

**The Client Relationship: Fall 2020**  
Law 6022 3 credit hours  
Wednesday 6:00pm - 8:45 pm Online  
**First class: Wednesday, August 19**  
**Last day to join course: Friday, August 21**

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  
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Open Office Hours by Zoom: Wednesday, 5:15pm – 5:55 pm starting August 26  
Office Hours by appointment by Zoom or phone

Home page: [www.ClarkCunningham.org](http://www.ClarkCunningham.org)

Senior Administrative Coordinator: Karen Butler, [kpbutler@gsu.edu](mailto:kpbutler@gsu.edu)

No textbook to purchase at bookstore

The course is administered through a Westlaw TWEN website.

All required readings linked to the on-line syllabus which is updated and posted on TWEN.

“Books” for the course can either be downloaded from TWEN website or picked up in print version by prior request.

(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](http://www.clarkcunningham.org/GeorgiaLegalEthics.htm)

## **COURSE INFORMATION**

### **ONLINE COURSE**

This course is taught entirely on-line, which means there is no expectation that students will meet face-to-face with each other or the instructor in the law school building at any point during the semester. However, with the exception of the first class on August 19, students are expected to be available for on-line activities during the weekly class time scheduled as Wednesday, 6:00pm – 8:45pm. A few classes are designated on the syllabus as “Live Classes”, which means that for some or all of the scheduled class time students will be interacting with each other and/or the instructor in real-time via Zoom.

The course will be taught using a TWEN (The West Education Network) website rather than through iCollege. Students will be automatically added to the TWEN course using GSU registration information; students can not directly add themselves to TWEN course site.

The course is designed to use a variety of online tools for interactive learning, including on-line quizzes, discussion problems, exercises, and forum discussions within the student's "law firm."

#### COURSE GRADE:

The course grade will be calculated as follows:

30%: Paper: 6-8 double-spaced pages, due mid-semester (See Learning Objectives, below)

40%: Composite score based on quizzes, assignments, and class participation

30%: Final exam: 2-hour open-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 (unless the mandatory mean is modified for the Fall 2020 semester).

#### 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 engage in 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 regular on-line quizzes and discussion problems and a two-hour, open-book multiple-choice final examination.

#### ATTENDANCE:

Students are expected to submit quizzes and other assignments when due and be available during weekly scheduled class hours absent good cause. A student may be required to withdraw from the course without credit based upon repeated failure to submit assignments when due and/or a pattern of not being available during scheduled class hours. If a student fails to submit a quiz or other assignment by the due date, it is the student's responsibility to notify the instructor promptly (and, if at all possible, before

due date) if the student wishes permission to submit the quiz or other assignment after the deadline. Note that late submission will not be permitted after the instructor posts on the course website annotated correct quiz answers or other feedback for an assignment. Students will also be evaluated on their contribution to firm work, in particular as documented in their firm's online TWEN forum, 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 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 open book multiple choice exam administered on TWEN as a 50 question quiz.

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 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). Students will not be tested on the "maximum penalty" specified for each Georgia rule.

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 of the type explored in on-line quizzes, discussion problems, and other assignments during the semester.

#### EXERCISES:

There will be a variety of interactive lawyering exercises. In one type students will view online the videotape of a simulated or actual example of legal work and then analyze what they have observed by submitting online answers to specific discussion questions, through discussion on their law firm forum, and/or in a "live" Zoom conversation during scheduled class hours. In a variation of this type of exercise (e.g. Simon Exercise – Part 1), after watching a simulated lawyer-client meeting students will post online follow-up questions which then be answered by the instructor taking the client's role. In the most extended "live" exercise, Simon Exercise – Part 2, an entire firm will role-play a client meeting on Zoom in real time with firm members taking lawyer and client roles based on confidential instructions. Finally, students will view two videos of students from prior years conducting the same role-play as Simon Exercise – Part 2, and write a paper (worth 30% of the course grade) analyzing and comparing how each student handled the meeting and then proposing how the student writing the paper would conduct the same meeting to address the issues identified through analysis of the videotapes and the student's own experience of Simon Exercise – Part 2.

**FIRMS:**

After the drop/add deadline of August 21, students will be assigned to a team or "law firm" of 4-6 students. Much of the course's interactive work will take place in these law firms. Each law firm will be assigned a second TWEN website with access restricted to firm members for discussion using the TWEN "forum" function. Law firms play an important role in relation to course quizzes – see below.

In addition to collaboration on quizzes, a number of other tasks will regularly be assigned for teamwork during class time. The student's quiz score total for the semester will include points for class participation reflecting both the quality of the entire firm's work on some of these tasks and the student's own contribution to the firm, particularly as documented on the firm's Forum in TWEN.

**QUIZZES:**

For most weeks, students will be required to complete an online TWEN quiz testing comprehension of materials assigned for that week as well as potentially reviewing material assigned for prior weeks. The quiz will be posted and linked to the online syllabus at least 48 hours before when it is due. Prior to submission of their quiz answers, students can use the forum function for their firm on TWEN to discuss any of the quiz questions without violating the honor code (but may not consult with any student not in their firm or with any other person). During class hours, the instructor will grade the quiz and may give students the option to answer some questions again, typically if there is a range of answers given. Under this option, students may use their firm forum again to discuss the questions to be retaken, usually with a time limit of 60 minutes before resubmitted answers are due. Both the first and second answer will be counted equally. Studies of team-based-learning indicate that effectively functioning teams will usually outperform individual student scores and that has been the prior experience in this course. However, students are not required to give the same answer as other firm members.

If a student is unable to submit a quiz when due, it is the student's responsibility to notify the instructor promptly (and, if at all possible, before the submission deadline) if the student wishes to submit the quiz after the deadline; such a student must provide in writing an explanation of what the student believes to be the good cause. If the student is allowed to submit the quiz after the deadline, the quiz must be taken before annotated correct answers are posted on the course website. If the student has good cause for missing the quiz deadline and resubmission of one or more answers is permitted after firm discussion, if everyone in the firm gives the same correct response on resubmission the absent student will get credit for a correct response (on the assumption that if the absent student had been able to participate in firm discussion, that student would also have given the correct answer on resubmission).

**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 date when the quiz was due 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 by the instructor 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)

**SYLLABUS OUTLINE (tentative as of 8/5/20)**  
**Always refer to current syllabus as posted on TWEN**

**CLASS ONE (8/19/20)**

How to Learn Professional Responsibility

What are the Georgia Rules of Professional Conduct?

How are the Rules interpreted?

How are the Rules enforced?

**CLASS TWO (8/26/20) "Live Class"**

Sequential Zoom meetings of each law firm with Prof. Cunningham

The "business" of law practice:

- Advertising
- Solicitation

- Fees
- Trust accounting

**CLASS THREE (9/2/20)**

Duties of competence, diligence, effective communication  
Determining the scope of representation  
Terminating representation  
Client under a disability  
Lawyer as advisor  
Start reading Case Study I: Frank Armani and the Garrow case

**CLASS FOUR (9/9/20)**

Continue reading Case Study I: Frank Armani and the Garrow case  
Duty of confidentiality  
Duty of honesty to the court  
Duty of honesty to third parties  
Special duties of a prosecutor  
Simon Exercise – Part 1

**CLASS FIVE (9/16/20)**

Finish reading Case Study 1: Frank Armani and the Garrow case  
Prepare for Simon Exercise – Part 2

**CLASS SIX (9/23/20) “Live Class”**

Simon Exercise – Part 2 by Zoom

**CLASS SEVEN (9/30/20) “Live Class”**

Zoom debrief of Simon Exercise – Part 2  
Review instructions for Simon Paper (30% of course grade)  
Midterm Evaluation

**CLASS EIGHT (10/7/20)**

Independent work on Simon Paper

**CLASS NINE (10/14/20)**

**Simon Paper due by 9pm on Oct 14 (grade reduced if late without good cause)**

**CLASS TEN (10/21/20)**

Conflicts of Interest, Motions to Disqualify and Malpractice Liability

**CLASS ELEVEN (10/28/20)**

Representing an organization  
OPM exercise

**CLASS TWELVE (11/4/20)**

Duties as an advocate

Lawyer as witness

Duties to third parties

Confidentiality between jointly represented clients

Case Studies: Volume II (A) pp. 2-39 (Baby Jessica Case)

Baby Jessica: Exercise One

**CLASS THIRTEEN (11/11/20)**

Case Studies: Volume II, Section B: Constance Baker Motley and the James Meredith Case, pp 1-50

Case Studies: Volume II (A) (Baby Jessica Case), pp 39-69

Baby Jessica: Exercise Two

**CLASS FOURTEEN (11/18/20) LAST CLASS**

Imputed conflict of interest within the same law firm

Changing law firms