

+WESTERN STATE COLLEGE OF LAW (“WSCL”)

Business Law Ethics—Course Syllabus, Spring 2024

Class day/time: Every other Thursday from 4:15 p.m. – 6:15 p.m.

Professor: Kristin F. Godeke, Esq.

**Professor contact
outside of class:**

The best method of contact is via e-mail to the address listed below. Please type “**BLEthics**” in the subject line of any e-mail that you send me. If you do not receive a response within 24 hours, then your e-mail was likely blocked by my spam or other e-mail security system. It is your responsibility to follow up with me to ensure that any and all of your questions are addressed.



Kristin.Godeke@wellsfargo.com

If necessary, you may contact me on my mobile at:



(714) 512-4871 (texts are preferred)

A. Course overview and learning objectives.

1. This course will merge the substantive principles, rules, and standards of legal ethics that you studied in the course on *Professional Responsibility*, with the real-world ethical dilemmas, tensions, and pressures that business attorneys necessarily confront in advising and counseling their business clients.
2. There is a definitive tension between the black and white rules of *Professional Responsibility* on the one hand, and more grey factual scenarios that the practicing business attorney will encounter in her or his practice on the other. The business attorney will be faced with situations where there will be no “bright-line” test available that will provide the perfect resolution to your ethical dilemma. The goal of this course is to equip you with the analytical framework to confidently and competently fulfill your ethical obligations in those situations. It is structured with the intent of deliberative and thoughtful class preparation and elicit lively in-class discussion and debate. As a required course for the *Business Law Certificate*, this course will complement and synthesize your other course work.
3. The course learning outcomes are as follows¹:

¹ The preparatory work and class discussion is specifically designed to comport with; (A) the eight WSCL *Programmatic Learning Objectives* (Doctrinal Knowledge; Practice Skills; Legal Analysis; Legal Research; Communication; Advocacy of Legal Argument; Client Sensitivity and Cultural Competency; and Legal Ethics), set forth at EXHIBIT A; and (B) ABA Standard 310.

General Learning Outcomes

Specific Course Learning Outcomes

- I. **Legal Analysis; Analytical Reasoning:**
- In each of the casebook’s 12 Scenarios (and other assigned course work), students must demonstrate the ability to:
 - **Issue Identification.** Identify the ethical issues arising from the specific fact pattern set forth in: **(a)** each casebook Scenario and related ethics rules; and **(b)** the assigned supplemental readings and/or the performance test project(s);
 - Students must also demonstrate the ability to critically analyze, identify, and evaluate the public policies of a precedent case and related ethics rule; and, be able to evaluate how that public policy can impact: **(a)** the application of the ethics rule to the underlying ethical dilemma, and **(b)** the attorney’s personal ethical obligations and her or his law license; and
 - **Application of the Law to Facts.** Appropriately use:
 - **Cases** (including identifying the salient features of the precedent case, identifying legally significant similarities or differences between the precedent case and a specific fact pattern, and then explaining why those similarities and differences are legally significant), and
 - **Ethics rules** (including the ability to connect legally significant facts in a fact pattern to the underlying ethics rules) to predict how a state bar ethics committee, an arbitrator, or a court would decide the issue, or how a client, an adverse party, or an adverse party’s attorney might respond.
- II. **Doctrinal Knowledge; Information Competency:**
- In each of the Scenarios, and the related assigned course work, students must demonstrate substantive knowledge in the related core curriculum subjects of Contracts, Business Associations, and Professional Responsibility.
 - This interdisciplinary approach will require students to evaluate and use information from a variety of relevant resources to render opinions and recommend sound and ethical courses of action.
- III. **Effective Communication; Advocacy of Legal Argument; Interpersonal Effectiveness:**
- The real-world Scenarios, and related assigned coursework, will give rise to robust class debate on how best to avoid and confront the ethical dilemmas in representing the business client. To that end, students must demonstrate the ability to communicate both orally (*in class*) and in writing (*in the final exam*), to effectively

convey, argue, and advocate her or his legal and ethical analysis, conclusions, and recommendations.

- In demonstrating advocacy skills, students must show an ability, in both oral and written formats, to evaluate the legal and ethical strengths and weaknesses of a fact pattern and then employ case law, ethics rules, statutes, and public policy to persuade the target audience to accept the correctness of the position being argued and advocated by the student.
- Subsumed under these advocacy communication skills will be an assessment of the student's:
 - Target audience sensitivity in written and oral communication (i.e., the ability to adopt a tone, style, and level of detail appropriate to the needs, knowledge, and expertise of the target audience (client; adverse party and attorney therefor; state bar ethics committee, judge, arbitrator, etc.); and
 - Written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the student's analysis and conclusions).

IV. Legal Research:

- From the casebook and other assigned course work, students will demonstrate the ability to identify relevant legal authority, and to properly cite to such legal authority in advocating the student's legal opinion and recommendations.

**V. Legal Ethics:
Personal and
Professional
Integrity and
Ethical Behavior:**

- As the core of this course is the inextricably linked dilemmas that lurk in serving as legal counsel to a business, students must demonstrate the ability to identify the nuanced ethical issues inherent in advising and counselling a business and to make well-reasoned and ethical decisions in recommending the resolution of such issues.
- Moreover, students must manifest an awareness of individual and social responsibility to act ethically and with integrity in a diverse, global society underpinning the practice of business law.

**VI. Practice Skills;
Professional
Competence:**

- Given the fact that ethical questions and challenges spring from the very nature of advising and counselling the business client, students must demonstrate the development of other practical legal skills.
- In that regard, the student's outcomes may include, without limitation:
 - oral presentation and advocacy;
 - counseling;

- business strategy and behavior;
- interviewing and fact investigation; and
- professional civility and applied ethics.
- The supplementary performance test course work that will be assigned is designed to test the student's ability to understand and apply a select number of legal authorities in the context of a factual problem and assess the student's ability to analyze ethical issues by:
 - sifting through factual material and separating relevant from irrelevant facts; assessing the consistency and reliability of facts; and determining the need for and source of additional facts;
 - analyzing the ethical rules and principles applicable to a problem and formulating legal theories from facts that may be only partly known and are being developed;
 - recognizing and resolving ethical issues arising in practical situations;
 - applying problem solving skills to diagnose a problem, generate alternative solutions, and develop a plan of action; and,
 - communicating effectively, whether advocating, advising a client, eliciting information, or effectuating a legal transaction.

VII Client Sensitivity and Cultural Competency:

- In working through the real-world ethical challenges presented in this course, students will demonstrate an awareness of the needs and goals of both the attorney and his or her client, including a sensitivity to the client's background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and an awareness that cultural issues may affect the relevance of facts and application of the ethics rules.

B. Expectations For Zoom Environment: In the event a class is held via zoom:

- a. Find a dedicated quiet space to attend Zoom sessions, to minimize the chances that you will be disrupted during the session.
- b. Arrive to class early and dressed as you would to attend an in-person class.
- c. Your camera must be turned on for the duration of the class. If desired, you can use the background settings in Zoom to create an artificial background that blocks the view of your space while still allowing you to be seen on camera.
- d. Come prepared, as you would for an in-person class. Participation in Zoom classes is as important as it is during an in-person class session.

- e. Do not multitask – stay focused on the class discussion – do not wander in and out of the Zoom session.
- f. If you have to miss a Zoom session, or arrive late or leave early, notify the professor in advance, as you would for an in-person class.
- g. If you have connectivity issues, whether it be long-term or short-term, that impact your ability to participate (e.g., if you are limited to dial-in without video), notify your professor so other accommodations can be explored.
- h. Do not post screenshots or recordings of any Zoom classes on social media. Such actions would constitute a violation of the Student Honor Code. If you need access to a recording of the Zoom session, please contact your professor.
- i. Sign into Zoom with the name under which you are registered for class. If you prefer to be called by a different name or nickname, please notify your professor in advance so you are not marked absent.
- j. Unless your professor instructs you otherwise, mute your microphone when you are not speaking. Unmute to speak or to ask or answer questions.
- k. Zoom classes are not YouTube or Netflix. You should be actively engaged in answering questions, taking notes, writing down questions you wish to ask later during class or during office hours, etc. This will not only help you stay engaged and participating in class, it will also help your learning in the online format.
- l. If you are using your computer to take notes and/or using an e-casebook, remember that you may not be able to easily switch between those apps and the Zoom session. This could undermine your ability to pay attention to the class discussion. Figure out how you will resolve that technological issue before your first class session and consider possible modifications to your normal note taking style (e.g., handwritten notes) or using a two-screen set-up.
- m. Zoom has a number of tools available to you as a student: yes/no symbols, raise hand and thumb icons, share screen (with permission of the professor), chat windows, etc. Please familiarize yourself with those tools before class so that you can use them as requested by the professor. Your professor will inform you about the ways in which you should use these tools in that particular class.
- n. Professors may use a number of interactive functions in Zoom to engage with students, e.g., polling questions, breakout rooms, as well as asking you to share your screen, type in the chat window. Like being called on in a live classroom, you are expected to participate fully in these activities and functions, i.e., answer polling questions, speak with your classmates in breakout groups, share your screen as requested, etc.

C. Reading materials.

1. **Required materials:** The required text and all applicable required supplementary materials must be brought to each class:
 - a. Marc I. Steinberg, Lawyering and Ethics for the Business Attorney, (Fifth Edition, West Academic Publishing, 2016) (the “**Casebook**”);
 - b. ABA Center for Professional Responsibility, Model Rules of Professional Conduct—2016 Edition, (American Bar Association, 2016); and,
 - c. Supplemental reading materials and/or performance test projects distributed prior to class.

2. Class readings must be completed prior to the class in which those readings will be discussed.

D. Class preparation; grades; attendance and decorum; and course governance.

1. **Preparatory work.** This course requires approximately 2 hours of outside preparation time required for each 1 hour of class. Therefore, since this class meets for 2 hours every other week, the casebook assignments, supplemented by other readings and/or performance test projects I will assign, you should devote approximately 4 hours preparing for each class session. This class will involve group work and time preparing with your assigned group will be counted toward this preparatory time.
2. **Grades.**
 - a. **Final examination.** The final exam will be individual and will constitute **75% of your final grade**
 - b. **Classroom participation:** Legal education is a cooperative venture and oral communication skills will be important throughout your career as a practicing attorney. This is true even when we are operating virtually. Therefore, you must be prepared to participate in class on a regular basis and **25% of your final grade** will be based on your class participation. The class may be conducted such that students are separated into teams and expected to participate and present various issues. **NOTE:** It is expected that each student will provide meaningful contributions to each and every class session, even if the group model is adopted. We will have guest speakers regularly and your questions/discussions with those speakers will be reflected in your participation grade. Students are not permitted to have their laptops open during a guest speaker's presentation. Please know that any student's failure to treat a guest speaker with the utmost respect and professionalism is grounds for dismissal from the class. What is considered professionalism and respect is in my sole discretion.
3. **Attendance and decorum.** I will take attendance at the beginning of each class by who appears on the zoom call. If you are on the zoom, you are absent. It should go without saying but I do not expect that cell phones will be heard or used during class. You may use your laptops (except during guest speaker presentations) but they should be open for note-taking and access to course-related materials and not to your email, Facebook®, etc. No text or instant messaging is permitted while class is in session.
4. **Course governance.** The course schedule below is subject to change at my discretion as may be announced in class or through electronic or print media. Pacing of the class will naturally ebb and flow during the semester.

E. Course Schedule:*

Week	Date	Assignment	Topics
1-2	Jan 25, 2024	<ul style="list-style-type: none"> • Casebook: Scenario I • Model Rules: 1.3-1.8, 1.9-1.10, 1.13, 1.16 and 1.18, including comments • Supplementary readings/project: As assigned – please look out for an email in advance of class. 	<ol style="list-style-type: none"> 1. Who's the Client? 2. Guest Speaker – Robert Tennant, Chief Legal Officer, Veros Credit
3-4	Feb. 8, 2024	<ul style="list-style-type: none"> • Casebook: Scenario II and III • Model Rules: 1.7, 1.13, former Rule 2.2, including comments • Supplementary readings/project: As assigned 	<ol style="list-style-type: none"> 1. Confidentiality Owed to Former and Existing Clients 2. The Lawyer as Intermediary 3. Guest Speaker – Caroline Djang, Partner, Buchalter
5-6	Feb. 22, 2024	<ul style="list-style-type: none"> • Casebook: Scenario IV, and Scenario V • Model Rules: 1.7, including comments • Supplementary readings/project: As assigned 	<ol style="list-style-type: none"> 1. Corporate Internal Investigations: What About Confidentiality 2. Parent-Subsidiary Related Party Transactions 3. Guest Speaker – Casey Johnson, Partner, Aitken, Aitken, & Cohn
7-8	Mar. 14, 2024	<ul style="list-style-type: none"> • Casebook: Scenario VI, Scenario VII • Model Rules: 1.7, 1.9, 1.10, 1.11, 1.13, including comments • Supplementary readings/project: As assigned 	<ol style="list-style-type: none"> 1. The Corporate Opportunity Doctrine and the Lawyer's Role 2. The Multiple Representation Dilemma for the Business Attorney 3. Guest Speaker – Antoinette Naddour, Veterans Legal Institute
9-10	Mar. 28, 2024	<ul style="list-style-type: none"> • Casebook: Scenario VIII, Scenario IX • Model Rules: 1.1, 1.2, 1.3, 1.16, 3.1, 3.2, including comments • Supplementary readings/project: As assigned 	<ol style="list-style-type: none"> 1. Screening and the Personally Disqualified Attorney 2. Business Attorney as Litigator in Corporate Settings 3. Guest Speaker – Julie Lopiccolo, Partner, Cottle, Keene, Lopiccolo, & Heyde
11-12	April 11, 2024	<ul style="list-style-type: none"> • Casebook: Scenario X and XI 	<ol style="list-style-type: none"> 1. Lawyers Taking an Equity Interest in Their Clients

		<ul style="list-style-type: none"> • Model Rules: 1.7, 1.13, 1.16, including comments • Supplementary readings/project: As assigned 	<ol style="list-style-type: none"> 2. Inside Counsel 3. Guest Speaker – TBD
13-14	April 25, 2024	<ul style="list-style-type: none"> • Exam Review 	<ol style="list-style-type: none"> 1. Examination Review 2. Guest Speaker – Adrienne Marshack, Judicial Officer, Orange County Superior Court
Final Exam	TBD		

*Please note the schedule is subject to adjustment at my discretion

Disability Services Statement: Western State College of Law provides accommodations to qualified students with disabilities. The **Disabilities** Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Students Services suite #111. Dean Espinoza’s phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Marisa Cianciarulo at mcianciarulo@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law’s “Policy against Discrimination and Harassment.”

EXHIBIT A

Western State College of Law – Programmatic Learning Outcomes

Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) **Doctrinal Knowledge**

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

(2) **Practice Skills**

Students will demonstrate the development of other law practice skills. Each student’s chosen outcomes within this category will be varied based on the student’s particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

(3) **Legal Analysis**

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

(4) **Legal Research**

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

(5) **Communication**

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker’s ideas. This includes audience sensitivity in written and oral communication (the ability to

adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

(6) Advocacy of Legal Argument

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic, and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

(7) Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

(8) Legal Ethics

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.