

SYLLABUS

PROFESSIONAL RESPONSIBILITY SPRING 2006

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Text: Ethical Problems in the Practice of Law, Lerman and Schrag

Supplemental materials: Model Rules of Professional Conduct, 2005 Edition, ABA Center for Professional Responsibility; Other People's Money: Operating Lawyer Trust Accounts, December 2005, Minnesota Lawyers Professional Responsibility Board

Grading: Your grade will be based primarily on the final examination. Class participation will earn you extra points on your final grade.

What to expect: You will be responsible and may be tested on all of the assigned readings, whether or not we discuss them in class. There will be discussions in class of some material not in the text. You will be responsible for this as well. A heavy emphasis will be put on the specific provisions of the ABA Model Rules of Professional Conduct and, to a lesser extent, the Minnesota Rules of Professional Conduct. You will be expected to apply those rules to any given fact situation. You will be expected to learn, and will be tested on, how to maintain appropriate lawyer trust account books and records based on the Minnesota rules regarding handling client property. This course is not intended to be a class in preparation for taking the professional responsibility portion of the bar exam. Obviously, however, we will be covering many of the same issues.

Reading assignments: All page references are to the Lerman and Schrag text unless otherwise noted. References to the ABA Model Rules of Professional Conduct are designated MR __. References to the Minnesota Rules of Professional Conduct are designated MRPC.

The Regulation of Lawyers

Day 1: Foreword, Preface and Introduction and 15-43, MR Preamble and Scope, 1.2(b)

Day 2: Admission to the Bar, 43-63, Minnesota Conditional Admission Rule - <http://www.ble.state.mn.us/rules.html#Rule16>

Day 3: Professional Discipline, 64-80, MR 8.1

Day 4: Reporting Misconduct, 80-108, MR 8.3, 5.1-5.3

Day 5: Guest Speaker – Joan Bibelhausen, Minnesota Lawyers Concerned for Lawyers

Client Confidences

Day 6: Confidentiality: basic principles: 109-118, MR 1.6 and Rule 1.6, MRPC

Day 7: Exceptions to Confidentiality- past criminal conduct and risk of future harm: 118-138

Day 8: Client fraud and other issues: 138-162, MR 1.2(d), 3.3

Day 9: Attorney-client Privilege: 163-186

Day 10: Exceptions to the Privilege and work product: 186-201

Relationships Between Lawyers and Clients

Day 11: Establishing and outlining an attorney/client relationship: 203-217, MR 1.2,

Day 12: Competency, honesty, and diligence: 217-240, MR 1.1, 1.3, 3.2, 4.1, and 8.4(c)

Day 13: Allocation of Authority: 240-256, MR 1.2, *In re Panel File Number 99-5*, 607 NW2d 429 (Minn. 2000)

Day 14: Clients with diminished capacity and terminating the attorney/client relationship: 256-278, MR 1.14, 1.16. Rule 1.16, MRPC

Conflicts of Interest

Day 15: Concurrent conflicts – general principles: 279- 296, MR 1.7

Day 16: Disqualification, imputation, suing a client and other actions adverse to a client: 297-312

Day 17: Conflicts in non-litigation matters and in representing organizations: 312-322, MR 1.13

Day 18: Joint representations, representing family members, insurance conflicts, and class actions: 322-341, *Pine Island Farmers Coop v. Erstad & Riemer*, 649 NW2d 444 (Minn. 2002)

Day 19: Former client conflicts: 343-363, MR 1.9 and 1.10

Day 20: Representations adverse to former clients and imputation: 363-384

Day 21: Conflicts for government lawyers, judges, clerks, and neutrals and prospective clients: 384-402, MR 1.11 and 1.12

Day 22: Conflicts between lawyers and clients – fees: 403-420, MR 1.5

Day 23: Fee agreements and billing issues: 420-440

Day 24: More fee issues: 441-458, MR 1.8(e), (d), and (h), 7.2(b)

Day 25: Conflicts with lawyer's personal interests: 458-468, MR 1.8

Day 26: Handling client funds and property: 468-471, Other People's Money, MR 1.15

Duties to the Court, Adversaries, and Others

Day 27: Lawyers in the adversary system, pre-suit investigation: 473-486, MR 1.2(b), 3.1, 3.8

Day 28: Candor to the Tribunal: 486-498, MR 3.3, 8.4(c) and (d)

Day 29: False impressions and coaching: 498-510

Day 30: Handling physical evidence: 510-520, MR 3.4

Day 31: Discovery in civil cases: 520-530

Day 32: Duty to disclose adverse legal authority, ex-parte proceedings, communicating with judges or jurors: 530-547, MR 3.3, 3.5, 3.6

Day 33: Communications with lawyers and third parties: 550-570, MR 4.1 and 4.2

Day 34: Contact with unrepresented parties, conduct prejudicial to the administration of justice: 570-581, MR 4.3, 4.4 8.4(d), *In re Panel File No. 98-26*, 597 NW2d 563 (Minn. 1999), *In re Panel Case No. 15976*, 653 NW2d 452 (Minn. 2002).

The Legal Profession

Day 35: History and current status: 583-598

Day 36: Large firms, small firms, and government practice: 598-616

Day 37: The ethical climate of the legal profession: 616-29

Day 38: The unmet need, UPL, and advertising: 631-659, MR 6.1-6.5, 5.5, 7.1-7.5

Day 39: review and catch-up