

## HITTING THE SWEET SPOT: FINDING THE CENTER IN TEACHING PROFESSIONAL RESPONSIBILITY

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### I. INTRODUCTION

The challenge of teaching professional responsibility is to try to find the appropriate blend of conveying sufficient information, presenting sophisticated analytical processes, and inspiring students to take the ideal of professionalism to heart. The teacher's task is not unlike participating in a sport where a ball is hit with hand-held equipment, such as golf, baseball, or tennis. The participant attempts to strike the ball at that special place, often called the sweet spot, on the club, bat, or racquet that provides the maximum dynamic force. Hitting the sweet spot will give the participant greater control and power to successfully play the game. Mis-hit the ball, and the participant will experience an uncomfortable twinge vibrate up the arms and a decrease in the ability to control the power of the swing and the direction and distance the ball travels.<sup>1</sup> Teaching legal ethics is much like swinging to hit the pedagogical sweet spot that forms the center of the subject. Miss the perfect blend of information, analysis, and inspiration, and the course reverberates with discordant noise leaving the students largely unsatisfied with the experience.

We are mandated by the American Bar Association (ABA) to offer a required course of study on professional responsibility, or legal ethics, the law of lawyering, or the legal profession, as some might call it.<sup>2</sup> The ABA has

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1. See Physics of Baseball, <http://www.physics.usyd.edu.au/~cross/baseball.html> (last visited June 15, 2007).

Batters know from experience that there is a sweet spot on the bat, about 17 cm from the end of the barrel, where the shock of the impact, felt by the hands, is reduced to such an extent that the batter is almost unaware of the collision. At other impact points, the impact is usually felt as a sting or jarring of the hands and forearm, particularly if the impact occurs at a point well removed from the sweet spot.

*Id.*

2. AMERICAN BAR ASSOCIATION, 2006–2007 STANDARDS FOR APPROVAL OF LAW SCHOOLS 17–19 (2006), available at <http://www.abanet.org/legaled/standards/2006-2007StandardsBookMaster.PDF>. Standard 302(a)(5) requires law schools to instruct their students in “the history, goals, structure, values, rules, and responsibilities of the legal profession

commissioned studies on the ideal of professionalism<sup>3</sup> and has challenged law schools to make the ideal of professionalism the center of not only the required professional responsibility course, but also the entirety of the law school experience.<sup>4</sup> In a recent article, Judge Harry Edwards urgently repeated the call for law professors to proactively teach professionalism, or as he would frame it, the fundamental values of the profession.<sup>5</sup> He even suggested that our hiring decisions in the academy take into account the professional experience held by a candidate for a law teaching position.<sup>6</sup> To claim or insist that the

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and its members. *Id.* at 18. Interpretation 302-9 further specifies that such instruction include “matters such as the law of lawyering and the Model Rules of Professional Conduct of the American Bar Association.” *Id.* at 19.

3. See PROFESSIONALISM COMMITTEE OF THE AMERICAN BAR ASSOCIATION, *TEACHING AND LEARNING PROFESSIONALISM* (1996). The Report defines professionalism as follows: “A professional lawyer is an expert in law pursuing a learned art in service to clients and in the spirit of public service; and engaging in these pursuits as part of a common calling to promote justice and public good.” *Id.* at 6. The Report states that the

[e]ssential characteristics of the professional lawyer are:

1. Learned knowledge
2. Skill in applying the applicable law to the factual context
3. Thoroughness in preparation
4. Practical and prudential wisdom
5. Ethical conduct and integrity
6. Dedication to justice and the public good.

*Id.* at 6–7.

4. *Id.* at 13–25.

Law school can provide the framework for understanding and internalizing the unique American concept of legal professionalism and can sensitize law students to the important professionalism issues. The practice of law is where these concepts and ideals are put to the test of reality. Therefore, it is important to understand how professionalism is nurtured—or undermined—by law practice.

*Id.* at 25.

5. Harry T. Edwards, *Renewing Our Commitment to the Highest Ideals of the Legal Profession*, 84 N.C. L. REV. 1421 (2006). Judge Edwards elaborated:

I believe that “fundamental values” are founded on the highest ideals of our profession, and that they inspire lawyers to serve their clients and the public good and to understand that these commitments are not mutually exclusive. . . . It is my belief that truly great lawyers far exceed what the codes of conduct require, reaching instead for the highest ideals of our profession—the ideals from which our fundamental values are derived.

*Id.* at 1422–23.

6. *Id.* at 1431.

I am also distressed that, in recent years, a number of law schools have adopted hiring policies that require teaching candidates to have published major articles before seeking employment in the legal academy. These policies baffle me, for they preclude many bright young law graduates who prefer to focus on practice for a few years from subsequently entering the teaching profession. This means that the pool of talented law professors with even a serious taste of practice experience is greatly diminished and the gulf between legal education and the practice of law remains too wide.

*Id.* at 1431–32.

future of the legal profession is in our hands is daunting—more so because we acknowledge the complexities of the ethical regulatory environment and the complexities of legal practice in a post-modern, digital world where technology makes communication instantaneous.<sup>7</sup>

More challenging still is the fact that our students were raised to be masters of the computer's virtual world. They are experts at multi-tasking and have an ever-expanding, sophisticated collection of technological tools (hard and soft) to accomplish tasks and efficiently manipulate information needed for these tasks.<sup>8</sup> And while we talk about the importance of core values and professional traditions,<sup>9</sup> the development of nanotechnology has hastened the speed in which information technology evolves.<sup>10</sup> Correspondingly, the world has become a much smaller place and world events beyond our control impact our daily lives.<sup>11</sup> In such an environment of dynamic change, how do we convey the ideal of professionalism to students who will live and practice, to

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7. See GARY KRUG, COMMUNICATION, TECHNOLOGY, AND CULTURAL CHANGE 145 (2005); see also Jason Krause, *The Top 10 in Tech: From Practical Systems to Glitzy Gadgets, These Things May Serve—or Save—Your Practice*, 91 A.B.A. J. 38 (2005).

8. See Scott Carlson, *The Net Generation in the Classroom*, CHRON. OF HIGHER EDUC., Oct. 7, 2005, at 34.

9. Judge Harry Edwards, reflecting on honoring our professional traditions in a changing society at the 2005 Mid-Year Workshop on “Legal Ethics in the New Millennium,” observed a disconnect between tradition and post-modernity:

The principal premise of the conference appeared to be that global, economic, technological, and demographic changes will require a reassessment of the fundamental values of the legal profession. I rejected this premise then and reject it now. What I believe is not that the highest ideals of our profession need to be reassessed, but, rather, that we need to renew our commitment to those ideals. I also believe that we need to commit ourselves to passing these ideals to the generation of young lawyers who are now most seriously encumbered by the profession's malaise.

Edwards, *supra* note 5, at 1422.

10. SANDY FRITZ, NANOTECHNOLOGY: INVISIBLE MACHINES 24 (2004).

11. See Ethan S. Burger & Carol M. Langford, *The Future of Legal Ethics: Some Potential Effects of Globalization & Technological Change on Law Practice Management in the Twenty-First Century*, 15 WIDENER L.J. 267, 280 (2006).

The training of young lawyers in the future thus cannot be taught in isolation of the practice of law in today's increasingly global society. A lawyer's familiarity with legal ethics that consists of taking one two-credit course for one semester and reviewing the local rules of professional responsibility during the first week of their first job will not be adequate. . . .

Ethics should be integrated into substantive areas of the law during law school, particularly in courses dealing with areas of law likely to have international complexities, such as intellectual property law. But even more important is that law schools have a course in international ethics so that students, particularly those that plan on practicing in a large firm environment, are at least made aware of the international implications of their matters.

*Id.*

borrow from the poet Kahlil Gibran, “in the house of tomorrow, which you cannot visit, not even in your dreams.”<sup>12</sup>

This essay will consider the teaching of the course on professional responsibility, not so much from the course materials we choose or the techniques we use, but from the point of view of the teacher engaged in a process of teaching values and ideals about what it means to be a lawyer. The question is how do we get beyond the rules, standards, and case of legal ethics to that spot where teacher and student are engaged with the subject in a meaningful learning experience that is capable of transcending the barriers of time and place and persons? I want to consider how we go back to our professional traditions, place them in the contemporary vortex of an ever-changing world where persons of diverse backgrounds with a variety of hopes for their future can come to terms with what it means to be called a member of a learned profession.<sup>13</sup>

This inquiry is in part responsive to the invitation Association of American Law Schools (AALS) President Judith C. Areen offered to the legal academy to consider new ways “to work on [our] teaching.”<sup>14</sup> She noted that legal pedagogy can be informed by recent scholarship on the process of teaching that deepens our understanding of the process.<sup>15</sup> She writes:

Recent studies of how people learn are invoked to teach us that knowledge is constructed, rather than merely received. The challenge in teaching is to stimulate students to engage in more than the kind of surface learning in which they remember something only long enough to pass the final examination.<sup>16</sup>

Accordingly, this essay will consider some of the wisdom presented by scholars who have developed insights which I believe are useful for the professor who seeks to teach professional responsibility from the sweetest spot of the subject; that place where our ideals live.

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12. Kahlil Gibran, *The Prophet* 21 (1923).

13. In its Preamble, the ABA Model Rules emphasize the comprehensive nature of our professional values, including our obligations to the public:

As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. *As a member of a learned profession*, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education.

MODEL RULES OF PROF'L CONDUCT pmbl. (2007) (emphasis added).

14. Judith C. Areen, *Reflections on Teaching*, AALS NEWS, Apr. 2006, at 1.

15. *See id.*

16. *Id.*

## II. COURSE DESIGN

The first challenge is to decide how to teach the subject of professional responsibility. There are many different perspectives and the subject matter has become quite expansive, moving beyond just studying the ABA Model Rules to a broader consideration of the law of lawyering. In previous work, I have considered the array of teaching materials and teaching methodologies. In an article entitled, "Symposium Introduction: Sharing Stories About Our Commitment to Teaching Ethics,"<sup>17</sup> I reflected on a panel discussion held by the AALS Section on Professional Responsibility at the 2002 AALS Annual Meeting which focused on the variety of approaches law professors take in teaching this subject. Since the early 1970s when the subject became a mandatory requirement by the American Bar Association, I was most pleased to see how the subject had developed and that there was a broad spectrum of ideas on how to teach the subject.<sup>18</sup> Professional Responsibility is now clearly established as a major field of study and scholarship.

However we choose to teach the subject, there is never enough time to fully consider the broad sweep of the subject. Choices must be made as to coverage because the typical three-hour course does not permit in-depth study of all the possible topics. For example, while it is important that students be exposed to the various theories of legal malpractice, we can only briefly survey a topic that could be a course in itself. Similarly, many professors spend little time on judicial ethics, in part, because it will be some time before their students become judges. Therefore, to meet the ABA requirements to teach professional responsibility, some schools permit professors to develop courses which specifically focus on an area of the law of lawyering, such as the ethics of tax practice, criminal practice, corporate practice, or international practice.<sup>19</sup> The hope is that students in such a specialized course would cover the basic issues of legal ethics in the context of a subject which interests the student.<sup>20</sup> Accordingly, such an approach attempts to connect the study of ethics to the field of practice which the students may one day enter. Alternatively, to increase the coverage of salient ethical issues, some schools have encouraged the pervasive method where professors can introduce and highlight the ethical dilemmas in each course they teach.<sup>21</sup> For example, in the typical family law

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17. Steven H. Hobbs, *Symposium Introduction: Sharing Stories About Our Commitment to Teaching Ethics*, 26 J. LEGAL PROF. 101 (2002).

18. *Id.* at 110–12.

19. For an example of a casebook specifically designed for students who will practice corporate law, see MILTON C. REGAN, JR. & JEFFREY D. BAUMAN, *LEGAL ETHICS AND CORPORATE PRACTICE* (2005).

20. See Mary C. Daly et al., *Contextualizing Professional Responsibility: A New Curriculum for a New Century*, 58 LAW & CONTEMP. PROBS. 193 (1995).

21. DEBORAH L. RHODE, *PROFESSIONAL RESPONSIBILITY: ETHICS BY THE PERVASIVE METHOD* (1994).

course, a professor might explore the conflicts of interest in providing legal advice in a divorce matter to both a husband and wife or the issue of confidentiality when child abuse by a client is discovered.<sup>22</sup> Or in a course on children's rights, one might choose a textbook which presents extensive coverage of the ethical responsibilities of an attorney representing children or serving in the capacity of guardian ad litem.<sup>23</sup>

Ultimately, the professor will make choices about how to evaluate the students' study of professional responsibility. Here the decision could be made to offer a multiple choice or an essay examination, or to require students to write papers outlining their own personal code of professional responsibility or ethics.<sup>24</sup> Whatever performance measure or criteria is used, it must of necessity be shaped by the initial decision on how to teach the subject. For students, the question becomes whether they have to agree with the approach chosen by the professor or can they assert their own point of view? If multiple choice questions are given, can the student supplement their choice of an answer with a short note demonstrating the wonderful analytical techniques absorbed during the course? What might even be more confusing is the fact that many of the problems and cases studied in the course involve lawyers behaving badly. Will the assessment process focus on how we judge bad lawyers or on what is required of professionally competent, ethically-grounded lawyers? Not surprisingly, at the end of the course, the evaluation process forces the teacher into a hurried swing, missing the sweet spot with an assessment that is unresponsive to the goal of teaching the best ideals of the profession.

Finally, just as each athlete, depending on their unique talents and abilities, must develop his or her own unique style of swinging a bat, a racket, or a club, each professional responsibility teacher will develop his or her own style of teaching the subject grounded in their unique talents and abilities. Some are more comfortable using the problem method while others will utilize case analysis supplemented by theoretical materials emphasizing alternative

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22. See, e.g., ROBERT E. OLIPHANT & NANCY VER STEEGH, *WORK OF THE FAMILY LAWYER* (2004). The authors include a chapter on professional responsibility and provide discussion problems on these issues at pages 617–18. See also Symposium, *Legal Ethics: Some Current Issues in the Practice of Family Law*, 33 FAM. L.Q. 277 (1999).

23. See DOUGLAS E. ABRAMS & SARAH H. RAMSEY, *CHILDREN AND THE LAW: DOCTRINE, POLICY AND PRACTICE* (2d. ed. 2003); American Bar Association, *Standards of Practice For Lawyers Representing a Child in Abuse and Neglect Cases* (1996), available at <http://www.abanet.org/child/repstandwhole.pdf>.

24. See, e.g., NATHAN CRYSTAL, *PROFESSIONAL RESPONSIBILITY: PROBLEMS OF PRACTICE AND THE PROFESSION* (3d ed. 2004). Professor Crystal requires his students to develop a written philosophy of lawyering and write an essay describing that philosophy of lawyering. See *id.* at 54. The essay should include discussion of the personal, the practice, and the institutional dimensions of a philosophy of lawyering. *Id.* It should include a broad range of specific issues. *Id.* at 54–55.

analytical methodologies. Still others will examine ethical issues as presented in literature, movies, or stories about lawyers. Students may find this rich diversity of talent comforting in that there is a chance that they will meet a teacher with a style and approach which suits their learning style. On the other hand, some students will be confused as to whether or not they actually learned anything that will be useful in practice, or whether they received at least sufficient basic information to pass the Multistate Professional Responsibility Examination.<sup>25</sup>

### III. THE TEACHER'S JOURNEY

The first task of any teacher of professional responsibility is to gain an understanding of important areas to be covered in the course and to build a framework for approaching the material. Often, this process is driven by the choice of a textbook and a willingness to utilize the author's conceptualization of the course while feeling free to make modifications. For my part, I look at the course and try to perceive the general framework or the natural joints of the subject by identifying the various sub-parts of the course. Being a fan of alliteration, I use a simple string of subjects beginning with the letter C: character, competence, confidentiality, conflicts, clients, courts, communication, cash, and community. I am sure that the list might be expanded or restructured; however, my sense is that most of the major principles and values can be listed under these subjects.<sup>26</sup> For example, under character we can study fitness to practice law, disciplinary processes, bar admission, and such basic values as honesty, fidelity, integrity, and personal ethics. Competence includes the basic possession of professional skills, legal knowledge, diligence, and legal malpractice. The subject of clients considers our general obligations to those we wish to offer legal services, including drafting engagement letters to spell out the nature of our roles and describing the specific nature of the services the client can expect. Confidentiality involves the obligations to keep information about the client inviolate and the mechanisms of the attorney-client privilege. Conflicts of interest are interrelated to the duties to clients and to the obligation of confidentiality. Despite this, these duties are uniquely distinctive duties of trust that apply when offering legal services to clients, and examine the notion of fiduciary obligations. Our responsibilities to the courts highlight obligations to maintain

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25. Some students, in giving their end-of-year evaluation of the teacher, especially one who approaches the class in a non-traditional manner, will opine that while they learned much about Shakespeare's *Merchant of Venice*, they "didn't learn the rules and will have to teach themselves in order to pass the MPRE." This perspective is fueled by the notion that taking the course is about getting another requirement checked off on the way to the job market.

26. For an example of how textbook authors might construct their book around the main themes of the subject, see LISA G. LERMAN & PHILIP G. SCHRAG, *ETHICAL PROBLEMS IN THE PRACTICE OF LAW* 6–11 (2005).

the integrity of our system of judicial administration and examine corresponding ethical responsibilities of judges, lawyers, clients, other parties, and judicial personnel. Communication presents an opportunity to study the business side of legal practice as we market our services to the public. This also includes rules on communicating with the media and the public about our clients' matters. Cash symbolizes our duties to offer reasonable fee structures and for safekeeping the property of clients. And finally, our duties to the community entail obligations to provide legal services to those who cannot afford attorneys, and our more aspirational values as officers of the court to promote and preserve our system of justice, respecting the dignity of all. Naturally, this brings us full circle to the topic of character.

The outline forms a basic sketch of the course's topography, presenting entry points to dig deeper into the subjects. The outline also provides a means to identify places where a considered reflection of ethical values becomes most challenging and we as professors become less confident in our pedagogical swings. At this place in our teaching we find that the rules, the cases, and the theories do not provide ready answers for the ethical dilemmas that our students will face. Accordingly, we are challenged to confront the ambiguities and perhaps even admit that we do not have a solution. Thus we can help our students develop a tolerance for ambiguity and be willing to make decisions grounded in our core values.<sup>27</sup>

#### IV. THE QUEST FOR TEACHING TOWARDS THE CENTER

There is a moment, perhaps much more than a moment, when a teacher must confront, with trepidation, the true difficulty of teaching the material. The perspective or methodology is not nearly as important as the challenge of getting to the heart of teaching the subject. I do not mean just the core values or principles of the subject. Certainly, the pursuit of justice within the rule of law where the dignity of the individual is respected and protected is a statement of core values that have wide acceptance.<sup>28</sup> I am suggesting that the actual process of teaching must engage these core values and principles as if they matter personally to us and to the institutions in which we teach. If we believe, as Professor Russell Pearce does, that teaching about the values of the

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27. Any enterprise that must make decisions based on core values will need to reflect on situations which do not readily provide clear cut answers. This is as true in business as it is in law, as one business person reflected on how business managers direct organizational behavior. "In a company, the leader is the person who understands, interprets, and manages the corporate value system. Effective managers are then action-oriented people who resolve conflict, are *tolerant of ambiguity*, stress, and change, and have a strong sense of purpose for themselves and their organizations." Bowen H. McCoy, *The Parable of Sadhu*, HARV. BUS. REV., Sept.-Oct. 1983, at 107 (emphasis added).

28. See Philip C. Kissam, *Triangulating Constitutional Theory: Power, Time, and Everyman*, 53 BUFF. L. REV. 269, 291-98 (2005).



profession should be at the heart or center of the law institution's enterprise,<sup>29</sup> then we must start at the center of the individual teacher. Certainly, there is magic that should happen in all teaching experiences when we take the enterprise seriously. However, in teaching about ethics and values, we must of necessity get personal, get deeper than just offering the knowledge and application of the rules of the profession and the law of lawyering. Our students know how to parse cases and interpret rules. They hardly need us to pass the Multistate Professional Responsibility Examination, particularly with the availability of exam prep courses. We can help students prepare for practice and awakening an understanding of the professional role, as attorney Peter Jarvis suggests:

One can come to a better understanding of the importance to society at large of how lawyers conduct themselves. One can come to a better understanding of the interrelationships between the duties that lawyers owe to their clients, to the non-clients, and to themselves. And one can come to a better understanding that our law of professional responsibility will continue to evolve as long as our society continues to evolve.<sup>30</sup>

In his inspiring book, *The Courage to Teach: Exploring the Inner Landscape of a Teacher's Life*,<sup>31</sup> Professor Parker J. Palmer offers some insight on how to develop our students understanding of the professional life they seek to enter. For Dr. Palmer, this is a reflective text drawn on many years of teaching and studying the art of being a teacher.<sup>32</sup> While a more in-depth review and analysis of this book is beyond the scope of this essay, it offers a most useful framework for finding the sweet spot in teaching professional responsibility. Dr. Palmer encourages us to find the courage to teach from the core of who we are as human beings. By this he means to teach with a recognition of our own knowledge about what makes us, as teachers, the

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29. Russell G. Pearce, *Legal Ethics Must Be the Heart of the Law School Curriculum*, 26 J. LEGAL. PROF. 159 (2002).

30. Peter R. Jarvis, *Foreword* to LISA G. LERMAN & PHILIP G. SCHRAG, *ETHICAL PROBLEMS IN THE PRACTICE OF LAW* xxxiv (2005).

31. PARKER J. PALMER, *THE COURAGE TO TEACH: EXPLORING THE INNER LANDSCAPE OF A TEACHER'S LIFE* (1998).

32. *See id.* at 6–7.

“Who is the self that teaches?” is the question at the heart of this book—though answering that question in print has been more challenging than I imagined. In writing and rewriting this book many times over the past five years, I have learned how tempting it is to stay with the “whats” and “hows” and “whys”: those questions are more easily answered in prose and translated into proposals for fundable programs!

But I have persisted with the “who” question because it marks a seldom-taken trail in the quest for educational reform, a trail toward the recovery of the inner resources that good teaching always requires.

*Id.* at 7.

unique individuals that we are, because “[g]ood teaching requires self-knowledge: it is a secret hidden in plain sight.”<sup>33</sup>

For Dr. Palmer, great teaching is not about finding the right teaching techniques, although knowing various approaches to presenting a subject is necessary.<sup>34</sup> Great teaching evolves from a place grounded in certain necessary conditions that promote the excitement of learning. In brief, while others might draft different formats for creative learning,<sup>35</sup> he urges several considerations necessary for teaching from the center, the sweet spot, of a subject. First, to find the sweet spot, you have to find what he calls the teacher within that can only be discovered after connecting with your identity and integrity.<sup>36</sup> Second, students also possess a teacher within themselves whom can be brought into the classroom if the professor is willing to connect to the students and if the classroom is approached by the teacher with an open heart.<sup>37</sup> Third, the subject itself (in our case professional responsibility) must be at the center of the classroom experience and provide the focal point for learning.<sup>38</sup> Finally, there are prerequisite conditions in the classroom environment itself which must attend in order for the teacher, the student, and the subject to have a meaningful, interactive learning experience.<sup>39</sup> Each of these will be discussed in fuller detail below.

First, the teacher must have the courage to find the teacher within that can only be discovered by serious and honest reflection, as Dr. Palmer suggests: “Face to face with my students, only one resource is at my immediate command: my identity, my selfhood, my sense of this ‘I’ who teaches—without which I have no sense of the ‘Thou’ who learns.”<sup>40</sup> The two prime components of self-knowing are to be in touch with, and to be connected to our identity and our integrity. Identity (who we are) is formed by those forces both internal and external which shape our personality, our ways of moving in the world, and our ways of entering into relationships.<sup>41</sup> Identity is shaped by our

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33. *Id.* at 3.

34. *Id.* at 24.

35. *See, e.g.*, CHET MEYERS & THOMAS B. JONES, PROMOTING ACTIVE LEARNING: STRATEGIES FOR THE COLLEGE CLASSROOM 19–32 (1993).

36. PALMER, *supra* note 31, at 13.

37. *Id.* at 31.

38. *Id.* at 115–20.

39. *Id.* at 73–83.

40. *Id.* at 10.

41. Dr. Palmer describes identity as follows:

By *identity* I mean an evolving nexus where all the forces that constitute my life converge in the mystery of self: my genetic makeup, the nature of the man and woman who gave me life, the culture in which I was raised, people who have sustained me and people who have done me harm, the good and ill I have done to others and to myself, the experience of love and suffering—and much, much more. In the midst of that complex

families of origin, the places where we were educated, and the intrinsic psychological, intellectual, and emotional makeup. Naturally, our identity is also constructed by the choice of vocation and advocacy.<sup>42</sup>

Our integrity is measured by whether we regularly act in a manner consistent with our identity.<sup>43</sup> To act and to teach with integrity is to be able to manifest all of who we are. Professor Thomas Shaffer would say to act with integrity, a lawyer should be the same way at home as he or she is in the office or courthouse.<sup>44</sup> You are not separated from the essence of who you are (your identity) when you are standing in front of your students. This ability to bring your full self into the classroom, or to teach with integrity, is the beginning of being able to connect to the students by having the courage to let them bring their whole selves to the learning experience.<sup>45</sup>

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field, identity is a moving intersection of the inner and outer forces that make me who I am, converging in the irreducible mystery of being human.

PALMER, *supra* note 31, at 13.

42. As stated by Dr. Palmer,

Many of us were called to teach by encountering not only a mentor but also a particular field of study. We were drawn to a body of knowledge because it shed light on our identity as well as on the world. We did not merely find a subject to teach—the subject also found us. We may recover the heart to teach by remembering how that subject evoked a sense of self that was only dormant in us before we encountered the subject's way of naming and framing life.

*Id.* at 25.

43. Dr. Palmer describes integrity as follows:

Integrity requires that I discern what is integral to my selfhood, what fits and what does not—and that I choose life-giving ways of relating to the forces that converge within me: Do I welcome them or fear them, embrace them or reject them, move them with them or against them? By choosing integrity, I become more whole, but wholeness does not mean perfection. It means becoming more real by acknowledging the whole of who I am.

*Id.* at 13.

44. Professor Shaffer studied the authenticity of the fictional lawyer, Atticus Finch, in Harper Lee's *To Kill A Mockingbird* and observed this moral consistency:

Thus, Atticus's insistence on the truth in court was not significantly different from his insistence in answers to the questions of children. He believed that the government of Maycomb should know and tell the truth because he was aware that a gentleman is a governor, but not aware that he was, as governor, a different person than he was at home or when he sat by himself in church.

Thomas L. Shaffer, *The Moral Theology of Atticus Finch*, 42 U. PITT. L. REV. 181, 214 (1981).

45. Dr. Palmer uses the metaphor of weaving to describe the intimacy of the teaching and learning connections. See PALMER, *supra* note 31, at 11.

Good teachers possess a capacity for connectedness. They are able to weave a complex web of connections among themselves, their subjects, and their students so that students can learn to weave a world for themselves. The methods used by these weavers vary widely . . . The connections made by good teachers are held not in their methods but in their hearts—meaning *heart* in its ancient sense, as the place where intellect and emotion and spirit and will converge in the human self.

*Id.*

Here much soul searching must be done, and the heart has to be open to critical examination grounded in one's identity and sense of integrity. At this deep place of reflection, often done in a place of quiet solitude,<sup>46</sup> we can hear that voice within us that Dr. Palmer calls the "teacher within."<sup>47</sup> As Dr. Palmer notes:

In classical understanding, education is the attempt to "lead out" from within the self a core of wisdom that has the power to resist falsehood and live in the light of truth, not by external norms but by reasoned and reflective self-determination. The inward teacher is the living core of our lives that is addressed and evoked by any education worthy of the name.<sup>48</sup>

Within this search one finds that inner teacher which can enlighten one's self knowledge and can be transformative of one's very being.<sup>49</sup>

Too often this search is hampered by our need to only bring our intellect into the teaching and learning process, and to avoid getting personal and

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46. For deep reflective thought one often has to go off on a retreat or find a place of quiet where the outside world does not intrude. In such a place, alone with only your thoughts, the opportunity for clarity and insight arises, as some religious orders make clear in the practice of spending time in a cloister or monastery. One such practitioner, Father Dunstan Morrissey, shares his thoughts about living in solitude:

In contemplative solitude, you are working directly with the unconscious—it's not mediated, it's not objectified. You can't help realizing that it comes, this unconscious, from some place other than your normal identity. It breaks down the contours of the domestic self and you feel your solidarity with the whole human family.

In our age of individualism, we've lost that sense of solidarity with each other. Paradoxically, one of the ways we can regain it is through solitude.

Fr. Dunstan Morrissey, *Your Cell Will Teach Your Everything*, PARABOLA, Fall 2000, at 36.

47. PALMER, *supra* note 31, at 29.

Encounters with mentors and subjects can awaken a sense of self and yield clues to who we are. But the call to teach does not come from external encounters alone—no outward teacher or teaching will have much effect until my soul assents. Any authentic call ultimately comes from the voice of the *teacher within*, the voice that invites me to honor the nature of my true self.

*Id.* (emphasis in original).

48. *Id.* at 31.

49. One scholar, in reflecting on the psychologist Carl Jung's teachings about the presence of an inner teacher, suggests that at the deepest levels of our being, this inner teacher has an independent but related existence to ourselves:

Philemon [Jung's inner teacher which appeared in his dreams] tells Jung that "thoughts [are] like animals in the forest, or people in the room, or birds in the air. . . . If you should see people in a room, you would not think that you had mad those people, or that you were responsible for them." This is an extremely crucial stage in self-knowledge. One comes to realize that the world of thoughts, images, and feelings inside one's self has its own life. If you observe these images honestly, you will see that they go on almost independently of your volition, having their own joys and sorrows, ups and downs. This would be true of the inner teacher as well.

Richard Smoley, *The Source of Wisdom*, PARABOLA, Fall 2000, at 9.

making a connection with our students.<sup>50</sup> As teachers, we need to reach from the middle of the middle of us to the middle of the middle of our students, to paraphrase Dr. Hugh Morgan Hill, who is known in the storytelling movement as Storyteller Brother Blue.<sup>51</sup> This form of deep learning is fraught with risk because we must face our own vulnerabilities and the possibility of ridicule for teaching from the heart.<sup>52</sup> However, the rewards are rich, allowing ourselves the freedom to teach from a place of strength and authenticity.<sup>53</sup> This is, perhaps, the only way to overcome those moments of trepidation that arise when we attempt to aim for the sweet spot of the course.

Second, the teacher must recognize and honor the teacher within the student.<sup>54</sup> They too come into the classroom with their own identity and sense of integrity. The student is on a journey in pursuit of knowledge for a purpose, a journey on which the teacher is also traveling.<sup>55</sup> For both teacher and student, the journey is filled with hopes and fears and a deep desire to learn the subject. In an essay on the relationship of teacher and student, J. L. Walker posits,

The qualities of the student are as important as those of the teacher. . . .  
Buddhist philosophy goes so far as to say that the teacher arises only in

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50. PALMER, *supra* note 31, at 17.

But a good teacher must stand where personal and public meet, dealing with the thundering flow of traffic at an intersection where “weaving a web of connectedness” feels more like crossing a freeway on foot. As we try to connect to ourselves and our subjects with our students, we make ourselves, as well as our subjects, vulnerable to indifference, judgment, ridicule.

*Id.*

51. See Brother Blue, *Brother Blue’s Storytelling Manifesto*, THE MUSELETER (The League for the Advancement of New England Storytelling, Somerville, Me.), May 2003, at 22. Telling stories that matter and teaching core values that matter are closely related and are generated from the same internal space:

I believe that storytelling is praying out loud. If the storyteller speaks and moves from “the middle of the middle” of his or her being, it is like God talking and living the story for the people in the street. God loves to tell stories to us, through us. If the listener listens in “the middle of the middle” of his or her being, then God is listening. Storytelling is “God to God” in the street, in the fields, in the subway, wherever stories are told.

To me, storytelling is always a spiritual event. The human mind does not know enough to tell the right story, the healing story. A greater mind, the mind of the creator, must guide the storyteller.

*Id.*

52. PALMER, *supra* note 31, at 35–40.

53. *Id.* at 32.

54. *Id.* at 31.

55. *Id.*

dependence upon a student. Only when one is chosen as teacher or spiritual guide by another can one truly be called a teacher.<sup>56</sup>

This symbiotic connection is what drives the learning experience. While law students may have limited choice in picking a teacher, the law student must still be able to connect with the law professor. The responsibility for creating the welcoming environment belongs to the law professor, whose heart must be open wide enough to allow the student to enter into a learning relationship.

However, as Dr. Palmer observes, too often students have endured an educational system which has “marginalized” their sense of self.<sup>57</sup> Certainly, the law school experience tends towards muffling the independent voices and thoughts of students.<sup>58</sup> Students quickly become reluctant to volunteer answers or to ask questions for fear of appearing incompetent.<sup>59</sup> As Dr. Palmer would suggest:

Implicitly and explicitly, young people are told that they have no experience worth having, no voice worth speaking, no future of any note, no significant role to play.

Is it any wonder that students, having received such messages from a dozen sources, stay silent in the classroom rather than risk another dismissal or rebuke? Their silence is born not of stupidity or banality but of a desire to protect themselves and to survive. It is a silence driven by their fear of an adult world in which they feel alien and disempowered.<sup>60</sup>

Students hunger for that teaching which inspires with the meat of real knowledge and not just the empty calories of fluffy rule recitation. As one writer observes, “There are also still those willing to be taught. They realize that the teaching they seek is not instruction in religious knowledge, or training in obedience to rules, but an encounter with another at the very center of their souls.”<sup>61</sup> In the course of professional responsibility, students come from different backgrounds and bring a myriad set of dreams for their future professional lives. It is the teacher’s task to recognize the many identities of these students, to understand the concerns they bring with them into the

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56. J. L. Walker, *An Essential Commitment*, PARABOLA, Fall 2000, at 40.

57. PALMER, *supra* note 31, at 45.

58. With all due respect to our wonderful legal writing teachers, students first encounter a process where the unique voice in their writing is tamed in order for them to write like a lawyer with crisp, analytical legal prose. This is particularly a challenge for former English and History majors. Students are also confronted with the Socratic dialogue which is intended to shape the mind in the image of legal thinkers.

59. PALMER, *supra* note 31, at 37.

60. *Id.* at 45.

61. Irma Zaleski, *Forerunner of Truth*, PARABOLA, Fall 2000, at 48.

classroom, and to engage with them in this pursuit for a professional life.<sup>62</sup> If the learning experience does not connect with the hearts of the students, they will experience that discordant vibration of missing the sweet spot.

Third, the subject itself has a role to play in the learning experience. Dr Palmer envisions the learning experience as one that is approached where the subject is situated at the center of the enterprise and has an active role to play.<sup>63</sup> Too often we conceive of the subject that we are studying as being somewhat static or at least slow to change. Viewed this way, the material that we are learning is considered as the truth that can be objectively verified and presented as a set of facts to be mastered by students in the form given.<sup>64</sup> From that perspective, objective knowledge is obtained by a trained expert, the teacher. The expert passes the knowledge on to the novice, the student, who writes it down, memorizes it, and regurgitates it on an examination.<sup>65</sup> Having had a lifetime of education that has been reduced to final tests or achievement scores, students come to demand that we tell them the answers to ethical dilemmas and not play “hide the ball” in our usual Socratic style.<sup>66</sup>

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62. As stated by Dr. Palmer:

The behaviors generated by fear—silence, withdrawal, cynicism—often mimic those that come with ignorance, so it is not always easy for me to keep believing, when I look at some of my students, that anxiety rather than banality is what I am looking at. I need to keep renewing my insight into my students’ true condition in spite of misleading appearances.

It is not easy, but it is rewarding. As I have come to understand my students’ fears, I have been able to aim my teaching in a new direction. I no longer teach to their imputed ignorance, having rejected that assessment as both inaccurate and self-serving. Instead, I try to teach to their fearful hearts, and when I am able to do so, their minds often come along as well.

PALMER, *supra* note 31, at 46.

63. *See generally id.* at 95–110.

64. *Id.* at 100–01.

65. *Id.*

66. Too often our students are jaded about the possibility of learning a subject beyond what is required for the final. Such a world leads to a system of hierarchy where the student is not obtaining an education but is buying a credential (the degree) in order to move to next phase in their lives:

But our conventional pedagogy emerges from a principle that is hardly communal. It centers on a teacher who does little more than deliver conclusions to students. It assumes that the teacher has all the knowledge and the students have little or none, that the teacher must give and the students must take, that the teacher sets all the standards and the students must measure up. Teacher and students gather in the same room at the same time not to experience community but simply to keep the teacher from having to say things more than once.

*Id.* at 116.

Dr. Palmer submits that by placing the subject at the center of the classroom, the material itself comes alive.<sup>67</sup> To draw again from the field of oral storytelling, it is the story itself that comes alive through the storyteller's voice and in the story listener's imagination.<sup>68</sup> The same connective relationship exists with the teacher, the student, and the subject, and each has a unique role to play in the learning process. This seemingly alchemical process turns the subject into a teaching and learning partner where all of the participants contribute insights, and the collective wisdom emerges larger and stronger than the isolated efforts of individuals.<sup>69</sup> Indeed, there is no one truth about a field of study; there are many subjective truths that emerge from an active engagement with the topic. As Dr. Palmer notes, "Because at the center of attention is a subject that continually calls us deeper into its secret, a subject that refuses to be reduced to our conclusions about it."<sup>70</sup> Dr. Palmer denotes this phenomenon as a community of truth which comes into existence when seekers of knowledge recognize the limitations of their imaginations and collectively search for a deeper understanding of the topic.<sup>71</sup>

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67. PALMER, *supra* note 31, at 103.

When we make the subject the center of our attention, we give it the respect and authority that we normally give only to human beings. . . . In the community of truth, the connective core of all our relationships is the significant subject itself—not intimacy, not civility, not accountability, not the experts, but the power of the living subject.

*Id.*

68. Storyteller Laura Simms describes this connection between the story, the teller and the listener:

The images of myth and story instigated by the voice and words of a teller of a tale can reveal a perception that is natural, inherent, and vast, where the brilliant hues of things as they are, or the coexistence of opposites, can be felt. In the tale, this process is disguised as a continuous thread of narrative events. It is received moment to moment by listeners as image and experience arising on the spot. This reception hangs on the storyteller's ability to engage the mind of the listeners and to let the natural process of listening become active. It trains the mind to appreciate the knowing of the heart.

Laura Simms, *Thinking With the Heart*, PARABOLA, Fall 2006, at 67.

69. The idea that a subject can have a life of its own almost sounds otherworldly, except for the fact that active engagement with subject can impact mind and the heart, changing the way we see the world and understand our existence. Dr. Palmer talks about the subject as being a "great thing" that is animated:

The subject-centered classroom is characterized by the fact that the third thing has a presence so real, so vivid, so vocal, that it can hold teacher and students alike accountable for what they say and do. In such a classroom, there are no inert facts. The great thing is so alive that teacher can turn to student or student to teacher, and either can make a claim on the other in the name of that great thing. Here, teacher and students have a power beyond themselves to contend with—the power of a subject that transcends our self-absorption and refuses to be reduced to our claims about it.

PALMER, *supra* note 31, at 117.

70. *Id.* at 105.

71. *Id.* at 118.



Similarly, as suggested by Peter Jarvis,<sup>72</sup> the discipline of professional responsibility continues to evolve, like all fields of inquiry. In professional responsibility, this means the core values with all their thematic variations, become more concrete when we collectively focus on the rules, the cases, and scholarly writings. In part, this is the basis of a new textbook by Professors John Dzienkowski and Amon Burton, which presents case studies with significant background documents of recent ethical dramas.<sup>73</sup> The aim of the textbook is to place the students on the frontline of an ethical dilemma in the same position of the lawyers in an actual case.<sup>74</sup> Such an experience tends to make professional responsibility a subject with real world existence and vitality.

Finally, we must take account of the conditions necessary for the teacher, the student, and the subject to have a meaningful learning experience. First, the sweet spot of learning ethics can only be located at the place where teacher, student, and subject are present in a space that is open for full inquiry and yet bounded by the internal structure of rules for the inquiry.<sup>75</sup> At a minimum, the challenge of the learning process itself can erect barriers of frustration and miscommunication between student and the teacher about the essence or nature of the subject. Hence, Dr. Palmer, in part, addresses the challenges by considering certain paradoxes, that is the presence of teaching and learning principles which appear to be opposites.<sup>76</sup> For example, Dr. Palmer identifies

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72. See Jarvis, *supra* note 30, at xxxv.

73. JOHN S. DZIENKOWSKI & AMON BURTON, *ETHICAL DILEMMAS IN THE PRACTICE OF LAW: CASE STUDIES AND PROBLEMS* (2006).

74. See *id.* at v. In the Preface to the textbook, the authors offer the following description of their pedagogical design:

In choosing the types of problems for the case studies, we looked for fact situations or circumstances that allow students to consider the options a lawyer had during, or preceding, a representation to address an ethical issue, whether it arose in a business transaction or in litigation. We also sought to expose students to different types of source materials. In some case studies, we rely on source documents such as motions, depositions, affidavits, emails and engagement letters. In other case studies, we present a narrative or factual information through newspaper articles and other materials. Following a case study, we have included a selection of relevant legal authorities such as court opinions, ethics rules and opinions, rules of evidence, and rules of procedure. Finally, we raise important questions for law students to consider.

*Id.*

75. PALMER, *supra* note 31, at 73.

76. Dr. Palmer recognizes paradoxes as a way of accounting for the “creative tension” that makes for a lively classroom space:

When I design a classroom session, I am aware of six paradoxical tensions that I want to build into the teaching and learning space. These six are neither prescriptive nor exhaustive. They are simply mine, offered to illustrate how the principle of paradox might contribute to pedagogical design:

the paradox of speech and silence.<sup>77</sup> In the classroom there must be engaged discussion and the verbalization of ideas. Yet at the same time good learning can take place in the silences that exist between remarks where internal reflection can take place.<sup>78</sup> So it is not a question of either/or; it is a question of providing space for having *both* speech *and* silences.<sup>79</sup> Similarly, space should provide for the expression of a diverse points of view in order for assumptions to be tested and new ideas developed. At the same time, the inquiry must be bounded by rules which demand respect for alternative voices to be heard. In professional responsibility, some students come to the classroom with a fairly good idea of the area of law they wish to practice. Some might have a mindset of the prosecutor serving the public or the defense lawyer protecting clients in criminal cases against the vast resources of the government. One can come to a fuller understanding of one's own position by a respectful engagement with someone with another mindset.

In professional responsibility there are paradoxes which must be accepted in order to understand the underlying values of the subject. For instance, the Model Rules are designed to be the definitive statement of a lawyer's duties given the context of the representative nature of the attorney-client relationship.<sup>80</sup> Yet to understand the meaning of the Model Rules, one must read the comments which follow each rule. However, as the Scope section of the ABA Model Rules implores, "Comments do not add obligations to the Rules but provide guidance for practicing in compliance with the Rules."<sup>81</sup> Paradoxically, while the Model Rules form the basis for lawyer discipline, they do not end the inquiry of what it means to be an ethical lawyer. As stated in the Scope section of the Model Rules:

Compliance with the Rules as with all law in an open society, depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peer and public opinion and finally, when necessary, upon enforcement through disciplinary proceedings. The Rules do not, however, exhaust the moral and ethical considerations that should inform a lawyer, for

1. The space should be bounded and open.
2. The space should be hospitable and "charged."
3. The space should invite the voice of the individual and the voice of the group.
4. The space should honor the "little" stories of the students and the "big" stories of the discipline and tradition.
5. The space should support solitude and surround it with the resources of community.
6. The space should welcome both silence and speech.

*Id.* at 74.

77. *Id.* at 77.

78. *Id.* at 77.

79. *Id.*

80. MODEL RULES OF PROF'L CONDUCT pmb. & scope (2007).

81. *Id.* at ¶ 14.

no worthwhile human activity can be completely defined by legal rules. The Rules simply provide a framework for the ethical practice of law.<sup>82</sup>

Quite naturally, such a broad ranging inquiry is the homeplace of ambiguity and nuance. The learning process must be designed to absorb this feature of the subject and to thrive in its messiness. Fortunately, this homeplace has a front door that opens to a wide world of possibilities.<sup>83</sup>

Second, the subject must be approached in a manner that honors and holds sacred the work necessary to become a member of the legal profession.<sup>84</sup> We come to believe that the legal profession is a sacred calling because our work is in service to others. We take an oath to memorialize our commitment to the important core values of the profession.<sup>85</sup> Hence, our challenge is to have our teaching reflect that sacredness. We are training students who will go out into the world after their short sojourn in law school and take on enormous responsibilities. To not seriously prepare them for these awesome tasks is to commit malpractice in our teaching function.

Likewise, the classroom space, as ordinary as it is, can become that hollowed, preparatory ground where we serve as guides for our students as they take on their professional mantel. Storyteller Brother Blue would take his shoes off before telling stories because he believed that to tell stories is to stand on sacred ground.<sup>86</sup> I am not unmindful of how ephemeral this may sound to some, nor of the recognition that some view our profession as just another commercial enterprise grounded on the morals of the marketplace. Not everyone, student and teacher, will be ready for this form of teaching and learning, but the seeds of professionalism should be planted.<sup>87</sup>

82. *Id.* at ¶ 16.

83. Fortunately, as the field of Professional Responsibility has grown, there are a growing assortment of materials which creatively explore the challenges of ambiguity and nuance. *See, e.g.,* DEBORAH L. RHODE & DAVID LUBAN, *LEGAL ETHICS STORIES* (2006).

84. Dr. Palmer urges that we take serious the teaching and learning process because it matters: "I believe that knowing, teaching, and learning are grounded in sacred soil and that renewing my vocation as a teacher requires cultivating a sense of the sacred." PALMER, *supra* note 31, at 111.

85. *See* Carol Rice Andrews, *Standards of Conduct for Lawyers: An 800-Year Evolution*, 57 SMU L. REV. 1385, 1415–16 (2004).

86. I have had the privilege of hearing Brother Blue tell stories on many occasions and he generally begins the story by proclaiming the sacredness of the process of telling, often removing his shoes. *See* Brother Blue, *A Vision of Storytelling as Sacred Vocation*, THE MUSELETTER, March 2000, at 15.

87. Often the wisdom of a teaching moment must reside in the heart of the learner until time and experience brings forth the full meaning of the teaching, as observed by Vi Hilbert, a highly respected Native American elder and storyteller of the Upper Skagit tribes of the Salish Nation.

As a child, nothing is ever explained to you. The culture did not and does not allow questions. There are so many things that you can never understand if they have to be explained. You have to be able to listen to the information and know that some day through maturity and realization you will understand it. You have to work on that

## V. CONCLUDING SWINGS

To talk about this in the concrete terms of professional responsibility is to ask the question, “Who do we want to be (and what do we want to do) as lawyers, as professionals, who bring our skills to that place and time where our clients need us to be real for them?” Take for example the issues arising from the duty of confidentiality, a matter that we all generally understand upon the first reading of the rules. When a client seeking legal advice shares information with a lawyer in a confidential setting, the rule is that you do not disclose this information to anyone unless the client gives permission or the lawyer is impliedly authorized to disclose the information in the course of providing legal services.<sup>88</sup> We know the exceptions to the general rule as well. A lawyer may disclose the information when required by law, when required by a court, or when necessary to defend himself against charges of unethical conduct or to recover a fee.<sup>89</sup> There are other exceptions based on other rules of ethics, as when you must disclose to the court that a witness is not telling the truth under oath<sup>90</sup> and when jointly representing more than one client, the confidence rule does not apply as between or among these clients.<sup>91</sup> There is another set of exceptions which apply during negotiations with a third party on behalf of a client where the lawyer may or may not be required to disclose information about the client.<sup>92</sup>

The more exceptions that are applied to a rule, the more sophisticated the analysis must be to first understand the rule, and then to understand the policy reasons for the exceptions. In fact, one has to go back and re-examine the very nature of the confidentiality relationship a client has with a lawyer. The client brings to the lawyer the intimate details of his or her life, placing the lawyer in the position of deep trust. All too often, we are placed in positions to see the darker side of the human condition where the lawyer is called to advocate on behalf of a person who society might just condemn. What does that say about the role of the lawyer? How does the lawyer understand that role in the context of the larger obligations a lawyer might owe to the community, as

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understanding yourself. If you demand to know the answers and require an explanation, it is like giving you the answers to questions in a book. That is cheating in my culture. You have to listen and think about something long enough to gain insight as to why it was important for you to hear it, and why it was important for that person to say it. Then you come to recognize the wisdom of that kind of teaching. It requires you to think and use your mind.

Laura Simms, *A Voiceless Blowing Sound: An Interview with Vi Hilbert*, PARABOLA, Fall 2000, at 66–67.

88. See MODEL RULES OF PROF'L CONDUCT R. 1.6(a) (2007).

89. See *id.* at R. 1.6(b).

90. See *id.* at R. 3.3.

91. See *id.* at R. 1.7 cmt. 30.

92. See *id.* at R. 4.1.

when the client is engaging in activities harmful to the public? How does the lawyer reconcile his or her personal philosophy of lawyering, which is so tied up with personal identity and integrity?

This is, of course, stating the obvious. However, the more twists and turns a set of ethical rules take, the more the ethical ground shifts under the students' feet as they wrestle with these challenges. Here is the place where reasonable minds can and do disagree about the substance of the rules. The disagreements are not just of an intellectual nature. Different jurisdictions require or permit different levels of disclosure of confidences.<sup>93</sup> For example, some jurisdictions permit disclosing financial wrongdoings by the client and others do not.<sup>94</sup> The students know that eventually they will have to decide for themselves where they stand, even as the ethical territory and their points of view change.

The professor's task is to help the students wrestle with these personal challenges openly and honestly, while contending with the natural ambiguities of the subject. If we do not engage with the students at this personal level, we accept a fallback position where the students are only required to learn the rules and the exceptions, and they can save the wrestling until they actually have to make a choice. For the students who take the material to heart, this fallback position has the familiar discordance that comes from missing the sweet spot. However, if those students who do take the material to heart have a teacher who teaches from the heart, then their learning experience can be sweet indeed.<sup>95</sup> That sweet spot in the teaching and learning process comes when the teacher is connected to the teacher that is within all of us, as Dr. Palmer points out in considering his own teaching:

Each time I walk into a classroom, I can choose the place within myself from which my teaching will come, just as I can choose the place within my students toward which my teaching will be aimed. I need not teach from a fearful place: I can teach from curiosity or hope or empathy or honesty, places that are as real within me as are my fears. I can have fear, but I need not be fear—if I am willing to stand someplace else in my inner landscape.<sup>96</sup>

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93. Amanda Vance & Randi Wallach, *Updating Confidentiality: An Overview of the Recent Changes to Model Rule 1.6*, 17 GEO. J. LEGAL ETHICS 1003, 1017 (2004).

94. *Id.* at 1018.

95. This form of teaching possess much authority and power, as Dr. Palmer suggests: "Authority comes as I reclaim my identity and integrity, remembering my selfhood and my sense of vocation. Then teaching can come from the depths of my own truth—and the truth that is within my students has a chance to respond in kind." PALMER, *supra* note 31, at 33.

96. *Id.* at 57.

