

**Professional Responsibility  
Syllabus, Fall 2019  
Professor Shani M. King**

**Required Books**

**Lisa G. Lerman and Philip G. Schrag, *Ethical Problems in the Practice of Law* (4th Ed., Wolters Kluwer 2016) [referred to as “Text”].**

This schedule of assignments is ambitious. We may not be able to cover all of the assigned material during class. The primary purpose of our work in class is to help you learn the methods of analysis that you should use in evaluating ethical dilemmas. You are responsible for all of the assigned material, including analysis of any problems that we do not get to in class. Feel free to come talk with me or email me if you have questions about any parts of the material that are not addressed by our class discussion. I may modify the schedule of assignments during the semester; if I do so, I will issue a revised schedule of assignments.

[Turn page for assignments]

### ABA Standard 310

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. This course has 3 “classroom hours” of in-class instruction each week, requiring at least 6 hours of preparation outside of class. Accordingly, you will have at least 60 pages of reading each week. It is anticipated that you will spend approximately 2 hours of out-of-class preparation for every hour of class.

#### Schedule of Assignments

Date	Topics, problems and cases to be discussed in class	Pages of textbook assigned and relevant rules
<b>Introduction and Chapter 1: Regulation of Lawyers</b>		
<b>8/29</b>	Introduction to the course Institutions that regulate lawyers State ethics codes Admission to practice The bar examination <b>1-1 <i>The New Country</i></b> The character and fitness inquiry <b>1-2 <i>Weed</i></b>	Text: pp. xxxiii – xxxvii and 1-59 Model Rules: Preamble and note on Scope; Model Rule 8.1
<b>Chapter 1: Regulation of Lawyers (continued) and Chapter 2: Lawyer Liability</b>		
<b>8/30</b>	Law school discipline: A preliminary screening inquiry <b>1-3 <i>The Doctored Resume</i></b> Professional discipline Grounds for discipline <b>2-1 <i>The Dying Mother</i></b>	59-79 Model Rule 1.2(d)
<b>Chapter 2: Lawyer Liability (continued)</b>		
<b>9/5</b>	Professional discipline, continued Grounds for discipline, continued <b>2-2 <i>“I’m Not Driving”</i></b> Reporting misconduct by other lawyers <b>2-3 <i>Exculpatory Evidence</i></b>	79-96 Model Rules 1.2(d), 8.3

<b>Chapter 2: Lawyer Liability (concluded)</b>		
<b>9/6</b>	Professional discipline, continued <b>2-4 The Little Hearing</b> Legal protections for subordinate lawyers <b>Case study: Kelly v. Hunton &amp; Williams “The whistleblowing associate”</b> Civil liability of lawyers Criminal liability of lawyers Client protection funds	97-149 Model Rules 5.1, 5.3, 1.6(a)
<b>9/12</b>	<b>CLASS QUIZ</b>	
<b>Chapter 3: The Duty to Protect Client Confidences</b>		
<b>9/13</b>	The basic principle of confidentiality <b>3-1 Your Dinner with Anna</b> Exceptions to the duty to protect confidences Revelation of past criminal conduct <b>3-2 The Missing Persons, Scene 1</b>	149-163 Model Rule 1.6(b)(1)
<b>9/19</b>	Confidentiality, continued <b>3-3 &amp; 3-4 The Missing Persons, Scenes 2 &amp; 3</b> <b>People v. Belge</b>	163-174
<b>9/20</b>	Confidentiality, continued The risk of future injury or death <b>3-5 Rat Poison</b> Client frauds and crimes that cause financial harm <b>3-6 Reese’s Leases</b> Use or disclosure of confidential information for personal gain or to benefit another client Talking to clients about confidentiality	175-196 Model Rules 1.0(f), 1.6(b)(2)-(7), 1.6(c), 1.16 (a) & (b), 3.3, 4.1, 8.4(c),
<b>Chapter 4: The Attorney-Client Privilege and the Work Product Doctrine</b>		
<b>9/26</b>	Confidentiality and attorney-client privilege, compared The elements of attorney-client privilege Client identity Waiver <b>4-1 Murder for Hire</b> The crime-fraud exception Revelations permitted or required by the ethics codes The death of the client <b>4-2 A Secret Confession</b> <b>Swidler &amp; Berlin v. United States “Why did this man die?”</b> The work product doctrine The attorney-client privilege for corporations <b>4-3 Worldwide Bribery</b> The attorney-client privilege for government officials	197-238

<b>Chapter 5: Relationships Between Lawyers and Clients</b>		
<b>9/27</b>	Formation of the lawyer-client relationship <b>Togstad v. Vesely, Otto, Miller &amp; Keefe</b> <i>“You have no case.”</i> Lawyers’ responsibilities as agents Lawyers’ duties of competence, honesty, communication and diligence <b>5-1 The Washing Machine</b> Competence in criminal cases <b>Strickland v. Washington</b> <i>“Capital case, not enough mitigating evidence”</i> <b>5-2 A Desire to Investigate</b>	239-274 Model Rules 1.1, 1.3, 1.4, 6.2
<b>10/3</b>	Diligence Candor and communication <b>5-2 Lying to Clients</b> Candor in counseling <b>5-3 Torture</b> Who calls the shots? The competent adult client <b>Jones v. Barnes</b> <i>“Who decides what to argue on appeal?”</i>	274-301 Model Rules 1.0(d), 1.2, 1.4, 1.16(b), 2.1, 8.4(c)
<b>10/10</b>	Who calls the shots?, continued Clients with diminished capacity <b>5-4 The Package Bomber</b> <b>5-7 The Foster Child</b> Terminating a lawyer-client relationship	301-328 Model Rules 1.2, 1.4, 1.14, 1.16
<b>10/11</b>	<b>CLASS QUIZ</b>	
<b>Chapter 6: Concurrent Conflicts of Interest: General Principles</b>		
<b>10/17</b>	An introduction to conflicts of interest General principles in evaluating concurrent conflicts <b>6-1 The Injured Passengers, Scene 1</b> <b>6-2 Food Poisoning</b>	329-356 Model Rule 1.7, 1.10
<b>10/18</b>	Conflicts between current clients in litigation Suing a current client <b>6-3 I Thought You Were My Lawyer!</b> Cross-examining a current client Representation of co-plaintiffs or co-defendants in civil litigation <b>6-4 The Injured Passengers, Scene 2</b> Positional conflicts: Taking inconsistent positions in litigation <b>6-6 Top Gun</b>	356-370 Model Rule 1.7, 1.10

<b>Concurrent Conflicts of Interest: General Principles (continued) and Chapter 7: Concurrent Conflicts in Particular Practice Settings</b>		
<b>10/24</b>	Conflicts involving prospective clients <b>6-7 <i>The Secret Affair</i></b> Representing both parties to a transaction Representing organizations <b>7-1 <i>A Motion to Disqualify</i></b> Representing co-defendants in criminal cases <b>7-3 <i>Police Brutality, Scene 1</i></b>	370-402 Model Rules 1.18, 1.7, 1.13
<b>10/25</b>	Representing co-defendants in criminal cases, continued <b>7-4 and 7-5 <i>Police Brutality, Scenes 2 and 3</i></b> Representing co-defendants in civil cases <b>7-6 <i>Termination of Parental Rights</i></b>	403-408 Model Rules 1.7, 1.8(f) and (g)
<b>Chapter 7: Concurrent Conflicts in Particular Practice Settings (continued) and Chapter 8: Conflicts Involving Former Clients</b>		
<b>10/31</b>	Representing family members <b>Florida Bar Opinion 95-4</b> <b>7-7 <i>Representing the McCarthys</i></b> Representing insurance companies and insured persons Representing employers and immigrant employees Representing plaintiffs in class actions Representing parties to aggregate settlements of individual cases The nature of conflicts between present and former clients Duties to former clients Distinguishing present and former clients Evaluating successive conflicts <b>8-1 <i>Keeping in Touch</i></b>	409-449 Model Rules 1.7, 1.9, 1.10
<b>11/1</b>	Addressing former client conflicts in practice <b>8-2 <i>Toxic Waste</i></b> Representing the competitor of a former client Conflicts between the interests of a present client and a client who was represented by a lawyer's former firm Imputation of former client conflicts to affiliated lawyers <b>8-3 <i>A Brief Consultation</i></b>	449-475 Model Rules 1.7, 1.9, 1.10
<b>Chapter 9: Conflicts Between Lawyers and Clients</b>		
<b>11/7</b>	Legal fees Lawyer-client fee contracts <b>Matter of Fordham "Too many hours?"</b> <b>9-1 <i>An Unreasonable Fee?</i></b> <b>9-2 <i>Rising Prices</i></b> Regulation of hourly billing and billing for expenses Contingent fees	477-522 Model Rules 1.4, 1.5, 7.1, 8.4

<b>Chapter 9: Conflicts Between Lawyers and Clients (continued)</b>		
<b>11/8</b>	Forbidden and restricted fee and expense arrangements <b>9-3 An Impoverished Client</b> Fee disputes Dividing fees with other firms or with nonlawyers Payment of fees by a third party Legal fees, continued Lawyer as custodian of client property and documents Client trust accounts Responsibility for client property Administering estates and trusts Conflicts with lawyers' personal or business interests Business transactions between lawyer and client Gifts from clients Sexual relationships with clients Intimate or family relationships with adverse lawyers Imputation of lawyer-client conflicts to other lawyers in a firm	522-554 Model Rules 1.4, 1.5, 1.7, 1.8(a), (c), (d), (e), (f) (h), & (i), 1.10, 1.15, 1.16(d), 5.2, 5.4, 7.1, 8.3, 8.4
<b>11/14</b>	<b>CLASS QUIZ</b>	
<b>Chapter 10: Conflicts Issues Government Lawyers and Judges</b>		
<b>11/15</b>	Regulation of government lawyers and those who lobby them Successive conflicts of present and former government lawyers <b>10-1 The District Attorney</b> Conflicts involving judges, arbitrators, and mediators <b>10-2 A Trip to Monte Carlo</b> <b>10-3 The Judge's Former Professor</b>	555-596 Model Rules 1.9-1.12 ABA Model Code of Judicial Conduct (especially canons 2 and 3)

<b>Chapter 11: Lawyers' Duties to Courts</b>		
<b>11/21</b>	Being a good person in an adversary system Investigation before filing a complaint <b>11-1 <i>Your Visit from Paula Jones</i></b> Truth and falsity in litigation The rules on candor to tribunals A lawyer's duties if a client or witness intends to give false testimony <b>Nix v. Whiteside "He said he saw something metallic"</b> A lawyer's "knowledge" of a client's intent to give False testimony <b>11-2 <i>Flight from Sudan, Scene 1</i></b> A lawyer's duties if a client intends to mislead the court without lying <b>11-3 <i>Flight from Sudan, Scene 2</i></b>	597-627 Model Rules 1.2, 1.16, 3.1, 3.3, 8.4(c)
<b>11/22</b>	Truth and falsity in litigation, continued False impressions created by lawyers during litigation <b>11-4 <i>The Drug Test</i></b> <b>11-5 <i>The Body Double</i></b> Lawyers' duties of truthfulness in preparing witnesses to testify Concealment of physical evidence and documents Duties of criminal defense lawyers with respect to evidence of crimes <b>11-7 <i>Child Pornography</i></b>	628-650 Model Rules 3.3, 3.4, 4.1, 7.1, 8.4
<b>TBD</b>	Concealment of documents and evidence in civil cases <b>11-8 <i>The Damaging Documents</i></b> The duty to disclose adverse legal authority Disclosures in ex parte proceedings Improper influences on judges and juries Lawyers' duties in non-adjudicative proceeding	650-686 Model Rules 3.3-3.9, 4.1, 4.4, 8.4(c)

<b>Chapter 12: Lawyers' Duties to Adversaries and Third Persons</b>		
<b>TBD</b>	Communications with lawyers and third parties Deception of third persons <b>12-1 <i>Emergency Food Stamps</i></b> Restrictions on contact with represented persons Restrictions on contact with unrepresented persons <b>12-2 <i>The Complaining Witness</i></b> Respect for the rights of third persons <b>12-3 <i>The Break-in</i></b>	687-719 Model Rules 4.1-4.4
<b>Chapter 12: Lawyers' Duties to Adversaries and Third Persons (continued)</b>		
<b>TBD</b>	Duties of prosecutors <b>12-4 <i>The Prosecutor's Masquerade</i></b> <b>12-5 <i>The Corrupt Governor</i></b> Conduct prejudicial to the administration of justice <b>12-6 <i>A Letter of Commendation</i></b> Are lawyers really too zealous?	719-743 Model Rules 3.8, 8.4
<b>Chapter 13: The Provision of Legal Services</b>		
<b>TBD</b>	The unmet need for legal services Sources of free legal services for those who cannot afford legal fees Right to counsel for indigent litigants Civil legal aid <b>13-1 <i>Restrictions on Legal Services</i></b> Fee-shifting statutes Pro bono representation <b>13-2 <i>Mandatory Pro Bono Service</i></b> Loan forgiveness and scholarships for public service lawyers	745-795 Model Rules 6.1, 6.2
<b>Chapter 13: The Provision of Legal Services (continued)</b>		
<b>TBD</b>	Conflicts of interest in public interest litigation <b>6-5 <i>The Prisoners' Dilemma</i></b> Restrictions on participation by nonlawyers in providing legal services Unauthorized practice of law statutes <b>13-3 <i>Special Education</i></b> The prohibition of multidisciplinary practice The prohibition of nonlawyer investment in law firms	365-367, 795-813 Model Rule 1.7, 5.4



Chapter 14: The American Legal Profession: Past, Present, and Future		
<b>TBD</b>	<p>History and development of the U.S. legal profession</p> <ul style="list-style-type: none"> <li>Pre-revolutionary America</li> <li>The nineteenth century</li> <li>A short history of American legal education</li> </ul> <p>Advertising and solicitation</p> <ul style="list-style-type: none"> <li>Advertising of legal services</li> <li>Solicitation of clients</li> </ul> <p><b>Problem 14-1 <i>Do You Need a Lawyer?</i></b></p> <p>Diversity and discrimination in U.S. law firms</p> <ul style="list-style-type: none"> <li>Women</li> </ul> <p><b>Problem 14-2 <i>The Job Interview</i></b></p> <ul style="list-style-type: none"> <li>People of Color</li> <li>Lesbian, gay, bisexual and transgender lawyers</li> <li>Lawyers with disabilities</li> <li>Other bases of discrimination</li> </ul> <p>Legal culture in certain practice settings</p> <ul style="list-style-type: none"> <li>Large firms</li> <li>Small firms</li> <li>Government and nonprofit organizations</li> </ul> <p>Work settings for lawyers: culture and satisfaction</p> <p>The business of law practice in the twenty-first century</p> <ul style="list-style-type: none"> <li>The 2008 recession: Impact on the legal profession</li> <li>Structural changes in private law practice</li> <li>Temporary and contract lawyers</li> <li>Lawyers in retail stores</li> <li>The Internet as a substitute for legal services</li> <li>Outsourcing legal work to cut labor costs: Offshoring and onshoring</li> <li>Multistate practice: A challenge to state-based licensing</li> <li>Globalization of law practice</li> <li>New methods of financing law firms and legal work</li> </ul>	815-900; Model Rules 5.4, 5.5, 7.1, 7.5
<b>TBD</b>	<b>CLASS QUIZ</b>	

## Explanation of course goals, requirements, and procedures

This course is about the law that governs lawyers and the legal profession. The principal purpose of the course is to assist you in learning to recognize and evaluate ethical and professional dilemmas and to acquaint you with the relevant bodies of law. Your work in this course will put you in a better position to handle some of the challenges that will face you as a member of the legal profession. This course also will help you prepare to take the Multistate Professional Responsibility Exam.

We will study the Model Rules of Professional Conduct in detail. We will use the Model Rules as a proxy for the states' ethical rules governing lawyers.<sup>1</sup> The textbook also draws from other statutory and common law governing lawyers, including court decisions on legal malpractice and lawyer disciplinary matters, criminal and regulatory law, civil procedure and evidence rules and some advisory ethics opinions. The Restatement of the Law Governing Lawyers synthesizes “lawyer law,” including the ethics codes and the various other bodies of law. In addition, we will study the legal profession and its regulation in the United States. The text explains the genesis of the ethical rules and what legal authority they have, as well as the relationships among the institutions and the various bodies of law that govern lawyers.

Lots of material that is explained in the text will not be reviewed during class; our class time is better devoted to interactive work that will help you learn to analyze ethical problems. The class work requires application of the law discussed in the text, so studying the text and the Model Rules is necessary preparation for class.

We will spend most of our time in class discussing problems that lawyers have encountered in practice. The problems offer opportunities to think through dilemmas that you may confront and to explore the application of the law that governs lawyers.

### Skill development

Every student in this class already has substantial experience in identifying and addressing ethical dilemmas. This course offers the opportunity to develop and deepen these skills. By the end of this course, you should notice improvement in the skills you need to grapple effectively with ethical dilemmas. Some of those skills are explained below.

- **Ethical sensitivity:** Your *ability to recognize ethical dilemmas* should improve. You may notice ethical questions that you may not have noticed before. As we work through a large number of problems, you may find that your ethical radar screen is in better focus. Questions may occur to you about things you have observed or done in previous work or other

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<sup>1</sup> Each state adopts its own ethics code—usually an act of the state supreme court. Each state has autonomy in its regulation of lawyers and may adopt whatever ethical rules it chooses. Nearly all the state ethics codes are largely drawn from the Model Rules but they diverge from the ABA rules in varying degrees. In this course, we focus on the Model Rules, but in practice you should always refer to the rules of the jurisdiction in which you are practicing or to the rules that apply to the issue at hand. (See Model Rule 8.5).

situations; you should use the materials in this course to re-evaluate your answers to questions that have arisen in your previous work with lawyers.

Ethical sensitivity is one of the most critical skills needed for professional practice. Most lawyers encounter ethical questions very frequently. Even so, if you ask some lawyers if they have encountered ethical dilemmas in law practice, some will say “no,” or they might mention an occasional conflict of interest. Some lawyers don’t notice the ethical conundra, large and small, that come up in practice all the time. Honing your ethical sensitivity will raise your standards of professionalism and enable you to assist colleagues with ethical questions.

- **Ethical problem-solving:** Once you recognize an ethical dilemma, you need to be able to analyze and resolve it. This work requires that you learn:
  - to master a set of facts that raise a question about the conduct of a lawyer or lawyers;
  - to identify what legal and ethical rules offer guidance;
  - to explain the arguments that might be made about what the rules permit, require, or prohibit in the situation at hand; and
  - to evaluate pertinent strategic, practical, and moral considerations;
  - to balance the risks and consequences of possible courses of action; and
  - to identify and be able to explain a path that is less worrisome than the others.

Your analysis of the application of the rules should incorporate relevant guidance from the comments, case law, and ethics opinions. For many, perhaps most, ethical dilemmas, there is not a “right answer.” Instead, there are better and worse solutions. Often you will be looking for the solution that is the *least bad*, but thoughtful people may disagree about which path is the least bad. If you prepare for class with care and engage fully during class, you will become more adept at evaluating problems, making decisions, and giving advice that is the product of careful analysis of the factual context and the relevant law.

- **Professional collaboration:** Law school mostly focuses on individual performance and individual evaluation. This is too bad, because most lawyers collaborate with other lawyers and non-lawyers all the time. In working through ethical issues, as in addressing any complex problems, two or three heads are better than one. Different people notice different issues. Members of a group bring different skills to the table, so the collective skill set is better than any individual set. Collaborative discussion produces better-informed and higher quality decisions than solitary analysis.

A lawyer’s effectiveness in working with others can be as important to his or her success as knowledge of law, writing skills, or oral advocacy skills. Through the small group work, you can hone your skills in working with others on ethical conundrums. By staying with the same groups throughout the semester, you can improve your communication and listening skills. If you and your group-mates invest in working as productively as possible, you will see growth in your group’s ability to work together. Each of you will learn skills from the other group members. This may help you to succeed in law school and in professional life. As you embark on your small group work, try to anticipate the problems your group might

encounter. If you decide on collective aspirations, your group may become more effective more quickly. Among the common problems that occur in small groups are:

- Inadequate preparation by one or more members of the group;
- A tendency of one member of a group to divert the group from its work and to engage in “social loafing” during class;
- A tendency of one member of a group to talk too much, to talk too little, not to listen attentively to the ideas of others, to speak too softly, or to report his or her own views as “the group view” during large group discussion.<sup>2</sup>

Each member of a small group should be mindful of his or her role in and contributions to the group.

- **Professional integrity:** If you invest in working on the skills of ethical sensitivity, ethical problem-solving, and professional collaboration, by the end of the semester, you may find you have a stronger sense of your own professional integrity. Can you “smell” an ethical conundrum? Do you know how to evaluate it, to chart and weigh possible courses of action? Do you know how to approach and work with others to craft a solution? With these tools comes an improved ability to make ethical judgments. What is a minor problem, and which one is a hippopotamus under the bed? What kind of a situation warrants a report to a board of directors or to disciplinary authorities? If you are instructed to do something that is ethically problematic, can you distinguish a situation in which you disagree with your boss but may defer to him from a situation in which you might need to quit your job? This course will not make you an expert in legal ethics, but you can acquire the tools you need to launch yourself as an ethical practitioner.

## **Preparing for class**

### **Preparing for discussion of problems**

Each problem puts you in the shoes of a lawyer who has to deal with a situation involving legal ethics issues and legal, practical, and strategic issues. The problems are more complex than on-the-spot classroom hypotheticals; they require analysis before the class in which the problem will be discussed.

For each assigned problem, study the facts carefully, identify the applicable rules and write out or outline the arguments about what they permit, require, or prohibit. For many problems there are many relevant rules and often multiple conflicting arguments that could be made about how the rules apply. Consider the black letter language of the rule, the comments, and the discussion of the relevant rule in the text. Identify possible responses and try to decide what you would do if you were in the shoes of the lawyer and why. Many problems require *at least* half an hour of study time before class in addition to the time it takes to read the text, the rules, and the comments following the rules.

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<sup>2</sup> These examples are based on reports from previous students on problems that arose in some of the small groups.

Each problem can be treated as a practice exam question; writing your analysis will sharpen your analytical skills. Writing down the steps in the analysis will help you to think more clearly and will make visible the logic of rule application. In class, we mostly will do oral evaluation of problems; law school exams require you to do written legal analysis. You will do better on the exam if you write up your analysis of the problems during the semester. Also, you may find it helpful to meet with your small group sometimes as part of your class preparation, as discussion time in class is limited.

### **Reading the Model Rules**

When an assignment in the text makes reference to a model rule, please read both the rule and the comments to improve your understanding of the intended meaning of the rules. If the comments to a particular rule are voluminous, don't try to read all of them at once. Instead, read and study those comments that are relevant to the topic under discussion.

### **Reading the text**

This course is a "problems" course but it is also a "guided reading" course. The text is loaded with information about the law that governs lawyers—not just the ethics codes, but other law, and with information about the legal profession. The reading includes a great deal of information that is not in the rules and that will be relevant to your analysis of the problems. I won't spend much time in class spoon-feeding you the content of the textbook. Instead, I will approach the course assuming that you have read the text and studied the problems carefully. The better prepared you are, the better our discussions will be.

The text covers many topics that we won't get to in class. You are responsible for *all* of the assigned reading whether or not we discuss a particular case or issue in class. If you do the reading with care, you will come away with a good understanding of the law that governs lawyers. If you want to talk about parts of the material that we don't have time to cover in class, come see me during office hours or send me an email.

### **What will happen in class**

We will spend most of our class time engaged in discussion of the assigned problems. The time we spend on the problems will be divided between small group discussion and large group discussion. We also will spend some time in class going over particular ethical rules and discussing cases, articles, and other materials in the text. During class, I will spend a lot of time eliciting from you your analysis of the various problems. I will be looking for precise and rigorous arguments about how the rules and the other "lawyer law" apply in the situation. Pay close attention to the facts of the problems and to the language of the rules and the comments. If you have evaluated a problem carefully, during the discussion you may notice errors or weaknesses in the arguments presented by other students. You should share your own analysis and offer respectful critique of the analysis offered by other students.

### **Small group discussion**

The class will be divided into three or four-person groups. These groups will be asked to discuss problems and questions, to do various exercises during class, and sometimes to share their

thinking with the rest of the class. The small group work multiplies the opportunities for active participation in discussion and allows students to explore and develop their ideas.

In many conversations, the groups will function like a group of lawyers in a small law firm or in a practice group of a larger firm, considering questions, looking up relevant rules, clarifying questions about facts, and exploring the legal/ethical/strategic/practical dimensions of a problem, generating and weighing options for action or advice.

If there are problems in the work of your small group, you should seek to raise and resolve them. Let me know if you encounter problems that are difficult to raise or to resolve.

A small group may meet with me during office hours to pursue a discussion that began in class, to discuss a problem in the work of the group, or to discuss any other issues relating to law school, or to the students' professional development.

### **Large group discussion**

We will have class-wide discussion of some issues without prior small group discussion, but on complex issues, I often will invite the small groups to explore an issue or a problem, and then will lead a large group discussion that will include some debriefing of small groups. For each such discussion, I will invite several students to explain how the group responded to a question or to explain their own views.

My primary role in class is not to lecture but introduce topics and to facilitate your discussion of the problems and the other materials assigned to read, thus, your regular attendance and participation in class discussions are critical to the success of this course. For this reason, I assign 10% of the final grade to class participation. Students should expect to be randomly called on during class to answer questions about the assigned materials. I will also call on students who volunteer questions or comments. As long as you are present and prepared, you will receive full points for class participation; it is the *quality*, not the *quantity*, of your contributions to class that I value. If you are *not* present when I call on you (unless your absence is excused or is one of your four allowed unexcused absences) or if you are not prepared, you will lose points from your class participation score.

My goal is to draw everyone in the class into active participation in class discussion. Each of you should try to ask a question or make a comment at least once a week. This is an easier task for some students than for others. Even if you tend to be reserved in large group discussions, do your best to contribute to the discussion. The class works best (and most people learn best) if everyone is an active participant. If you tend to be a big talker in class, exercise some restraint to avoid taking up more than your share of airtime. Ration yourself to one or two comments per class. However, if I ask a question and get blank stares from most people in the class, you should feel free to raise your hand.

## Other rules and announcements

### Summary of Course Requirements

- I. Prepare for, attend and participate in class;
- II. Class quizzes;
- II. The final exam.

### Attendance

Based upon law school policy and ABA requirements, students are required to attend class. It is your responsibility to sign the attendance sheet *during* class. You may not sign in for anyone except yourself. If you are less than ten minutes late, you may sign the roster at the end of class (see note below regarding excessive tardiness). ***If you are more than 10 minutes late, you will be considered absent.*** Failure to sign the attendance sheet will be treated as an unexcused absence. I will allow four unexcused absences per semester on a no-questions-asked basis.

If it should be necessary for you to miss more than four classes, you must email me to explain the reason for each ***additional*** absence. If you know in advance that you will have to miss a class, please make appropriate arrangements with me in advance. You will have no more than seven days after the time of the unanticipated occurrence to bring the reasons for your absence to my attention, however, I will not accept any excuses offered after our last session of the semester. Any unexcused absence that exceeds the allowance will lower your grade by one level. For example, one additional unexcused absence will lower a B to a B- or a C+ to a C.

***I will deal with excessive absences and/or tardiness on a case-by-case basis; excessive absences (whether or not excused) or tardiness may result in your administrative removal from the course.***

### Office hours

Thursday 3:30-5:30 (or by appointment)

I am happy to meet with you to discuss the course, your professional development, or any other issue. If you absolutely cannot make my office hours, you can contact me via email to make an appointment.

I encourage you to take advantage of office hours as early as possible in the semester. You may find it more productive than waiting until the end of the course to review material and bring your questions to me. If you have doubts that cannot be resolved during class, please do not hesitate to come and see me. Office hours offer a good opportunity to explore matters that are not directly related to the material we discuss in class.

Office hours are also an opportunity for you to become more comfortable with class participation. I encourage you to talk to me before you participate in class, if that will make you more comfortable participating.

### **Internet Policy and Related Issues**

The internet and your laptop are great learning tools and invaluable assets to effective advocacy. They should be used during class time as you will use them in practice: responsibly and ethically, consistent with the high professional standards that will be expected of you by your clients and other lawyers. Keep in mind that all the students around you are affected by how you use your computer. When you are talking, you should lower your laptop screen to facilitate communication.

During class, your laptop is to be used ONLY to take notes, unless I direct you to the TWEN site. If we work on the TWEN site, you are not to do any other internet or other computer work during class time. Cell phones, PDAs, and any other electronic equipment should be turned off and not used during class.

***If you are found in violation of this policy, you may not be permitted to use your laptop in this class, your grade may be lowered, or you may be dropped from the class.***

### **Professionalism in Class**

You are all bound by the University Student Code of Conduct, the College of Law Honor Code and the rules for this course. Proper conduct in the classroom is intended to encourage everyone to participate in, derive benefit from, and ultimately enjoy the class. Any unprofessional conduct and/or conduct that is in any way disrespectful to other students, disruptive, distracting, or has a negative effect on classroom atmosphere is prohibited.

***Any unprofessional conduct will be dealt with on a case-by-case basis at my discretion and may result in administrative removal from the course or a grade reduction.***

### **TWEN**

I have set up a TWEN site for this course. I have posted this course description and will post other documents relating to the course. You should register on the TWEN site prior to the first class if possible. I use the TWEN email system to communicate about schedule, assignment, and other issues. To sign on, go to [www.lawschool.westlaw.com](http://www.lawschool.westlaw.com) and click on the TWEN icon. Register as a participant in King's Professional Responsibility course. If you need assistance with Westlaw, contact your designated student representative. If you have problems or questions about the TWEN materials, contact me. ***You are responsible for checking the TWEN site for this course on a regular basis.***



## **Email**

It is your responsibility to have a functioning “ufl.edu” email address at all times. There have been problems with email forwarding in the past, so I strongly recommend that you do not forward your ufl.edu to another ISP.

## **Supplemental Material**

You may find supplemental material to circulate to the class that will assist the learning of others. Please send whatever you find or prepare to me via email and I *may* distribute it to the class, depending upon the submission and whether we have time in a particular class. If you wish to have something submitted to the class, please send it to me at least 24 hours before the class in which you would like to have the material circulated. For example, you might find a clipping from a newspaper that offers an interesting example of a case or a situation that raises one of the issues discussed in the material assigned for that day. Alternatively, you might realize that a particular song or movie clip illustrates a “problem” that we are going to cover in class. If you submit material *that I use in class*, I will consider the submission when I am calculating your class participation grade.

## **Final Exam**

The final exam will be in-class and open book. The exam will consist of a mix of multiple choice, short answer, and essay questions. You may bring to the exam any written or printed materials. You may not use or refer to any electronically recorded data during the exam and you may not consult with or obtain information from another person. You may not leave the exam to do research or to get materials.

## **Multiple-Choice Quizzes**

There will be four multiple-choice quizzes throughout the semester. These quizzes will each be worth 10% of your grade, and will be similar to questions you will be required to answer on the MPRE and the MBE section of the Bar Exam. These quizzes are designed to help prepare you for both the MPRE and the Bar Exam.

## **Accommodations for Students with Disabilities**

Students requesting classroom accommodation must first register with the Dean of Students Office. The Dean of Students Office will provide documentation to the student who must then provide this documentation to me when requesting accommodation.

## **Policy Regarding Delay in Taking Exams**

There is an established law school policy for students who are unable to take exams on the scheduled day; you are bound by that policy. If there are extraordinary circumstances that prevent you from being able to take the final exam on the scheduled day, you should contact the Assistant Dean for Student Affairs.

## **Grading**

**Final exam: 50%**

**Class Quizzes: 40%**

**Class Participation: 10%**

You will be graded based on your performance on the final examination, and on your class participation. At the end of the semester, the points for all students will be calculated and the letter grades for the course will be assigned subject to the requirements of the mandatory curve. The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

<b>Letter Grade</b>	<b>Point Equivalent</b>
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

## **Course Evaluations**

“Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.”