

## **SYLLABUS FOR LEGAL ETHICS SPRING SEMESTER 2011**

The schedule below encompasses the material that you will be responsible for on the final exam. The abbreviation 'CB' refers to the Hazard case book, *the Law and Ethics of Lawyering*. The abbreviation 'RPC' refers to the *Model Rules of Professional Conduct*.

As you can see the class has been divided into panels. Each panel is assigned a specific class period. I will call on students from the assigned panel for the specified day. You are always free to volunteer, and expected to do so. The fact that a panel is assigned for a specific day does not relieve you of your responsibility to do the reading or to participate in class. It simply means that when I call on people for specific answers, I will choose from the panel for that particular session.

With that in mind, I expect you to be prepared for each class. You will be responsible to have mastered the material covered for every session, and all of the assignments in the syllabus below are fair game for the exam. The panels are to encourage a livelier discussion, not relieve you of any responsibility. You know in advance when you will be called upon and your participation score will be 15 to 20% of your grade, at my discretion. Your participation score will be lowered if you are not prepared or present on the day when your panel is assigned. You may switch days in advance of the day your panel is responsible for the material, if you have cleared this with me in advance. You are responsible for contacting me. I have sole discretion to determine whether an excuse or absence is granted.

The *Model Rules* will be handed out on the first day, however, they are readily available in the library. If you are assigned to panel 1, I suggest that you find the rule book in the library and make a copy of the very limited rules listed, if they are not attached and available on-line with the syllabus.

### **PANEL RESPONSIBILITIES**

Each week there are listed cases that will be the point of central discussion in class. At the beginning of class and when cases arise, I will call on a panel member to outline that particular case for the class. I do not expect that the cases will be outlined for you. The quality of the content and depth of the discussion in class is largely dependent on the panel's presentation. Proper preparation for class will make preparation for the final exam far easier.

My contact information is: *J. Stephen Smith, Graydon Head and Ritchey, LLP, 2400 Chamber Center Drive, Suite 300, Ft. Mitchell, KY 41017, 859-578-3070 (direct), 859-801-7504 (mobile), [ssmith@graydon.com](mailto:ssmith@graydon.com) (email).*

I do not keep regular office hours as I am a private attorney and do not have an office within the law school. If you wish to meet with me the best times will be immediately before or after class, or you may make an appointment and come to my office. Other appointments for pressing needs can be accommodated, with proper notice.

## SECOND YEAR RESPONSIBILITIES

This is a required class, and most often taken in the second year of law school. The University of Cincinnati Law School is a professional school, and it is expected that you prepare, participate, discuss, argue, and debate the content of the course materials in a professional manner. While laptops are permitted, you are not permitted to surf the internet or otherwise engage in social media while in class. If it turns out that students are using their laptops for other than course content during the session, that student will lose his or her laptop privileges for the remainder of the semester, or until I decide otherwise. In other words, use of your laptops is a privilege you enjoy, not a right, and may only be used for class purposes. It should go without saying that texting, ringing of cell phones, exchanging emails via smart phones, is likewise prohibited. You would never engage in these activities in court, in a client meeting, etc., so we will begin that practice now.

Class Period	Topic	Reading Assignment
(M) January 24 <b>Introduction: JSS</b>  <b>Panel 1</b>	<b>I-Do the Right Thing</b>  Introduction to Model Rules Discipline of Attorneys for Misconduct Legal Recourse Against Attorneys	CB 1-13 ( <i>Spaulding</i> ) CB 20-24 ("Perspective of the Bad Man"), CB 41-42  RPC Preamble & Scope (pgs 1-5) – Compare Professionalism RPC 8.4, 3.1 – Compare CR 11, CB 864-884.
(M) January 31 <b>Panel 2</b>  <b>Panel 3</b>	<b>II – Getting a Client – Solicitation</b>  <b>III – Who Cannot Be Your Client – Conflicts of Interest</b> Concurrent Representation & Personal Interest Conflicts	RPC 7.1, 7.2, 7.3, 7.4 & 7.5 CB 940-958  RPC 1.7, 6.3, 6.4 CB 453-454; 392-442
(M) February 7 <b>Panel 4</b>  <b>Panel 5</b>	Criminal Concurrent Representation Joint Representation  Advocate – Witness Rule Successive Representation Conflicts	M.R. 1.7 CB 430-442; 444-452 ( <i>Cuyler, Callahn</i> )  <u>RPC 1.9, 3.7</u> <u>CB 457-466 (<i>Brennan's Inc.</i>)</u>
(M) February 14 <b>Panel 1</b>  <b>Panel 2</b>	Imputed Conflicts and Migratory Attorneys  <b>IV – Who is Your Client?</b>  Organizational Clients Clients of Government Attorneys	M.R. 1.10, 1.11 CB 471-493 ( <i>Nemours Foundation</i> )  RPC 1.13, CB 527-541 ( <i>Yablonski</i> ) RPC 1.11, 3.8, CB 580-588

Class Period	Topic	Reading Assignment
(M) February 21 <b>Panel 3</b>	The Attorney-Client Privilege Work Product	CB 257-67; 267-293 ( <i>Upjohn</i> )
<b>Panel 4</b>	Evidence Not Covered by the Attorney-Client Privilege	CB 284-293 ( <i>Fisher</i> ) RPC 3.4(a) & Comment ¶¶ 1 & 2 (Optional: CB 26-36, <i>Stenhach</i> )
(M) February 28 <b>Panel 5</b>	The Crime Fraud Exception to the Attorney-Client Privilege	CB 294-324 ( <i>Chon</i> ) RPC 3.4
<b>Panel 1</b>	Waiver of the Attorney-Client Privilege	CB 327-31 ( <i>In re Columbia</i> )
(M) March 7 <b>Panel 2</b>	Duty of Confidentiality	RPC 1.5 & 1.6 CB 331-364; 380-90
<b>Panel 3</b>	Collecting a Fee	RPC 1.8, 1.15 CB 775-798; 802-805 ( <i>Fordham</i> )
(M) March 14 <b>Panel 4</b>	Transactions with Clients, Sex with Clients, and Handling Client Money	RPC 1.2, 1.8, 1.15, 1.16 CB 811-852 ( <i>Mershon</i> )
<b>Panel 5</b>	Scope of Attorney and Client Authority	RPC 1.2, 1.14 CB 839-895 ( <i>Jones</i> )
<b>MARCH 21 – SPRING BREAK</b>		
(M) March 28 <b>Panel 1</b>	Ending the Relationship Duties to Prospective Clients	RPC 1.16, 1.18, Scope ¶ 17 CB 846-858 ( <i>Togstad</i> )
<b>Panel 2</b>	<b>VI – Representing Your Client</b>  Competent and Zealous Representation Communication and Advice	RPC 1.1, 1.3, 1.4, 2.1, 3.2, Preamble ¶¶ 8-10 CB 885-899; 899-912 suggested
(M) April 4 <b>Panel 3</b>	Competent Representation (Effective Assistance of Counsel) Negotiations and ADR	885-899 ( <i>Strickland</i> ) (continued)  RPC 2.4, 4.1
<b>Panel 4</b>	Candor to the Court: Citing Legal Authority and Dealing with Client Perjury	RPC 3.3, 4.1, 3.4, 3.8, 3.8 CB 657-677 ( <i>Nix</i> )
(M) April 11 <b>Panel 5</b>	Overzealous (unethical) Representation	RPC 4.1, 3.4, 3.5, 3.8 CB 657-677
<b>Panel 1</b>	Talking About the Case: Pretrial Publicity and Criticizing Judges; Reporting Attorney Misconduct; Civility Codes	RPC 3.6, 3.8(f), 4.1, 4.2, 4.3, 4.4, 8.2 (and comment 4 to RPC 3.5) CB 1012-1019; 735-751 ( <i>Gentile</i> ) RPC 8.3 CB 1163-1171 ( <i>Himmel</i> )
	<b>VII – Relationships with Non-Clients and Non-Attorneys</b>	

Class Period	Topic	Reading Assignment
(M) April 18 <b>Panel 2</b>	Relationship with Non-Clients	RPC 4.1, 4.2, 4.3, 4.4 CB 737-752 ( <i>Messing</i> )
<b>Panel 3</b>	Unauthorized Practice of Law	RPC 5.3, 5.4, 5.5(a) & 5.5(b) CB 921-940
	<b>VIII – Relationships with other Attorneys and Jurisdictions</b>	
(M) April 25 <b>Panel 4</b>	Responsibilities of Junior Lawyers, Multidisciplinary and Multijurisdictional Lawyers	RPC 5.1, 5.2, 5.5(c) & 5.5(d), 8.5 CB 1108-1115; 1131-1146
<b>Panel 5</b>	<b>IX – Pro Bono Work</b> Pro Bono Work: Helping the Poor & the Middle Class; Taking (or Being Appointed to) the Unpopular Case	RPC 6.1, 6.2 CB 977-1003
	Duty to yourself	Have you watched the film, <i>A Man for All Seasons</i> (30 copies are available on 24 hour reserve at the Law Library reference desk). The best lawyer movie ever is <i>The Verdict</i> with Paul Newman

Abraham Lincoln's Notes for a Law Lecture, available at:

<http://showcase.netins.net/web/creative/lincoln/speeches/lawlect.htm>

John Adams Boston Massacre Diary Entry, available at:

<http://www.law.umkc.edu/faculty/projects/ftrials/bostonmassacre/diaryentries.html>

For background of the Boston Massacre, if you are interested, a summary is available at:

<http://www.law.umkc.edu/faculty/projects/ftrials/bostonmassacre/bostonaccount.html>