

PROFESSIONAL RESPONSIBILITY

Hilary Term, 2006

SYLLABUS

SECTION 34

**Tuesday, 6:00 p.m. - 9:00 p.m. Room 308, Cooley Center
Professor Joan P. Vestrand**

COURSE DESCRIPTION: This course teaches the rules and standards of ethics that govern a lawyer's conduct in the practice of law. Students will become knowledgeable of the ABA Model Rules of Professional Conduct and other related authority and will learn to apply this authority to problems involving questions of legal ethics. Students will become keenly aware of the character traits required of an attorney and will learn what they need to know to cultivate an excellent reputation in the profession and to avoid grievances and malpractice claims in their practice of law.

REQUIRED TEXTS: 1) Schwartz, Wydick & Perschbacher, Problems in Legal Ethics (7th Ed, West); and, 2) West, Selected Standards on Professional Responsibility (Latest Ed.).

SUPPLEMENTARY TEXTS: Wolfram, Modern Legal Ethics, (West, 1986); Hazard & Hodes, The Law of Lawyering, (2d Ed, 1990).

READING ASSIGNMENTS: There are required and recommended reading assignments at the beginning of each chapter of Schwartz, Wydick and Perschbacher. You should be familiar with the ABA rules and code provisions listed for each class. You should also be prepared to discuss and answer the Discussion Problems that appear at the beginning of each chapter. You should also review the Multiple Choice Questions at the end of each chapter. The answers are located in the Appendix at the end of the book. At least three examination questions will be based on these multiple choice questions.

READING ASSIGNMENTS:

Week #1

Introduction; Lawyer Regulation; Bar Admission

The power and importance of ethics. Who regulates lawyers?
Lawyer admission requirements. Character & Fitness proceedings.
Good moral character. The importance of a Personal Code of Conduct.

Skim Chapter 1, Read Chapter 2,

Schwartz;

ABA Model Rule 8.1

Week #2

Lawyer Regulation & Bar Admission Cont.

Mock Swearing In/ Taking of the Lawyer's Oath. Creation of law firms.
Introduction to the Rules of Professional Conduct and other
legal ethics sources. Keys to ethical decision making.
The importance of reputation.

Chapter 2, Schwartz;
Preamble to the Rules of Prof'l Conduct

Week #3

The "Slippery Slope;" Lawyer Advertising & Solicitation

The "Slippery Slope" of misconduct as demonstrated through the film,
"Changing Lanes." Related exam writing/introduction to Rules exercise.
How to ethically market a law practice: introduction to legal advertising
and solicitation.

Chapter 4, Schwartz;
ABA Model Rules 7.1-7.6

Week #4

Lawyer Advertising, Cont.; Disciplinary Proceedings; Substance Abuse

Legal advertising, continued. Overview of attorney disciplinary proceedings.
Effect of substance abuse on the practice.

Chapter 2, Schwartz, p 42 – 46; Chapter 4, Schwartz;
ABA Model Rules 7.1-7.6.

Week #5

The Attorney- Client Relationship; Indigent Representation

Which clients to accept and which clients to reject. The duties of competence
and diligence and the requirement for a meritorious position. The duty to
conflict check. Non-engagement letters. The duty to withdraw.
Indigent representation.

Chapter 3, Schwartz;

ABA Model Rules 1.1; 1.3; 1.8(h); 1.14; 1.16, 3.1; 6.1, 6.2 and 8.4

Week #6

Attorney Fees; Scope of Representation; Duty of Communication; Unauthorized Practice of Law

How to “sign up” the client. Retainer agreements, types of fees, the requirement for reasonableness; fee collection; Duty to safeguard client property. Scope of representation. The duty to communicate. The unauthorized practice of law.

Chapters 5 and 6, Schwartz;

ABA Model Rules 1.2, .4, 1.5; 1.8(e), 1.15, 1.18, 5.5

Week #7

Confidentiality

The duty of confidentiality, the attorney-client privilege, and the work product doctrine.

Chapter 7, Schwartz;

ABA Model Rules 1.2; 1.6; 3.3

Week #8

Candor in Litigation

The duties of honesty to the tribunal, honesty to the opposing party and honesty to third persons. The duty to expedite litigation.

Chapter 8, Schwartz;

ABA Model Rules 1.6; 3.1 - 3.9; 4.2, 4.3 and 4.4

Week #9

Fairness in Litigation

Preparing witnesses, discovery abuse, improper trial tactics, prosecutorial misconduct, trial publicity, lawyer as witness. Civility.

Chapter 9, Schwartz;

ABA Model Rules 3.1 - 3.9; 4.1-4.4

Week #10

Fairness in Litigation, Cont.; Bias

Fairness in litigation, cont.; Bias, prejudice and multi-cultural professionalism.

Chapters 9 and 10, Schwartz;

ABA Model Rules 1.2; 3.1-3.9; 4.1-4.4

Week #11

Conflicts of Interest

What is a conflict of interest? Why are they bad? How and when do they arise?
How can a lawyer protect against them and what duties exist to prevent and eliminate them?

Chapter 11, Schwartz;

ABA Model Rules 1.7-1.9

Week #12

Conflicts of Interest, Cont.; Lawyers in Law Firms and Specialized Practice Areas; Duty to Supervise

Conflicts, continued. Selling a law practice. A lawyer's duties of supervision. Responsibilities regarding law related services and other specialized duties.

Chapters 12 and 13, Schwartz; Upjohn v United States (on Twen: Week 12 Course Materials)

ABA Model Rules 1.9-1.13; 1.17; 2.1; 2.3; 5.1-5.7

Week #13

Law Firms/Spec. Practice Areas, Cont.; Code of Judicial Conduct

Duties to the profession. The ethical duties of a judge or other judicial officer.

Chapter 13, cont.; Chapter 14, Schwartz;

ABA Model Rules 1.12; 3.5; 8.3; 8.4; Entire ABA Code of Judicial Conduct

Week #14

Review

Entire Text Book/ABA Model Rules of Professional Conduct; ABA Code of Judicial Conduct

Week #15
FINAL EXAM

All of the Above

PREPAREDNESS POLICY: All students are expected to be prepared and to participate in class when called upon. The interaction between faculty and students and between students in the classroom is an important part of the legal education experience. Those who do not participate shortchange both themselves and their classmates. Students who are unprepared when called upon will be assigned a special written report or problem on the subject matter covered that class to be turned in at the next class session as a condition for remaining in the class and taking the final examination.

OFFICE HOURS:

Drop in:

Tues. 4 p.m. to 6 p.m., Room 801, Cooley Center

By Appointment:

Contact me by email at vestranj@cooley.edu