRE) which tests the American Bar Association Model Rules of Professional Conduct because significant differences between the Georgia and ABA Model Rules will be covered. Students will regularly perform lawyering exercises that develop client relationship skills and ethical decision making. They will write one paper that applies what they have learned to analyze videotaped lawyer-client meetings and propose what they would have done in the situation. There will also be short in-class quizzes and a two-hour, closed-book multiple-choice final examination.

ATTENDANCE:

Students are expected to attend every class absent good cause for absence. A student may be required to withdraw from the course without credit based upon repeated absence and/or a pattern of being tardy or leaving early without good cause. If a student is absent or late when a quiz is given, it is the student's responsibility to notify the instructor promptly (and preferably before class) if the student wishes to take the quiz as a make-up; such a student must provide in writing an explanation of the good cause and make arrangements with the instructor to take the quiz, which must normally be completed before the next class. Students will be evaluated on their preparation and contribution to firm work and that evaluation will be factored into the composite quiz score for the semester.

CASE STUDIES:

The case studies are based on actual cases. Students must be prepared to engage in rigorous class discussion about the details of the cases and to analyze the decisions and actions of the lawyers.

EXAMINATION:

The final examination will count for 30% of the course grade and will be a two-hour closed book multiple choice exam consisting of 50 questions. Answers will be manually recorded on an optically scanned answer sheet (OPSCAN). **Do not bring any written materials or any electronic device, including a laptop or smartphone, to the exam.**

Students will be expected to be familiar with all the assigned readings, including all pages assigned from the case studies. Students must also be familiar with the fact patterns for the exercises. Students who attend all exercises and case study discussions will be better prepared for the examination. Students will need to know the content of the American Bar Association (ABA) Model Rules and Georgia Rules of Professional Conduct assigned on the course syllabus (including the comments) but are

not expected to identify them by rule number. Students are not required to memorize the "maximum penalty" specified for each rule. If a student is asked to compare a specific Georgia rule with an ABA model rule, the text of the ABA model rule will be attached to the exam. Except for such comparison questions, exam questions that refer to a specific rule will provide a description of the topic of the rule rather than the rule number (e.g. "the Georgia rule of professional conduct for lawyers who represent corporations" rather than "GRPC 1.13").

Some of the questions will be questions of the type found on the Multistate Professional Responsibility Examination that ask the student to apply the rules of professional conduct to a hypothetical fact pattern. Some questions will test knowledge and comprehension of court decisions and other materials assigned for reading. Many of the questions will be based on fact patterns from the Exercises and Case Studies and will focus on issues of ethical decision making and professional judgment discussed in class and in the writing assignments. (In terms of the exercises, complete review of the "Exercises" section of the course web site is an excellent method of preparation; "complete" means all the background information, specific instructions, videos, student papers posted on the web site, and instructor comments on the papers.)

The final exam will contain the following instructions:

CLOSED BOOK FINAL EXAMINATION

No notes or outlines. No copy of the Georgia Rules of Professional Conduct or the ABA Model Code or Model Rules other than the ABA Model Rules which are attached to the end of this exam.

EXERCISES:

There will be a number of in-class role playing exercises. Students must prepare to play an assigned role (lawyer or sometimes a client) for each role play unless they request an alternate assignment on the Student Questionnaire completed for Class One. (An individual student's performance in a role play is not graded.) The paper based on one of these exercises will count as 40% of the final course grade.

FIRMS:

On the first day of class students will be assigned to a team or "firm" of 4-5 students, through a transparent selection process designed to produce diverse groups of teams. These teams will sit together for all classes. On quiz days, after individual responses are tallied through the response device system ("clickers"), for some questions the instructor will set aside time for discussion in the firm after which individual students will be able to respond again, and the second answer will be counted along with the first. Studies of team-based-learning indicate that effectively functioning teams will usually outperform individual student scores. Other tasks will regularly be assigned for teamwork during class time. The student's quiz score total for the semester will include bonus points reflecting the quality of the firm's work on some of these tasks and may include a component based on the quality of one or more peer assessment exercise for the firm.

QUIZZES:

An important method for learning course content is the system of in-class quizzes, which are usually open-book. Quiz questions are displayed one-at-a-time and answers are provided using a Turning Point Response Card (“clicker”) assigned to the student for the entire semester. Cumulative results for the entire class are immediately displayed after each question. At the instructor’s option, students will be given an opportunity to discuss the question in their firms and then take the question again. If this option is taken, both the first and second responses count toward the cumulative semester quiz score. The correct answer, often developed through class discussion, is revealed for each question.

Possible quiz questions are posted in advance of class and linked to the syllabus, although usually there are additional questions in class not posted in advance. Students are permitted to discuss the posted questions before class with other firm members (and other students who have not previously taken this course, Professional Responsibility: Heroes & Villains or Transition to Practice). However, it is an honor code violation to share answers with other firm members or any other student on the first round of a quiz question from the time the quiz question is displayed in the classroom until the answer period has closed.

If a student is absent or late when a quiz is given, it is the student's responsibility to notify the instructor promptly (and preferably before class) if the student wishes to take the quiz as a make-up; such a student must provide in writing an explanation of the good cause and make arrangements with the instructor to take the quiz, which must normally be completed before the next class.

Unless there is a make-up pending, the quiz as given with correct answers indicated and student scores listed anonymously by “clicker id” are usually posted on the course website before the next class.

Appealing Quiz Scores

Firms are provided an opportunity to appeal their scores, challenging the instructor's choice of the correct answer. Grounds for appeal are:

- 1) A good faith argument that a different answer than the one marked as correct should be counted as correct supported by citation to the assigned readings and other relevant authority that the firm may choose to provide
- 2) A good faith argument that the question was poorly worded, e.g. vague or ambiguous, such that one or more different answers than the one marked as correct should be counted as correct
- 3) A good faith argument that the assigned readings did not provide an adequate basis for choosing the correct answer so that one or more different answers than the one marked as correct should be counted as correct

Appeals must be submitted by email or email attachment, by 10am on the Monday following the class when the quiz was given unless a different date and time are specified on the syllabus.

If the instructor grants an appeal, all members of the appealing firm are given credit for that answer (if different than the indicated correct answer) for each time the student answered that question (e.g. for both an initial individual response and then a

second response after firm meeting). Scores for students from non-appealing firms remain unchanged. Points are never subtracted as a result of appeals. Successful appeals are usually posted by the instructor on the course website without indicating the name of the firm or student.

An individual student may appeal but must include in the appeal an explanation for why the student has not acted through his or her firm in pursuing an appeal. Appeals filed by firms are more likely to be granted.

Example of quiz appeal:

On a quiz, B was indicated in class as the correct answer.

All members of Firm #1 chose B (initially and after firm meeting)

All members of Firms #2 & #3 chose answer A (initially and after firm meeting)

Firm #2 appealed the quiz question arguing that A should also be counted as a correct answer and was successful in the appeal. How will the quiz scores be adjusted?

The scores of members of Firms #1 and #3 will remain the same.

The score of members of Firm #2 will be increased by two points (A will be counted twice as the correct answer)

Because quiz questions are not always posted on the course website the week they were given, especially if there is a possibility that an absent student will request a make-up opportunity, students considering filing an appeal may ask the instructor to send the text of a quiz question by email after class.

SYLLABUS: Class One

When a Georgia or ABA Model Rule of Professional Conduct is assigned, the accompanying comments are also assigned unless otherwise indicated.

GRPC = Georgia Rule of Professional Conduct. MR = ABA Model Rule of Professional Conduct. GLE = Materials on Georgia Legal Ethics

All writing and other projects assigned for a particular class are due at noon on the Monday preceding class unless otherwise indicated on the syllabus, to give the instructor sufficient time to review before Wednesday class.

To access most of the assigned readings, students will need to be logged into the course TWEN website.

Two short assignments to complete BEFORE Class One:

1. Student Questionnaire and Learning Contract: **please complete by 10am on Tuesday, August 15.** Preview the entire questionnaire by clicking [here](#) and then complete the questionnaire [on-line](#). (Worth 3 quiz points)
2. One page Ethical Dilemma ([web version](#)) (download [pdf](#)). Review before Class One and write down how you would complete chart at bottom of page.

CLASS ONE (8/15/17)

3. Review Course Information, *supra*, pp. 1-5.
4. [Louis Brandeis, The Opportunity in the Law](#) (1905) (excerpt)
5. American Bar Association: [New Standards for Approval of Law Schools \(August](#)

[2014](#))

6. Clark D. Cunningham, **Learning Professional Responsibility: The Way Forward** ([web version](#)) ([download pdf](#)) Footnotes are NOT assigned.
7. [Modified Four Component Model](#) (2 ppt slides)

What are the Georgia Rules of Professional Conduct?

8. [Georgia State Bar Rule 4-102](#)
9. GRPC: [Preamble](#)
10. GRPC: [Scope](#)

Regulation of Lawyer Advertising Through the Bar Disciplinary System

11. [Bates v. State Bar of Arizona](#), 433 U.S. 350 (1977) (established 1st Amendment right for attorneys to advertise) (1 page summary)
12. [GRPC 7.1: COMMUNICATIONS CONCERNING A LAWYER'S SERVICES](#)
13. Read ABA MR [7.1](#) (including the [comment](#))
14. [Chart comparing Georgia and ABA Rule 7.1](#)
15. [GRPC: 7.2: ADVERTISING](#)
16. [GRPC 7.4: COMMUNICATION OF FIELDS OF PRACTICE](#)
17. [GRPC 7.5: Firm Names and Letterheads](#)
18. Read ABA MR [7.2](#), [7.4](#) and [7.5](#) (you are NOT required to read the comments)
19. [In the Matter of Anonymous](#), 775 N.E. 2d 1094 (Ind. 2002) (example of deceptive lawyer advertisement) (1 page)
20. [Four Sample Quiz Questions](#) (not for a grade)