

SYLLABUS

UNIVERSITY OF BALTIMORE SCHOOL OF LAW FALL 2017

Course: Professional Responsibility
652/321

Instructor: Prof. Claudia Diamond
Cdiamond@ubalt.edu (preferred) or (410)-837-4472.
OFFICE HOURS: By appointment or just drop by. I am here Mondays through Fridays.

Days/Time: Monday and Wednesday, 9:00 – 10:15 a.m.

Location: Room assignments are available through MyUB.

Course Description:

UB Law's catalog description: Study of the ethics and law of lawyering, approaching attorney problems from multiple perspectives. Topics will include: professionalism, the organization of the bar, attorney discipline and disability, the delivery of legal services, the attorney client relationship, the duties of loyalty and confidentiality, fees, and various issues, including conflicts of interest and substance abuse.

Diamond's course description: All law schools accredited by the American Bar Association require that its students take a course like this one. Some school call this the Law of Lawyering; others call it Legal Ethics. Some, like UB law school, call it Professional Responsibility. Whatever the name, the goals of this course are to help you to identify regulatory and ethical issues that will affect your ability to practice law and to recognize that being a lawyer is more than a job—it's a profession and that members of this profession have special responsibilities to their clients and to the community in which they practice.

Course Materials:

Margaret Raymond, *The Law and Ethics of Law Practice* (2d ed. West 2015) and the Model Rules of Professional Conduct (ABA 2017 or 2016). **(Please note that you need a hard copy of the Rules.)** On occasion, I will assign Maryland cases and articles to read.

Student Learning Outcomes:

At the conclusion of this course, it's my expectation that you will be able to:

- Explain and apply the Model Rules of Professional Responsibility, statutes, regulations, and the common law governing legal practitioners' conduct in relation to clients, the courts, other practitioners, and the public.
- Recognize and assess ethical issues in the context of daily legal practice.
- Begin to formulate your professional identity as a future lawyer.

- Write a document governing the relationship between client and lawyer.

Grades:

Sixty percent (60%) of your grade will be based on a final exam. There also will be a graded midterm worth twenty-percent (20%) that will mimic the multi-choice questions you will encounter if taking the Multi-state Professional Responsibility Exam. Five percent (5%) of your grade will be based on class participation (raise your hand, participate in class discussions and group work, etc.). An additional fifteen percent (15%) of your grade will be based on two writing assignments during the semester.

Extra Credit!

You may work alone, or in a team of up to four people, to create a video, comic book, song, game, poster or some other creative way to explain any one of the following concepts: conflicts of interest (1.7, 1.9 or 1.18—not 1.8), confidentiality and its exceptions (1.6, 1.13), fairness to the opposing party and counsel (3.4) or candor to tribunal (3.3).

The project will be worth up to 5 raw score points toward your final raw score total. [The most raw score points available in the class toward a final grade, excluding extra credit, is 100].

Points for the extra credit project will be allocated based upon creativity; content chosen and explained [i.e. if you take a very simple portion of a rule and explain that, you will likely not get many points]; demonstrated understanding of the applicable rule[s]; communication of the rules to other students. Your project will be part of the review session at the end of the semester.

Course Expectations

Workload: American Bar Association Standards for Law Schools establish guidelines for the amount of work students should expect to complete for each credit earned. Students should expect to complete approximately one hour of classroom instruction and two hours of out-of-class work each week for each credit earned in a class. Thus, for this 3 credit class, the ABA expects that students will be in class for three hours and complete six hours of out-of-class work each week.

Assignments: Read the assigned materials prior to class, and you should feel free to speak with other law students, family members, lawyers, and anyone else regarding the issues that are discussed in particular cases. I strongly encourage this. In addition, we will also be reading cases decided by the Maryland courts; please read these cases and be prepared to discuss whether you agree or disagree with the court's reasoning when deciding a case. I also like to start class with a "warm up," which may be a "scandal of the week," hypothetical or a multiple choice question (or even a role playing exercise). These exercises, while designed to be fun, are designed to get you thinking "like a lawyer."

Guests: Practicing lawyers will join us in class from time to time and discuss topics that we're covering and provide us with a "real world" perspective on how certain ethical dilemmas are identified and handled.

Attendance: Class attendance is a primary obligation of each student whose right to continued enrollment in the course and to take the examination is conditioned upon a record of attendance satisfactory to the professor. A student who exceeds the maximum allowed absences (generally 20% of class sessions) as illustrated below may be compelled to withdraw from the course, or may be barred from sitting for the final exam. Students who are

forced to withdraw for exceeding the allowed absences may receive a grade of FA (failure due to excessive absence). This policy is consistent with American Bar Association Standards for Law Schools.

| Regular Semester Hours | | |
|------------------------|-------------------|------------|
| Credit Hours | Meetings Per Week | |
| | 1 | 2 |
| 2 | 2 absences | 5 absences |
| 3 | 2 absences | 5 absences |
| 4 | -- | 5 absences |

It is school policy that you are allowed 5 absences (doesn't matter whether they are "unexcused" or "excused") for a 3 credit class. After 5 absences, it is within my discretion to give you an "F" in the class by forcing you to withdraw. I am well aware that life sometimes gets in the way of law school so if there is something affecting your ability to be in class, please let me know before you reach the upper limit of your absences

I will pass out an attendance sheet each class for you to sign in. If you don't sign in under your name, you're absent. If you miss the attendance sheet, find it and sign it after class is done. Please be on time to class. If you're late, please know that I will be most interested in calling on you for that class or the next class

Course Website: This course has a TWEN page that links to this syllabus, announcements, the class assignments, and other class materials. You are responsible for self-enrolling in the TWEN page and for checking it regularly for course information.

Computers: Students may use laptop computers for class-related purposes.

Class Cancellation: If the instructor must cancel a class, notices will be sent to students via email and posted on the classroom door. If there is inclement weather, students should visit the University of Baltimore web site or call the University's Snow Closing Line at (410) 837-4201. If the University is open, students should presume that classes are running on the normal schedule.

Academic Integrity: Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or School of Law. Violations of academic integrity include, but are not limited to: cheating, plagiarism, misuse of materials, inappropriate communication about exams, use of unauthorized materials and technology, misrepresentation of any academic matter, including attendance, and impeding the Honor Code process. The School of Law Honor Code and information about the process is available at http://law.ubalt.edu/academics/policiesandprocedures/honor_code/.

Title IX Sexual Misconduct and Nondiscrimination Policy: The University of Baltimore's Sexual Misconduct and Nondiscrimination policy is compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB's nondiscrimination policies can be found at: <http://www.ubalt.edu/titleix>.

Disability Policy: If you are a student with a documented disability who requires an academic accommodation, please contact Leslie Metzger, Director of Student Services, at 410-837-5623 or lmetzger@ubalt.edu.

ASSIGNMENTS

** “Rule” below means Model Rule of Professional Conduct—

| Date | Subject Area | Reading Assignment |
|-------------------|---|--|
| August 22 & 24 | <p>Welcome! Why take this course? So YOU want to be a lawyer? Overview of the profession; institutions that regulate lawyers;</p> <p>Admission to practice: character & fitness</p> | <p>pp: 5-9 Rule 8.1. <i>AGC v. Kepple</i>, 68 A.3d 797 (Md. 2013). <i>Generally review the Model Rules, the table of contents, and the definition section.</i></p> <p>pp. 607-620; 624-629 <i>In re Stern</i>, 943 A.2d 1247 (Md. 2008). <i>In re Gjini</i>, 141 A.3d 16 (Md. 2016).</p> |
| August 29 & 31 | <p>You want to sue—not be sued. UPL and non-lawyers & lawyers</p> <p>Jurisdiction & choice of law</p> | <p>pp. 630-639; 647-657, Rule 5.5, 8.3; 8.4.</p> <p>pp. 665-672; Rule 8.5</p> |
| September 5 & 7 | <p>Getting in trouble because of others</p> <p>Can you take any case you want?</p> | <p>pp. 475-499; Rules 5.1-5.3; 8.3-8.4.</p> <p>pp. 91-107 Rule 6.2</p> |
| September 12 & 14 | <p>Can your client fire you? Can you fire your client? Do you get paid?</p> <p>Prosecuting Lawyer Misconduct in Maryland: how the disciplinary process works</p> | <p>pp. 117-119; 125-146 Rule 1.16.</p> <p>Speaker: Lydia Lawless, Bar Counsel, Atty Grievance Comm’n pp. 21-24 Rule 8.4</p> |

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| September 19 & 21* *No class 9/21. | The traits of a really, really good lawyer: competence, honesty, communication, and diligence. | pp.31-34; 37-60 pp. 61-87 Rules 1.1-1.4, 8.4(c) / |
| September 26 & 28 | Attorney client privilege & confidentiality (do the exceptions swallow the rule?) | Rules 1.6, 1.0(f), 1.2(d), 1.13, 3.3, 4.1, 8.3(c). pp. 179-200; pp. 213-216; 220-230. * Worth a listen on your own time. http://www.radiolab.org/story/the_buried_bodies_case |
| October 3 & 5 | Who calls the shots? Unique circumstances | Rule 1.2 pp. 147—161 Rule 1.14 pp. 161-176 |
| October 10 | \$\$\$--I need to pay back those student loans—how much can I charge? How do I handle the \$? Attorney Fees | pp. 335-363-; Rule 1.5 Rules 1.15; 5.4 Assignment: Draft Fee Engagement Letter (due Sunday, 10/22 no later than midnight). |
| October 12 | Midterm | |
| October 17 & 19 | Can I keep this client? Conflicts of interest—Acts 1 & 2 | Rules 1.7, 1.9, 1.10; 1.13, 1.18 Speaker: Charles Bacharach, Esq. Reading on TWEN. In class practice problems assigned |
| October 24 & 26 | Conflicts, Act 3. | Rule 1.8.; COI recap & practice problem review/ Assignment: COI Take Home Essay Exam (due Sunday, 11/12, no later than midnight) |
| Oct. 31 & Nov. 2 | Lawyers' duties to the courts | Tues. pp. 373- 398. Rules 3.1-3.7, 8.3, 8.4 (c); 3.8* Thurs: pp. 399-407; 417-422 |

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| | | Please skim: <i>AGC v. Gansler</i>, 835 A.2d 548 (Md. 2003) (look at Rule 3.6; 3.8.) *Note: we will review this case if we have time. |
| Nov. 7 & 9 | Lawyers' duties to adversaries & others | pp. 431-448; Rules 4.1-4.4; 8.4 |
| Nov. 14 & 16 | Advertising & Solicitation | pp. 551-562; 578—604 Rules 7.1-7.4. |
| Nov. 21 & 23* No class on Nov. 23 | The unmet need—Should I be involved in pro bono legal services? Extra Credit Projects | Rule 6.1. |
| November 28 & 30 | Extra Credit Projects & Exam Review Session | |