

**Northeastern University School of Law
Professional Responsibility – Summer 2010
Professor Hillary Farber**

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OFFICE: CHURCHILL 407
**OFFICE HOURS: TUES. 11:45-
1:00 PM & BY APPOINTMENT**

Required Texts:

LERMAN AND SCHRAG, ETHICAL PROBLEMS IN THE PRACTICE OF LAW, 2ND ED. (ASPEN 2008)

GILLERS & SIMON, REGULATION OF LAWYERS: STATUTES AND STANDARDS - CONCISE EDITION (ASPEN 2010) (assigned for Rules and Comments)

ABA MODEL RULES CAN ALSO BE FOUND AT: WWW.ABANET.ORG/CPR/MRPC/MRPC_TOC.HTML

Purpose of the Course: This course has two overarching goals. First, to provide an opportunity for self reflection and prospective thinking about the kind of lawyer you want to be and the ways you might handle ethical issues once a member of the bar. The Rules of Professional Conduct are a framework from which to work to determine a proper course of action. Equally important is your own identity as a lawyer and the values you bring to bear in your pursuits. While mastering the rules that guide all lawyers it is important to develop a core value system of your own so as to guide your decision-making as a lawyer. There is often more than one possible course of action that fulfills the minimum requirements set forth in the Rules. In this course you will consider ethical dilemmas faced by other lawyers and you should consider how you might handle the same situation should you encounter such a dilemma. The second goal of the course is to gain mastery of the Model Rules of Professional Conduct. This course is not a prep course for the MPRE. We will study the Rules, their historical roots and the current developments in the field of legal ethics. As is typical in law classes we will analyze the application of the Rule to a particular set of facts and consider the implications of the outcome. We will identify all applicable Rules that may pertain to a given set of facts, discuss any conflicts among the Rules, and consider how to reach a just resolution.

Class Participation: I expect everyone to come to class prepared to contribute to a lively and rich discussion. The act of considering the questions and answers spoken in class, EVEN when you are not called upon to speak, is an extremely effective method of ensuring that you are learning the material. Ethical issues are best vetted through consultation with other lawyers and experts. To create as realistic an environment as possible, you will be assigned to a particular 'law firm' comprised of other students in your class. Each law firm will be assigned particular problems or questions in the casebook that are to be thoroughly discussed among the group outside of class. Members of the firm will present to the class how they went about resolving the issue(s) and the varying views among its members. Each person in the firm will be expected to contribute their opinion and reasoning. All other students in the

course will also read and do the problems but are not expected to meet with their law firm for any problem other than those specifically assigned. **Voluntary participation from those not “assigned” is encouraged.**

Attendance: It is my expectation that you will attend class regularly. Frequent absences may affect your final evaluation.

Course Requirements: Your evaluation in this course will be based upon one short writing assignment, a multiple choice quiz, a final examination, and your class participation.

Final Examination: The final examination will be modified “open book” in that you will be allowed to bring in your own copy of Gillers & Simon (the Rules book) but no notes, outlines, casebook or other materials.

Office Hours: Students are encouraged to come to office hours with any questions and/or concerns related to the course. My office hours are listed on the first page of the syllabus.

6/1 I. Introduction to the Regulation of Lawyers; Images & Perceptions of Lawyers in Popular Culture

Reading: CB: Preface & pp. 1-45

6/3 II. Admission to Practice

Reading: pp. 45-58

Problem: 1-1

Model Rules and Comments: 8.1

III. Professional Discipline

Reading: CB pp. 73-86, 96-112 & chart on pp. 147-9; *See also, Past is Prologue: A Short History of the Bar Discipline System in Massachusetts* at www.mass.gov/obcbbo/pastisprologue.htm

Model Rules and Comments: 5.1; 5.2; 8.3

*******Writing Assignment 1 due in class on June 8, 2010*******

6/8 IV. Duty to Protect Client Confidences

Reading: pp. 151-161

Model Rules and Comments: 1.6, 4.1

Exceptions to the Confidentiality Rule:

- A. Revelation of Past Criminal Conduct
pp. 161-175
Problems: 3-3; 3-4; 3-5 (opposing sides)
- 6/15** B. Risk of Future Injury or Death
pp. 176-187 & handout
Spaulding v. Zimmerman (see Blackboard for assigned questions)
- 6/17** C. Client Fraud and other exceptions
Reading: pp. 188-212
Problems 3-7 (opposing sides)
Model Rules and Comments: 1.2(d); 1.6; 4.1
- 6/22** **V. Attorney Client Privilege and Work Product Doctrine**
Reading:
Overview of privilege: pp. 215- 228;
Does the atty-client privilege survive death of client?
The Privilege for corporations
pp. 240-259 & **Problem: 4-3** (opposing sides)
Work Product Doctrine: pp. 261-263
- 6/24** **VI. Lawyer Client Relationship: Responsibilities & Duties**
Reading: pp. 265-283; 291-301
Model Rules and Comments: 1.1; 1.3; 1.4; 2.1; 8.4
- 6/25** **VII. Lawyer Client Relationship: Allocation of Authority & Termination**
Reading: pp. 309-350
Problems: 5-4; 5-7
Model Rules and Comments: 1.2; 1.14; 1.16
- 6/29** **VIII. Concurrent Conflicts of Interest**
Reading: pp. 351-389
Model Rules and Comments: 1.7; 1.10; 1.18
Problems: 6-2; 6-5(opposing sides)
- 7/1** **IX. Concurrent Conflicts: Representing Criminal Co-defs**
Reading: pp. 391-395; 406-414
Problem: 7-2

7/6 & 7/8 X. Conflicts Involving Former Clients

Reading: pp. 435-481

Problems: 8-2; 8-4

Model Rules and Comments: 1.7; 1.9

7/13 XI. Conflicts Between Lawyers and Clients

Reading: pp. 483-489; 502-533; 547-561

Problem: 9-3; 9-4

Model Rules and Comments: 1.5; 1.8; 1.15

7/15 XII. Lawyers' Duties to Courts, Adversaries, and Others

Reading: pp. 606-616; 624-626; 629-642

Problems: 11-5; 11-6

Model Rules and Comments: 3.3; 3.4

7/20 XIII. Lawyers' Duties to Courts, Adversaries, and Others – Cont'd

Reading: pp. 679-698

Problem: 12-1

Model Rules and Comments: 3.6; 4.1; 4.2; 8.4

7/22 XIV. Special Responsibilities of Prosecutors

Reading: CB pp. 713-725 & supplemental reading

Problem: TBA

Model Rules and Comments: 3.8

7/27 XV. Advertising & Solicitation: Look up ABA Model Rules 7.1, 7.2, 7.3. Everyone (not just the firm assigned for the class) must try to find an example of advertising of legal services that you think either violates, or comes close to violating, Rule 7.1. Bring the advertisement to class and be prepared to explain.

****Guest speaker, Sarah Chambers, Esq., Office of Bar Counsel**

7/29

XV. Unmet Needs for Legal Services, Pro Bono Obligations

Reading: pp. 819-825; 836-846; 853-862; *see also*; Massachusetts R. Prof. Conduct 6.1 regarding Voluntary Pro Bono Publico Services at www.mass.gov/obcbbo/rpc6.htm

Problems: 15-2; 15-3

***On this date as well, there will be a short in class multiple choice quiz*

7/30 & 8/10

XVI. Race, Class and Sex in the Legal Profession

Reading pp. 738-751
Problem 13-2

In addition to the casebook assignment and the short handout, please read pp. 4-40 of *Women Lawyers and Obstacles to Leadership: A Report on Comparative Career Decisions and Attrition rates of Women and Men in Massachusetts Law Firms* which you can find at http://web.mit.edu/workplacecenter/docs/law-report_4-07.pdf