

Syllabus - Legal Ethics Fall 2006

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 Rules. 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.

IMPORTANT: Read the comments for each Model Rule assigned. Specific comments indicated are those which you should emphasize in your reading.

1. Tuesday, August 29

Read:

- Model Rules and Comments (MR) - pp. 9-13 “Preamble: A Lawyer’s Responsibilities”
- Gillers - pp. xxiii-xxvi “Why It Matters: A Preface to Students;” pp. 1-13 “Where Do ‘Ethics’ Rules Come From?”

2. Thursday, August 31

Read:

- Gillers - pp. 71-72 and 80-85
- MR - Rule 1.1 Competence and comments; Rule 1.4(a) and (b) Communication and comments; Rule 1.2 Scope of Representation and Allocation of Authority Between Client and Lawyer and comments

In class: Lancer tape

3. Tuesday, September 5

Read:

- Gillers - pp. 423-26 and 357-58
- MR - Rule 1.6 Confidentiality of Information and comments; Rule 8.4(c) Misconduct and comments; Rule 4.1 Truthfulness in Statements to Others and comments; Rule 3.3 Candor Toward the Tribunal and comments; Rule 1.16 Declining or Terminating Representation and comments

In class:

Lancer tape continued; Spaulding v. Zimmerman (handout); for those interested, see contra Kerwit Medical Products, Inc. v. N.&H. Instruments, Inc., 616 F.2d 833 (5th Cir. 1980)

4. Thursday, September 7

Read:

- Gillers - pp. 185-90
- MR - Rule 1.1 Competence and comments with emphasis on Comment [3]; Rule 1.5(a) and (d)(2) Fees and comments

In class: Matt's Case tape

5. Tuesday, September 12

Read: Gillers - pp. 374-396

In class: speaker - Judge John L. Kane, Ethics and Civility

6. Thursday, September 14

Read: Gillers - pp. 396-400 and 315-35

In class: speaker – Judge William Lucero, Ethical Advocacy: The Prosecutor's Perspective

7. Tuesday, September 19

Read:

- Gillers - pp. 185-90
- MR - Rule 1.7 Conflict of Interest: Current Clients and comments; Rule 1.4 Communication and comments; Rule 1.6(a) Confidentiality of Informant and comments; Rule 1.8(f) Conflict of Interest: Current Clients: Specific Rules and comments; Rule 4.4 Respect for Rights of Third Persons and comments with emphasis on Comment [1]

In class: Matt's Case tape continued

8. Thursday, September 21

Read:

- C.R.S. 18-8-610
- Tampering with physical evidence handout
- ABA Formal Opinion 93-376 (available on Westlaw)
- MR - Rule 3.4(a)-(d) Fairness to Opposing Party and Counsel and comments; Rule 8.4(c) and (d) Misconduct and comments with emphasis on Comment [5]

In class: Morgantown tape

9. Tuesday, September 26

Read:

MR - Rule 3.1 Meritorious Claims and Contentions and comments; Rule 3.4(a), (c) and (d) Fairness to Opposing Party and Counsel and comments;

Rule 5.1 Law Firms and Associations and comments; Rule 5.2 Responsibilities of a Subordinate Lawyer and comments; Rule 1.6 Confidentiality of Information and comments; Rule 3.3 Candor Toward the Tribunal and comments; Rule 1.16 Declining or Terminating Representation and comments; Rule 4.2 Communication with Person Represented by Counsel and comments; Rule 4.3 Dealing with Unrepresented Person and comments

In class: Morgantown tape continued

10. Thursday, September 28

Read:

- Gillers - pp. 249-52
- MR - Rule 1.7(a)(2) and (b)(2) Conflict of Interest: Current Clients and comments; Rule 1.5(b) Fees and comments; Rule 1.4(b) Communication and comments; Rule 1.8(f) Conflict of Interest: Current Clients: Specific Rules and comments

In class: Seaside tape

11. Tuesday, October 3

Read:

MR - Rule 1.4(b) Communication and comments; Rule 1.9(c) Duties to Former Clients and comments

In class: Seaside tape continued

12. Thursday, October 5

Read:

- Gillers - pp. 24-30
- MR - Rule 1.6 Confidentiality of Information and comments; Rule 1.2(d) Scope of Representation and Allocation of Authority Between Client and Lawyer and comments with emphasis on Comment [10], [11], [12], and [13]
- Colorado privilege statutory handout

13. Tuesday, October 10

Read: Gillers - pp. 45-79

First paper due: Answer “All’s Not Well” problem in Gillers, pp. 23-24. Paper is to be no more than 700 words, 12-point type, double spaced on one side only.

14. Thursday, October 12

Read: Gillers - re-read pp. 45-79

In class: speaker - Chip Mortimer, Assistant Regulatory Counsel, Nuts and Bolts of How to Practice Law

15. Tuesday, October 17

Second paper due: Answer “In a Box” problem in Gillers, p. 70. Paper is to be no more than 700 words, 12-point type, double spaced on one side only.
IMPORTANT: To answer, you must read Rule 1.10(a) Imputation of Conflicts of Interest: General Rule.

16. Thursday, October 19

Read:

- Gillers - pp. 185-209
- MR - Rule 1.7 Conflict of Interest: Current Clients and comments; Rule 1.8 Conflict of Interest: Current Clients: Specific Rules and comments

In class:

- Discuss Karen Horowitz’s dilemma in Gillers, pp. 206-08.
- Answer question posed on p. 209 about J. Thomas Blair’s explanation and Roger Baldwin’s decision.

17. Tuesday, October 24

Third paper due: Answer “May the Lawyer Be Our Client?” problem in Gillers, pp. 190-91. Paper is to be no more than 700 words, 12-point type, double spaced on one side only.

In class: speaker - Justice Rebecca Love Kourlis, What Trial Judges Expect of Lawyers

18. Thursday, October 26

Read: Gillers - pp. 238-259

In class: speaker - Hal Haddon, Criminal Defense Lawyer’s Perspective of Ethics

19. Tuesday, October 31

Read: Gillers - re-read pp. 238-259

In class: Answer “May We Do Both Cases?” problem in Gillers, pp. 238-39.

20. Thursday, November 2

Fourth paper due: Answer “Will You Represent Us Both?” problem in Gillers, p. 238. Paper is to be no more than 700 words, 12-point type, double spaced on one side only.

21. Tuesday, November 7

Read:

- Gillers - pp. 275-292
- MR - Rule 1.9 Duties to Former Clients and comments; Rule 1.10 Imputation of Conflicts of Interest: General Rule and comments

In class: Answer three problems from Gillers - “You Don’t Know Anything” p. 275; “Do I Still Owe the Record Store?” p. 281; and “Divorce and Default” pp. 281-82

22. Thursday, November 9

Read:

- Gillers - pp. 292-312
- MR - Rule 1.9 Duties to Former Clients and comments; Rule 1.10 Imputation of Conflicts of Interest: General Rule and comments; Rule 1.11 Special Conflicts of Interest for Former and Current Government Officers and Employees and comments

23. Tuesday, November 14

Fifth paper due: Answer “Can We Hire the Guy?” problem in Gillers, p. 292-93. Paper is to be no more than 700 words, 12-point type, double spaced on one side only.

In class: speaker - John Gleason, Disciplinary Prosecutor, Explanation of Attorney Discipline

24. Thursday, November 16

Read:

MR - Rule 1.13 Organization as Client and comments; Rule 1.4(a) and (b) Communication and comments; Rule 4.3 Dealing with Unrepresented Person and comments

In class: Upper Black Eddy tape

25. Tuesday, November 28

Read:

- MR - Rule 1.13 Organization as Client and comments; Rule 1.4(a) and (b) Communication and comments; Rule 4.3 Dealing with Unrepresented Person and comments; Rule 2.1 Advisor and comments with emphasis on Comment [5]; Rule 1.6 Confidentiality of Information and comments; Rule 1.16(b)(3) Declining or Terminating Representation and comments; Rule 8.4(c) Misconduct and comments; Rule 4.1 Truthfulness in Statements to Others and comments; Rule 1.2(d) Scope of Representation and Allocation of Authority Between Client and Lawyer and comments
- ABA Formal Opinion 92-366 handout (available on Westlaw)

In class: Upper Black Eddy tape continued

26. Thursday, November 30

Read:

- Gillers - pp. 449-492
- MR - Rule 1.13 Organization as Client and comments

27. Tuesday, December 5

Sixth paper due: Answer “Contraindications” problem in Gillers, p. 449-450.
Paper is to be no more than 700 words, 12-point type, double spaced on one side only.

28. Thursday, December 7

LAST CLASS