



The Law and Ethics of Lawyering (Law 473, Section 1001)

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Spring 2005

- 1. SESSIONS.** The course meets Tuesdays, Thursdays and Fridays from 11:00-11:50 am. The course runs from January 13 through April 28 but we will not meet on March 18, 22, 24 or 25 (Spring Break).
- 2. FINAL EXAM.** Subject to adjustments for papers or attendance, the final exam comprises 100% of the final grade. The final exam is currently scheduled for May 11, 2005 at 8:30 am. I intend to style the final exam as a “take home” exam to enable you to use computers, but like an in-class exam, I expect the exam will run just the morning (i.e., approximately 3½ hours).
- 3. WRITING ASSIGNMENTS.** There are 3 short writing assignments (shoot for around 500 words each, but there is no minimum or maximum). I want to get you thinking and give you a little feedback, not create make-work or grading pressure. Therefore, the papers will be graded P/F, and Ps will be given automatically if your paper is on-topic and on-time. For each such F you get, I will adjust your final exam numerical score downward by 5%.

I hope you will spend no more than 2 hours working on each paper. If you are spending more time than that, feel free to stop and turn in what you’ve done. I tolerate weak investment of thought and poor writing, but I do not tolerate late papers. A HARD COPY OF YOUR PAPER MUST BE IN MY MAILBOX (IN ROOM 109) BEFORE EACH DEADLINE. THERE IS NO GRACE PERIOD—NO EXCUSES!

Paper #1

Discuss your reactions to the Preamble to the Wisconsin Rules of Professional Conduct (SCR Chapter 20A) and the Attorney’s Oath (SCR 40:15, page 239 of the Supplement). Due: January 21 at 10:30 am.

Paper #2

Discuss the pros/cons of the career you plan to pursue after graduation. Why does it interest you? What concerns you? What will you do to proactively address those concerns? Due: February 25 at 10:30 am.

Paper #3

Read the OPM story, CB 357-362. Assume you are a Singer Hutner junior associate and you (instead of the St. Paul lawyer) discover the discrepancy. What are you required to do? If different, what would you choose to do in practice, and why? Due: April 28 at 10:30 am.

4. REQUIRED READING. *The Law and Ethics of Lawyering* (4th ed. 2005) by Hazard, Koniak, Cramton and Cohen (ISBN 1-58778-204-9). In addition, you need the supplement from PrintWorld.

5. ATTENDANCE. In-class material and discussions are crucial to this course, so I expect you to attend every class. However, because our lives are unpredictable, you have five “free passes” for unexcused absences (you don’t need to notify me in advance). I will excuse absences for very good cause (my standard: would Dean Thomson reschedule your final exam based on the excuse?). Your sixth unexcused absence may trigger a significant penalty to your final course grade. At my option, I may drop you from the course or give you an F upon a seventh unexcused absence.

6. EMAIL LIST. YOU MUST REGISTER FOR THE COURSE’S TWEN SITE NO LATER THAN JANUARY 18 AT 5:00 PM OR I MAY DROP YOU FROM THE COURSE. I send important course-related emails to the TWEN email list, so please use an address you check regularly.

7. OFFICE HOURS. I can schedule time to speak with you at your convenience. Please email me to make an appointment. I’m also happy to talk by email.

8. READING ASSIGNMENTS.

CB = Hazard, Koniak and Cramton casebook

Supp = supplemental reader

SCR = Wisconsin Supreme Court Rules of Professional Conduct for Attorneys (in Supplement)

FRCP = Federal Rules of Civil Procedure

** Where I ask you to look at the SCR, please look at both the existing rules and the [changes proposed by the Ethics 2000 Committee](#).

Topic	Readings (Subject to Change)
Introduction Whistle-blowing	No reading
Life as a lawyer (time, money and being a professional service provider)	Patrick J. Schlitz, <i>On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession</i> , 52 Vand. L. Rev. 871 (1999) (not in reader) ¹ Supp 240-252 (Memo from Clifford Chance associates) Supp 253-255 (Model Law Firm [Billing] Policy) Derrick Nunnally, <i>Lawyer Accused of Overbilling the Public</i> , MILWAUKEE J. SENTINEL, May 10, 2004, at 1A (not in reader) ² Supp 256-266 (In re Lawrence)

¹ I didn’t include this in the reader because I couldn’t get copyright clearance in time, but I’ve included a link in TWEN for easy downloading/printing. Although it’s not in the reader, this article is **essential** reading!

² Copyright clearance was cost-prohibitive, but I’ve provided a direct link in TWEN.

The practice of law Regulation of lawyers	SCR 20:5.5, 8.4, 2.1 CB 909-928, 13-20, 58-59, 1142-1153, 754-759 Supp 267-270 (Appendix 8A-C and 9)
Forming client relationships	SCR 20:1.2(c), 1.8(h), E2000 1.18 CB 842-847 Supp 271-272 (Contract for Legal Services) Supp 273 (Non-Engagement Letter)
Ending client relationships	SCR 20:1.16 CB 835-842 Supp 274 (End of Representation Letter)
Client identity	SCR 20:1.13 CB 543-558, 516-524, 539-542
Fees and billing	SCR 20:1.5, 1.8(f), 7.2(b) CB 760-798, 1108-1111
Duty of competence (including diligence and communication)	SCR 20:1.1, 1.3, 1.4, 3.2 CB 848-872
Duty of loyalty—general	SCR 20:1.7 CB 389-432 (skip 413-422), 446-454 Supp 275-276 (Represented Client Waiver) Supp 277-278 (Non-Represented Client Waiver) Supp 279-280 (Representing Multiple Clients) Supp 281-282 (Start-up Waiver) Supp 283-285 (Dual Rep by Same Firm)
Duty of loyalty—fiduciary issues	SCR 20:1.2(a) and (b), 1.15, 2.1 CB 817-826, 813-817
Duty of loyalty—adverse positions to clients	SCR 20:1.8, 3.7 CB 798-813
Duty of loyalty—advancing client interests	SCR 20:3.1, 3.3, 3.4, 3.10, 4.1, 4.3, 4.4 Supp 286-287 (FRCP Rule 11) Supp 288-289 (WI § 802.05 and 814.025) CB 689-694, 737-753, 953-968 Supp 290 (Waiver of Representation)
Duty of confidentiality—generally	SCR 20:1.6 Supp 291 (FRCP Rule 26(b)(3)) CB 342-349, 255-284
Client illegality/fraud	SCR 20:1.2(d) and (e), 1.6, 1.13, 8.4 Supp 292-298 (17 CFR Part 205) CB 108-115, 146-149, 357-370, 190-254
Duty of confidentiality—incriminating evidence	SCR 20:3.4(a) CB 39-46
Former clients	SCR 20:1.9 CB 460-472 Supp 299 (Former Client Waiver) Supp 300 (Prior Investor Waiver)
Laterals and mergers	SCR 20:1.10-1.12, 5.6 CB 472-491
Rendering opinions	SCR 20:2.3 CB 90-108
Speaking with parties represented by counsel	SCR 20:4.2 CB 718-728
Delegating and supervising work	SCR 20:5.1-5.3 CB 1101-1108
Duty to rat	SCR 20:8.3 CB 1154-1161

Marketing	SCR 20:7.1-7.5 CB 928-946
Organizing law firms	SCR 20:5.4 CB 1111-1122
Multijurisdictional Practice	SCR 20:5.5(a) CB 1122-1134 Supp 301-302 (Letter from North Carolina State Bar to Thomas Dimmock)
Course wrap-up	No reading

9. CONTACT INFO.

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In all emails to me related to this course, please put the words “Ethics Class” in the subject line so that I can keep my courses straight (and avoid unintentional deletion as spam).

More course-related materials, including an electronic copy of this syllabus, are available at http://eric_goldman.tripod.com.