

GEORGE MASON UNIVERSITY ANTONIN SCALIA LAW SCHOOL
Professional Responsibility, Spring 2024
Professor Charles C. Lemley

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Class Meetings:
Tuesdays, 8:10-10:10 via Zoom

INTRO AND LEARNING OUTCOMES: I think this is the best course in law school, and you've picked an interesting time to study legal ethics! By the end of the course students should be able to:

- Analyze brief fact patterns typical of those faced in practice in order to identify ethical issues and determine the most appropriate course of action in accordance with applicable authorities
- Understand the structure of the applicable rules of professional conduct and other authorities and demonstrate the ability to locate the necessary authority when ethical issues arise
- Demonstrate the ability to evaluate the duties that lawyers owe to various constituents, *e.g.*, clients, prospective clients, courts, and others

TEXTBOOK:

Problems, Cases and Materials in Professional Responsibility, Fourth Ed., Devine, Fisch & Easton (Thomson West)

This is a textbook that I adopted years ago based on student evaluations of this and a few other textbooks. Note that this edition has been around for several years, and I update the materials in class where appropriate. The good thing about the age of the book is that they should be widely available on the used and rental markets, and if you don't think you would take advantage of the online resources that come with buying the book new, there's no downside to saving some money on a used or rented book.

CLASS MEETINGS:

This class meets via Zoom on Tuesday evenings from 8:10-10:10 pm beginning on January 16, 2024 and ending on Tuesday, April 16, 2024. I don't have strict rules about camera use and so forth – I would appreciate if everyone could be on camera when possible, and even more so if we have a guest speaker from time to time, but if there's a reason for you to be off camera that's fine. I value class participation, but it is not required, and I always come prepared to talk for 2 hours if necessary. So don't feel obligated to chime in, but please do if you have something to add to the discussion.

Here is a link to download the class meetings to your calendar:

<https://gmu.zoom.us/j/93968379875>
<https://gmu.zoom.us/j/93968379875>

And here is the information to attend each class meeting:

<https://gmu.zoom.us/j/93968379875>

Meeting ID: 939 6837 9875

USE OF GENERATIVE ARTIFICIAL INTELLIGENCE: Pursuant to Academic Regulation 4.3, the use of generative artificial intelligence (“GAI,” defined below) is not permitted for use on any graded examination or quiz in this class as set forth below. Otherwise, I encourage you to experiment with the use of GAI as much as possible in non-graded work, and we will experiment with it in class in addition to discussing the ethical implications of its use.

DEFINITION: Generative artificial intelligence (GAI) is a type of artificial intelligence that uses algorithms to generate new content, such as text or images, based on the data it has been trained on. For purposes of this regulation, GAI is not intended to encompass legal research databases and word processing applications that, while incorporating AI-based elements or enhancements, do not generate novel text. ChatGPT and other chatbots are good examples of GAI as that term is used here.

BLACKBOARD: I will use Blackboard for any materials that I want to post (including class slides, etc.) and for announcements when necessary. You should get email notification of postings in most cases, but be sure to check Blackboard a couple of times per week to make sure.

CLASS MEETINGS AND READINGS: Each of the following topics and reading assignments should cover one class meeting, although some will take a bit more or less than a class meeting. Note that unless I tell you otherwise, you will NOT be required to know the facts or holdings of any particular cases – the cases are in the book mostly for illustrative purposes, and you will be tested on your ability to apply those principles and the applicable Model Rules of Professional Conduct to solve problems like those that arise in daily law practice.

EXAMS AND ASSIGNMENTS: The final grade in this class will be based on each student’s score on a final examination. This will be a 50-question multiple choice test with questions similar to those that we will practice in class (and to those found on the MPRE). While the point of the class is not to help you with the MPRE, it likely will do so, and that’s a good thing. The real point of these questions is to present you with the kinds of ethics issues that arise on a regular basis – which often come with very limited information – and to test your ability to determine the most appropriate course to follow in each situation.

We will also have a couple of multiple-choice assignments along the way. These will not be graded EXCEPT that you will lose one point on the final exam for each assignment that is not completed as required. The point of the assignments is to help you see if you’re understanding the materials while there’s still time for you to correct your course and to give you practice at answering these kinds of questions. So don’t worry about the assignments – just do them!

The final exam and the two multiple-choice assignments will be open-book, notes, outlines, etc. The challenge comes from the timing – you’ll have two hours to answer 50 questions. That should be plenty of time if you keep up with and understand the materials as we go along – it will be more challenging if you don’t!

TOPICS	READING ASSIGNMENTS
Introduction to Professional Responsibility	Casebook: 1-40
Formation of the Attorney-Client Relationship	Casebook: 106-143
Client Property and Legal Fees	Casebook: 144-88
Confidentiality	Casebook: 144-88
Confidentiality II	Casebook: 271-311
Conflicts of Interest	Casebook 312-64
Conflicts of Interest II	Casebook: 365-96
Lawyer as Advocate	Casebook: 435-60
Lawyer as Advocate II	Casebook: 461-504
Lawyers’ Other Professional Roles	Casebook: 545-571
Termination of the Client Relationship; Malpractice	Casebook: 189-231
Admission to Practice, Unauthorized Practice, Professional Discipline	Casebook: 59-86
Ethics implications related to bias and discrimination in the legal profession	Class meeting and posted readings only
Legal ethics and GAI	Class meeting and posted readings only
Final Examination (in person)	April 27, 2024