



The Law Governing Lawyers

(Law 473, Section 1001)

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Marquette University Law School

Spring 2006

- 1. SESSIONS.** The course meets Mondays and Wednesdays from 7:00 to 8:15 pm. The course runs from January 11 through April 26, but we will not meet on January 16 (MLK Day) or March 13 and 15 (Spring Break).
- 2. FINAL EXAM.** Subject to adjustments for papers or attendance, the final exam comprises 100% of the final grade. Currently, I plan to give you a take-home exam that will be due the evening of May 8. The exam will be word-capped and should require around 4 hours of time to complete, but I will likely make the exam available on Friday, May 5 so that you will have the ability to do it on your own schedule.
- 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, papers are 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. Submit all papers through the Assignment Drop Box in TWEN before the applicable deadline. The TWEN drop box will automatically shut off at the 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 23 at 6:30 pm.

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 address those concerns proactively? Due: February 27 at 6:30 pm.

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 26 at 6:30 pm.

4. REQUIRED READING. *The Law and Ethics of Lawyering* (4th ed. 2005) by Hazard, Koniak, Cramton and Cohen (ISBN 1-58778-204-9), plus a 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 13 AT 5:00 PM OR I MAY DROP YOU FROM THE COURSE.

7. READING ASSIGNMENTS.

CB Hazard/Koniak/Cramton/Cohen casebook

Supp Supplemental reader

SCR [Wisconsin Supreme Court Rules of Professional Conduct for Attorneys](#) (in Supplement).
I have also given you the pending [changes proposed by the Ethics 2000 Committee](#).

FRCP Federal Rules of Civil Procedure

Topic	Readings (Subject to Change)
Introduction Whistle-blowing	No reading
Life as a lawyer (time, money and being a professional service provider)	In TWEN: Patrick J. Schiltz, <i>On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession</i> , 52 <i>Vand. L. Rev.</i> 871 (1999) ¹ Supp 241-253 (Memo from Clifford Chance associates) Supp 254-256 (Model Law Firm [Billing] Policy) Supp 257-263 (In the Matter of Disciplinary Proceedings Against Jenelle Glasbrenner , 2005 WI 50), plus Milwaukee Journal-Sentinel articles in TWEN Supp 264-274 (In re Lawrence)
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 275-278 (Appendix 8A-C and 9)
Forming client relationships	SCR 20:1.2(c), 1.8(h), E2000 1.18 CB 842-847 Supp 279-280 (Contract for Legal Services) Supp 281 (Non-Engagement Letter)
Ending client relationships	SCR 20:1.16 CB 835-842 Supp 282 (End of Representation Letter)

¹ Although it’s not in the reader, this article is **essential** reading!

Client identity	SCR 20:1.13 CB 516-524, 539-553
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 283-284 (Represented Client Waiver) Supp 285-286 (Non-Represented Client Waiver)
Duty of loyalty—fiduciary issues	SCR 20:1.2(a) and (b), 1.15, 2.1 CB 817-828, 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 287-288 (FRCP Rule 11) CB 689-694, 737-753 Supp 289 (Waiver of Representation)
Duty of confidentiality—generally	SCR 20:1.6 Supp 290 (FRCP Rule 26(b)(3)) CB 342-349, 255-284
Client illegality/fraud	SCR 20:1.2(d) and (e), 1.6, 1.13, 2.3, 8.4 CB 108-115, 146-149, 357-370, 190-205, 90-108
Duty of confidentiality—incriminating evidence	SCR 20:3.4(a) CB 39-46
Former clients	SCR 20:1.9 CB 460-472 Supp 291 (Former Client Waiver)
Laterals and mergers	SCR 20:1.10-1.12, 5.6 CB 472-491
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
Special issues arising in a criminal practice	TBD
Course wrap-up	No reading

8. CONTACT INFO.

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In all emails to me related to this course, please put the words “LGL” 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, can be found at <http://www.ericgoldman.org>.