**Legal Malpractice Law**

**General Class Information and Contact Information for Douglas R. Richmond**

As an adjunct faculty member commuting to Gainesville from Kansas City, Missouri my time on campus is limited. When on campus on Mondays, I can generally be found in the adjunct office assigned to me beginning around 8:30 a.m. I am generally available by e-mail and telephone as indicated below and am happy to schedule times to meet when I am in Gainesville. Unfortunately, at the time this Syllabus was prepared, my office was not yet assigned. I will give you the office location at our first class. Regardless, you can always e-mail or call me, and we can arrange to meet.

Course Number: LAW 6930, Section No. 69DR, Class No. 25015

Credit Hours: One (1)

Class Time: Mondays 1:30–3:20 p.m.

Room: MLAC 209

Office Location: TBD

Phone: (312) 339-2003 (Mobile)

Email: doug.richmond@aon.com

Office Hours: See above

You are free to use a laptop computer to take notes during class and to view materials for class. Because information appearing on a laptop screen potentially may distract fellow students seated near you, however, please do not use your laptop during class for non-class purposes, such as reading e-mail, searching the internet, and so on. I reserve the right to prohibit laptop use if students are unable to comply with these guidelines.

Please turn off your cell phones during class. I recognize, however, that there may be times when you must be available by telephone (e.g., you are a parent or are otherwise responsible for a dependent and need to be available in case of an emergency). If that is the case, please put your phone in “vibrate only” or “silent” mode.

**Course Description**

Liability for legal malpractice is a serious risk for lawyers and an important aspect of tort law, but it is seldom covered in any meaningful fashion in tort or professional responsibility classes. This short course explores legal malpractice law, policy, and problems, including all three causes of action or theories of liability that tend to be combined under the general heading of “legal malpractice”: (1) professional negligence; (1) breach of fiduciary duty; and (2) aiding and abetting clients’ tortious conduct. In addition to examining legal malpractice theories, claims, and defenses, the course will explore practical approaches to managing risk and avoiding professional liability in various practice settings regardless of the theory asserted.

**Course Objectives**

This short course is intended to provide students with a practical understanding of lawyers’ professional liability that they can apply early in their careers in litigating related claims, conducting their own professional affairs, and managing their own law practices. Specifically, this short course is designed to (a) enable students to learn the law and policy issues surrounding lawyers’ professional liability; (b) expose students to professional liability issues encountered by practicing lawyers in a range of substantive areas; (c) equip students to identify and prevent common legal malpractice and related professional liability traps; and (d) provide students with essential knowledge of legal malpractice issues that they can apply in practice.

**Learning Outcomes**

After completing this short course, students should be able to (1) understand and explain substantive legal principles that apply to legal malpractice theories, claims, and defenses, including incorporated or closely-related causes of action; (2) understand and explain procedural aspects of prosecuting and defending legal malpractice cases and closely-related actions; and (3) recognize, analyze, and avoid legal malpractice traps that lawyers encounter.

**Course Format**

The class will combine lecture and class discussion. Class discussion will focus on problems in the text and hypothetical scenarios presented by the instructor.

**Evaluation: Final Examination**

Students will be evaluated by way of a final examination on Monday, March 23 during the time regularly allotted for class. The final examination will be open book and students will be allowed to consult any other written materials they wish. Grades will be released at the same time as all other Spring 2020 courses.

**Course Materials**

The text for the course is Susan S. Fortney & Vincent R. Johnson, Legal Malpractice Law: Problems and Prevention (2d ed. 2016) [hereinafter Fortney & Johnson]. ISBN: 978-0-314-28753-3. You will also be asked to read three key cases discussing lawyers’ aiding and abetting liability as additional reading, as well as four law review articles. Those materials will be provided in PDF format at the beginning of the semester via Canvas or TWEN.

**Topical Outline of Subjects to be Covered and Anticipated Reading Assignments**

On average, you should expect to spend approximately two hours preparing for every hour of class. I have attempted to assign readings accordingly.

Monday, January 13: Introduction to legal malpractice: Fortney & Johnson, pp. 1–17; Douglas R. Richmond, *Why Legal Ethics Rules Are Relevant to Lawyer Liability*, 38 St. Mary’s L.J. 929 (2007).

Monday, January 20: Martin Luther King Jr. Day—No class.

Monday, January 27: Theories of liability: Fortney & Johnson, pp. 19–52; remedies for legal malpractice, Fortney & Johnson, pp. 259–70.

Monday, February 3: Professional negligence: Fortney & Johnson, pp. 52–131, 291–92.

Monday, February 10: Breach of fiduciary duty: Fortney & Johnson, pp. 133–65; legal malpractice liability to non-clients, Fortney & Johnson, pp. 179–203; tort liability to opposing parties, Fortney & Johnson, pp. 228–49; Douglas R. Richmond, *The Lawyer’s Litigation Privilege*, 31 American Journal of Trial Advocacy 281 (2007).

Monday, February 17: Tort liability to opposing parties (continued), Fortney & Johnson, pp. 228–49; begin discussion of tort liability to third-parties (some reading listed in connection with class six), but beginning with *Thornwood, Inc. v. Jenner & Block*, 799 N.E.2d 756 (Ill. App. Ct. 2003), *Cantey Hanger, LLP v. Byrd*, 467 S.W.3d 477 (Tex. 2015), and *Ironshore Europe DAC v. Schiff Hardin, L.L.P.*, 912 F.3d 759 (5th Cir. 2019).

Monday, February 24: Tort liability to third-parties, including aiding and abetting liability and fraud and negligent misrepresentation claims: Fortney & Johnson, pp. 156–65; Douglas R. Richmond, *A Primer on Lawyer Liability for Aiding and Abetting Clients’ Misconduct, Professional Lawyer*, No. 25(2), at 20 (2018); Douglas R. Richmond, *Fraud and Misrepresentation Claims Against Lawyers*, 16 Nevada L.J. 57 (2015).

Monday, March 2: Spring Break—No class.

Monday, March 9: Common legal malpractice traps; Fortney & Johnson, pp. 407–36, 443–45; preventing legal malpractice, Fortney & Johnson, pp. 497–525.

Monday, March 16: Please hold this date for a makeup class should we have to cancel an earlier class. My concern always is some travel complication that causes me to miss a class, although that has not happened in the years that I have been teaching.

Monday, March 23: Final examination.

**Academic Honesty and Integrity**

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code, which may be found at <http://www.dso.ufl.edu/students.php>.

**Class Attendance Policy**

Students are expected to attend all classes. If some conflict prevents you from sitting for the final examination at the time it is scheduled, you should consult the law school policy on delay in taking exams found at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#12>.

**Accommodations for Students with Disabilities**

Students requesting classroom accommodation must first register with the Office of Disability Resources. The UF Office of Disability Resources will provide documentation to the student who must then provide this documentation to the Law School Office of Student Affairs when requesting accommodation. Students who would need assistance if the classroom might need to be evacuated for an emergency (such as a severe weather event) should inform the Office of Student Affairs when requesting accommodation.

**Student Course Evaluations**

Students are expected to provide feedback on the quality of instruction in this course based on 10 criteria. These evaluations are conducted online. Evaluations are typically open during the last two or three weeks of the semester, but, given the timing of this course, students will be given specific times when they are open. Summary results of these assessments are available to students at <https://evaluations.ufl.edu>.

**Information on UF Law Grading Policies**

The UF policy for assigning grade points is set forth below. The College of Law grading curve policy follows the policy on assigning grade points.

*Grade* *Points* *Grade* *Points* *Grade* *Points*

A (Excellent) 4.0 C+ 2.33 D- 0.67

A- 3.67 C (Satisfactory) 2.00 E (Failure) 0.00

B+ 3.33 C- 1.67

B (Good) 3.00 D+ 1.33

B- 2.67 D (Poor) 1.00

Pursuant to faculty policy, the mandatory mean grade for all course sections is 3.15–3.25, inclusive. If the mean GPA for students enrolled in the course section (determined as of the beginning of the semester) is above 3.2, the lower end of the range is 3.15 and the upper end of the range may be .05 higher than the mean GPA of the students enrolled in the course. If the mean GPA of the students enrolled in the course section (determined as of the beginning of the semester) is below 3.2, the lower end of the range may be .05 lower than the mean GPA of the students enrolled in the course and the upper end of the range shall be 3.25.

The mean grade specified above is recommended rather than mandatory with respect to any seminar (classified as LAW 6936) and any course section of 15 or fewer students. In no event, however, may the mean grade exceed 3.6, except as follows: If the mean GPA (determined at the beginning of the semester) for students enrolled in a course section after the last day to drop a class is above 3.55, the mean grade for the course section may exceed 3.6, but may not exceed the mean GPA of the students enrolled in the course section plus .05. Grades awarded to LL.M. students, exchange students, and graduate students, and grades of E are excluded from calculation of the mean grade.

The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.