Syllabus - Legal Ethics
Fall 2005

By the end of the second week of class, you are expected to have read all of the black letter rules in the Model Rules of Professional Conduct and the comments for each rule. This will give you a good overview of the documents. Often in class, we will refer to rules that have not been specifically assigned for (or before) that class and may not be separately assigned at all.

1. Monday, August 22, 2005, 4:35 - 5:45 p.m.

2. Wednesday, August 24, 2005, 4:35 - 5:45 p.m.
   Read: Gillers, pp. 17-31 and 45-56; MR 1.1, 1.6, 1.8 and comments; and handouts - CMR 1.6 (Colo.R.P.C. 1.6, Colorado Rules of Professional Conduct can be found at this website: [http://www.coloradosupremecourt.com/Regulation/Rules/Appendix_20.htm](http://www.coloradosupremecourt.com/Regulation/Rules/Appendix_20.htm) and Colorado Attorney Client Privilege, C.R.S. 13-90-107(1)(6).

3. Monday, August 29, 2005, 4:35 - 5:45 p.m.
   Read: Gillers, pp. 57-67; and MR 1.2, 1.4, 1.6, 3.3, 3.4, 4.1 and comments. Be prepared to discuss the problem of “My Client is HIV Positive” in Gillers, page 23 and what differences, if any, there are under a jurisdiction that follows CMR 1.6 vs. MR 1.6.

4. Wednesday, August 31, 2005, 4:35 - 5:45 p.m.

Monday, September 5, 2005 - NO CLASS - Labor Day

5. Wednesday, September 7, 2005, 4:35 - 5:45 p.m.
   Guest Speaker: Honorable Phillip S. Figa, United States District Court Judge for the District of Colorado

Read MR 1.2, 1.4, 1.6(a), 1.6(b)(3), 2.1, 3.3, 4.3, 8.4(c) and comments.
Lancer tape and discussion.

7. Wednesday, September 14, 2005, 4:35 - 5:45 p.m.

Guest Speaker: Harold A. Haddon, Senior Partner, Haddon Morgan Mueller Jordan Mackey & Foreman PC, and lead attorney on numerous high profile civil and criminal cases: Rockwell, Ramsey, Kobe Bryant, Hunter S. Thompson, Qwest, Boeing, and others too numerous to mention, “39 Years Perspective on Litigation.”


Read: MR 1.2, 1.3, 1.4, 4.1 and comments; Gillers, pp. 443-448; Kerwit Medical Products case, 616 F.2d 833 (5th Cir. 1980) (handout).
Lancer tape discussion continued.

9. Wednesday, September 21, 2005, 4:35 - 5:45 p.m.

2nd paper due, 700 words - answer the questions posed by “In a Box,” Gillers, page 70. To answer this question, also read MR 1.6, 1.7, 1.8(a), 1.8(f), 1.8(g), 1.9 and comments; and MR 1.10(a) and comment [2].

10. Monday, September 26, 2005, 4:35 - 5:45 p.m.

* Guest Speaker: Honorable John L. Kane, Jr., Senior Judge, United States District Court for the District of Colorado.

11. Wednesday, September 28, 2005, 4:35 - 5:45 p.m.


* 3rd paper due, 700 words - answer the questions posed by “Carl’s Story,” Gillers, pp. 335-336.
Guest Speaker: Bill Ritter, formerly District Attorney for the City and County of Denver and Assistant United States Attorney, “Prosecutor’s View of Ethics.

* Indicates change in schedule.
13. Wednesday, October 5, 2005, 4:35 - 5:45 p.m.

Read: MR 1.2, 1.6, 3.3, 3.4, 4.1, 4.2, 5.1, 5.2, 5.3, 8.4 and comments.
Read handouts: C.R.S. 18-8-610, Tampering with Physical Evidence; Lazar v. Riggs, 79 P.3d 105 (Colo. 2003); People v. Haase, 781 P.2d 80 (Colo. 1989); 1 Geo. J. Legal Ethics 389; C.R.C.P. 26(a) and (b) - General Provisions Governing Discovery, Duty of Disclosure; ABA Formal Opinion 93-376 (available on Westlaw); and CBA Formal Ethics Opinions 65, 69, 96 and 103 (available at http://www.cobar.org/ors.cfm).

Morgantown tape discussion.


Read: Gillers, pp. 89-92; and MR 4.2; and “Stupid Lawyer Tricks: An Essay on Discovery Abuse,” by Charles Yablon (handout)

Morgantown tape discussion continued.

15. Wednesday, October 12, 2005, 4:35 - 5:45 p.m.

Read: Gillers, pp. 421-447; MR 3.4 and comment; CBA Ethics Opinion 80 (handout); and C.R.S. 18-8-610, Tampering with Physical Evidence (previously handed-out for the October 5th Class)

16. Monday, October 17, 2005, 4:35 - 5:45 p.m.

4th paper due - answer questions posed by the problem “The Bad Builder’s Good Lawyer,” Gillers, pp. 421-422.

Upper Black Eddy tape - start viewing tape.

17. Wednesday, October 19, 2005, 4:35 - 5:45 p.m.

Read: Gillers, pp. 449-454, 461-468, and 489-492; and MR 1.3, 1.7, 1.13, 1.16, 2.1 and comments.

Upper Black Eddy tape discussion.

18. Monday, October 24, 2005, 4:35 - 5:45 p.m.

Guest Speaker: John Gleason, Attorney Regulation Counsel, “How the Attorney Discipline System Operates.”

19. Wednesday, October 26, 2005, 4:35 - 5:45 p.m.

20. **Monday, October 31, 2005, 4:35 - 5:45 p.m.**

Read MR 1.13 and comments again.

Upper Black Eddy tape discussion continued.

21. **Wednesday, November 2, 2005, 4:35 - 5:45 p.m.**

Real Evidence.

Read: Gillers, pp. 401-420; MR 3.4(a) and comments; CBA Formal Opinion 60 (handout); and C.R.S. 18-8-610, Tampering with Physical Evidence (previously handed-out).

22. **Monday, November 7, 2005, 4:35 - 5:45 p.m.**


23. **Wednesday, November 9, 2005, 4:35 - 5:45 p.m.**

Guest Speakers: Joyce Sterling, Professor of Law, University of Denver College of Law, and Nancy Reichman, Associate Professor of Sociology and Criminology, University of Denver, “Women and the Legal Profession.”

Read: “Sticky Floors, Broken Steps and Concrete Ceilings” by Joyce Sterling with Nancy Reichman, 14 Texas J. Women and Law 27 (Fall 2004) (handout).

24. **Monday, November 14, 2005, 4:35 - 5:45 p.m.**

Entity Clients.

Read: Gillers, pp. 31-45 and be prepared to discuss in class “Slip and Fall,” p. 31, in light of the five different ways of defining the attorney client privilege when a client is an organization as suggested in note 1, page 40 of Gillers.

25. **Wednesday, November 16, 2005, 4:35 - 5:45 p.m.**

Concurrent Conflicts of Interest.

Read: MR 1.7, 1.8 and comments; and Gillers, pp. 185-201, regarding Client-Lawyer Conflicts and be prepared to discuss in class “May the Lawyer be our Client?” on pp. 190-191.

   Client-Client Conflicts/Civil Cases.
   Read: MR 1.7 and comments; and Gillers, pp. 238-252 and be prepared to discuss in class “Will You Represent Us both?” and “May We Do Both Cases?” on pp. 238-239.

27. Wednesday, November 23, 2005, 4:35 - 5:45 p.m.

   Successive Conflicts of Interest.
   Read: MR 1.9, 1.10, 1.11 and comments; Gillers, pp. 275-286, 290-291 and 292-304 and be prepared to discuss in class “You Don’t Know Anything,” on pp. 275-276, and “Divorce and Default” on pp. 281-282.


   6th paper due - answer questions posed by problem “Do I Still Owe the Record Store?” Gillers, p. 281.
   No additional reading.
   Either Seaside tape, Matt’s Case tape or Albinex tape viewing.

29. Wednesday, November 30, 2005, 4:35 - 5:45 p.m.

   Discussion of tape continued.
   Bender’s “10 Rules on how to Practice Law and Stay Out of Trouble.”
Student Information about Professional Responsibility:
Grades, writing papers, class participation and office hours

Your grade in this class will be determined by your cumulative grades for six (6) papers submitted throughout the semester and may include up to three (3) additional points for class participation. Your final grade will be the sum of these numbers (papers plus class participation) and then curved according to the law school’s rules for this course so that the median score of the class is 85 (see Miscellaneous Law School Rule #32).

Papers. You are responsible for six (6) short papers which respond to questions found in your textbook. The purpose of the papers is two-fold: (1) to provide you with some degree of familiarity with the Rules of Professional Conduct which are sometimes in conflict and are certainly neither self-intuitive nor self-evident; and (2) to develop your writing skills -- skills that I believe are neglected in law school but are necessary for life. I am looking for papers that present your thoughts succinctly, cogently and clearly. Although you must include the issues raised by the fact pattern, you will not get any points (and may lose some) for raising issues not presented by the problem. These exercises are not legal research projects. Additional research beyond the rules, comments, and materials in the book is not required and may negatively impact your performance. Cite cases (if you have to just by name) and “MR” for the ABA Model Rules of Professional Conduct and “CMR” for Colorado’s Model Rules. No additional materials need to be read or cited other than what is provided in the rules and assigned readings. The textbook I have chosen for this course is designed to give you hypothetical problems in advance of the reading materials which in turn provide the tools to answer the problem. We will almost always discuss the materials in class before your papers are due.

Papers must be submitted to me before class on the day due unless I personally excuse the student. Late papers will be accepted but will be graded down accordingly. The papers are to be no more than 700 words long, 12-point type, double spaced on one side only. The papers will be graded on a scale of ten: 10 = A; 9 = A-; 8 = B; 7 = C; 6 = D or worse.

Class participation. I expect you to read the assigned materials, which are relatively short, and then react to class discussions, and sometimes to simply react to my questions. For three classes identified in the syllabus, I have asked that you prepare in advance answers to specific problems. For each of these classes you should take more time to review the materials and prepare your answer. Other than these three classes, which will count heavily towards class participation points, additional points will be awarded for diligent attendance and demonstrating that you have read the materials. In addition to granting the additional points, I reserve the right to reduce your grade for frequent absences.

Office hours. I will be available in Room 308 for one and one-half hours after each class on Monday. Please call or email me first to make an appointment. You may email me at Michael.Bender@judicial.state.co.us or reach me by phone 303-837-3741 to schedule an appointment or discuss matters related to this course.