

WESTERN STATE UNIVERSITY COLLEGE OF LAW SYLLABUS

PROFESSOR: FOXX, Brian (with support and input from Professor K MOHR)
COURSE: **PROFESSIONAL RESPONSIBILITY**
SECTION: 240-B
SEMESTER: FALL 2025
TIME: **TUESDAY 6:40 PM to 9:50 PM**

- I. **REQUIRED TEXTS.** The required texts must be brought to all classes.
 1. Thomas D. Morgan, Ronald D. Rotunda & John S. Dzienkowski, Professional Responsibility: Problems and Materials. Abridged Thirteenth Edition (Foundation Press 2018) ("Casebook")
 2. Richard Thomas D. Morgan and Ronald D. Rotunda, Selected Standards on Professional Responsibility. 2021 or 22 Edition (Foundation Press) ("Selected Standards")
 3. Kevin Mohr, Supplemental Cases and Opinions for Professional Responsibility (Fall 2022) ("**Supplement**").¹

You are expected to have read any rules or statute sections in the selected Standards to which the problems or readings in the Casebook refer.

- II. **COURSE COVERAGE & OBJECTIVES.** The field of legal ethics is an area of law that permeates all aspects of your professional life - and also a good part of your personal life. The purpose of this course is three-fold. *First*, the course will identify for you the substantive rules or standards of legal ethics, not only the minimum standards to which all lawyers must conform, but also professional conduct to which all lawyers should aspire. Second, by discussing factual situations that present ethics issues, the course is intended to expose you to the kinds of problems you will confront in your practice and provide a basis for understanding how you might ethically resolve those problems. *Finally*, the course will help you prepare for the bar exam, not only the Multistate Professional Responsibility Examination (MPRE) which all prospective lawyers must take, but also The California Bar Exam, which tests professional responsibility in the essay and performance parts of **every exam**. The course, however, is not a bar preparation course. Although it will help you prepare for that exam, the course's primary objective is to educate you about practical ethical concerns, how to identify them, and how to address them in your practice so that you will become and remain a trusted and respected member of the legal profession.

The California Rules of Professional Conduct. Unlike other states that had adopted some version of the *ABA Model Rules of Professional Conduct* ("Model Rules"),² since 1928 California traditionally had its own set of rules: The California Rules of Professional Conduct ("California Rules"). **However, that changed on November 1, 2018, when a new set of California Rules became effective.** This new set of rules has the same numbering, format and style as the Model Rules. However, these rules are in many instances substantially different in substance from the Model Rules, carrying forward the language and approach of its prior California Rules counterpart. We will spend a substantial amount of time studying these rules because they are the rules that will provide the primary basis for regulating your eventual practice of law.

The California State Bar Act and Other Statutes Governing Lawyer Conduct. It is important to note that California is unique in having more than one source of lawyer regulation. In addition to the Rules of Professional Conduct, California through its legislature has set out ethical duties for lawyers in the Business & Professions Code, specifically the State Bar Act, Bus. & Prof. C. §§ 6000 et seq. In addition, provisions of other California Codes, including the Civil Procedure Code, Corporations

¹ The Supplement was available for purchase beginning on **August 10, 2022**.

² Until a decade or so ago, there were still several jurisdictions that had rules based on the *ABA Model Code of Professional Responsibility* ("ABA Code"), available at

www.americanbar.org/content/dam/aba/administrative/professional_responsibility/2011build/mod_code_prof_resp.pdf

Now, however, no jurisdiction has ABA Code-based rules. The last state to dispense with a set of rules based on the ABA Code was New York, which adopted a set of rules patterned on the Model Rules effective April 1, 2009.

Code, Evidence Code, Insurance Code, Penal Code and Probate Code, directly govern lawyer conduct. Many of these authorities are set out in the Selected Standards or discussed in the cases and ethics opinions in the Supplement.

ABA Model Rules. You must also be familiar with the Model Rules as well as both sets of California regulations (rules & statutes), for a number of reasons. First, although most of you will remain in California to practice and be subject to California's rules and statutes, most California rules have analogous sections in the Model Rules. When construing a California ethical rule or statutory section, the California courts and California Bar will often consider cases applying analogous sections in the Model Rules. See also Cal. Rule 1.0, Comment [4]. Second, when a lawyer's misconduct occurs in relation to a matter before a tribunal in another jurisdiction, or the principal adverse effect of the lawyer's misconduct is in another jurisdiction, that jurisdiction's rules (which will necessarily be based on the Model Rules) will govern. See Cal. Rule 8.5(a); Model Rule 8.5(a). Third, most jurisdictions now permit lawyers in limited circumstances to practice in jurisdictions in which they are not admitted ("multijurisdictional practice" or "MJP"). See, e.g., Cal. Rules of Court, Rules 9.45 to 9.48; Model Rule 5.5. If you are authorized to practice in another jurisdiction under one of these MJP provisions, that jurisdiction's rules will generally control, even if you are not fully licensed in that jurisdiction.³ Fourth, and least importantly, the MPRE is based primarily on the Model Rules.⁴ For all of these reasons, a lawyer practicing in California – whose conduct is generally governed by California Rules and statutes – must also be familiar with the Model Rules. We will consider both sets of professional conduct regulations in this course.⁵

Note for Fall 2022 Students: On May 10, 2018, the California Supreme Court approved all the proposed rules the State Bar submitted in 2017 except two.⁶ These new rules, which have a format and organization similar to the ABA Model Rules, became effective on November 1, 2018. Although the format and organization of the new rules is based on that of the Model Rules, it is important to appreciate that the substance of the rules retain nearly all of the unique California rule provisions, particularly in relation to the duties of confidentiality and competence. Consequently, it is important to familiarize yourselves with the substance of the California Rules under which most of you will practice.

Legal ethics often involves "gray areas." Many of the rules cannot be mechanically applied and the functioning of the rules in practice is intensely fact specific. Class discussions will focus on the factual situations presented in each problem in the Casebook (supplemented with hypotheticals to be discussed in class), the governing rules, and the policies and rationales underlying the rules. The Casebook contains questions that identify the issues for each problem, creating a framework for class discussion. I will use those questions to supplement our understanding of the principles - this is the only effective way to develop an understanding of the rules' application in practice. I expect everyone in the class to have done the reading and be prepared to participate in class discussion each day. If you expect the Casebook to neatly describe majority and minority approaches to the legal issues presented - as you may have seen in Torts, for example - you will be disappointed. Instead, review the questions presented, then review the *ABA Model Rules of Professional Conduct* and the *California Rules of Professional Conduct*, and think about how they govern or inform the questions. Not all questions posed in the Casebook have a "correct" answer.

³ This would occur if, for example, you are employed by a corporation with a presence in many different states. By availing yourself of the limited opportunity to practice in the other jurisdiction, you are deemed to have submitted yourself to the jurisdiction and rules of that jurisdiction's regulatory authority. See PROBLEM 37.

⁴ I write "primarily," because the MPRE also covers issues such as formation of the attorney-client relationship, legal malpractice and Judicial Ethics that are not covered in any lawyer ethics code. To the extent the MPRE covers subject matter governed by a lawyer ethics code, however, the Model Rules apply.

⁵ In addition to the foregoing four reasons, there was a fifth reason under the former California Rules why the Model Rules were important to learn, i.e., there were many "gaps" in the California Rules and statutes that courts sometimes filled by interpolating the relevant Model Rule. However, with the adoption of the new California Rules in 2018, there are far fewer gaps and, because the Model Rules were considered, the State Bar and Supreme Court would have made a conscious decision to reject any "gap" Model Rule.

⁶ The court rejected one rule outright (proposed rule 1.14) and requested revisions to a second rule, rule 1.2.1. On September 26, 2018, the Supreme Court approved the revised version of the latter rule.

III. **CLASSROOM PARTICIPATION.** Legal education is a cooperative venture. You must be prepared to participate in each class. Consistent and outstanding contribution to class discussion can increase your grade. Please note, however, that there is a difference between being unprepared and being unable to answer a particular question. You will not be down-graded for venturing an incorrect answer. Nevertheless, "passing" or being demonstrably unprepared will decrease your final grade. Finally, coverage of reading assignments is fluid (i.e., I will not always cover all of the assigned material during the scheduled class periods). Often, I will carry over the assignments to the next week, particularly at the beginning of the semester. You will not be excused from being prepared because you might have read the material a week or two before and now claim that you "don't remember it."

A Note About The Supplemental Readings. A quick review of the Course Schedule, (*see Error! Reference source not found.* Course Schedule, *below*), will show that the majority of the supplemental reading is front-loaded, that is, most of the supplemental reading relates to Casebook problems that we will consider during the first half of the course. This is unavoidable because the early problems are "foundational," i.e., they present legal ethics concepts that will recur throughout the course, including the following listed duties and obligations.

1. *Competence, Confidentiality & Loyalty.* For example, Problem 7, concerning the *duty of confidentiality*, will be central to nearly every problem we cover. The same can be said of Problem 4, which presents an overview of the *attorney-client relationship*; Problem 10, which addresses the *duty of loyalty*; and Problems 2 and 3, which address the *duty of competence*. In August 2003, the ABA made several radical changes to its confidentiality rules, reflected in MR 1.6 and 1.13, which may have restricted lawyers' ability to counsel clients effectively. Seeing that the pendulum may have swung too far, the ABA in 2008 issued a Report and Recommendation on how the government should treat the attorney-client privilege of corporate clients. As we shall see, California maintains the strictest confidentiality duty for lawyers in the United States, which may conflict with federal law, e.g., SEC Regulations promulgated pursuant to the Sarbanes-Oxley Act. Which law should a California lawyer follow?

2. *Conflicts of Interest and Ethical Screens.* There is a substantial amount of reading concerning problems 9 to 16 (Conflicts of Interest). Conflicts of interest, which arise continually during law practice because of a lawyer's core duties of confidentiality, loyalty, and the requirement to exercise independent judgment on each client's behalf, is a very active area of law with which both the courts and the Bar continue to wrestle. The direction in which California goes to resolve the issues arising from conflicts will have a substantial effect on the size and scope of legal practices in the coming decades. An extremely important California Supreme Court case, *Sheppard Mullin v. J-M Manufacturing*, decided in August 2018, is included in the Supplement. Note that, in addition to recently-decided cases, I have also included "foundational" cases in this area, i.e., cases which other courts repeatedly refer to in making their decisions (e.g., *SpeeDee Oil* and *Adams v. Aerojet-General*.) Of particular note in the conflicts area is the ABA's February 2009 revision of a rule that, if adopted in a jurisdiction, would broadly permit "ethical screening" of lawyers in private practice in the jurisdiction (ethical screening is already permitted for government lawyers under California case law.) That rule, Model Rule 1.10, can be found in the 2019 Selected Standards. Also with respect to Rule 1.10 (and Rules 1.11 and 1.18), the California Court of Appeal in 2010 decided an extremely important case on the controversial issue of ethical screening, *Kirk v. First American Title Ins. Co.*, which I have included in its entirety beginning at page 174 of the Supplement. Over half of United States jurisdictions now permit some degree of ethical screening in private practice. You should also make note that the new California Rules include a more limited version of Model Rule 1.10.

ABA and State Bar Ethics Opinions. In addition to relevant case law, I am also introducing you to ABA Formal Ethics Opinions and State Bar of California Formal Ethics opinions. The former are drafted by the ABA's Standing Committee on Ethics and Professional Responsibility. Although they are not binding in any jurisdiction, nearly every court in the United States has relied upon them in discipline and malpractice cases, as well as in other cases involving issues of professional obligation (e.g., in criminal cases involving ineffective assistance of counsel). The California opinions, drafted by the State Bar's Committee on Professional Responsibility and Conduct ("COPRAC"), will help those of you who remain in California to resolve ethics problems you confront in your practice. As with the ABA opinions, California courts have repeatedly relied upon COPRAC opinions' reasoning. The ethics opinions in the supplement also provide excellent background and guidance on many of the issues we will address during the semester.

- IV. **CLASS ATTENDANCE.** Attendance and participation are required for all classes. Being on time for class is a simple courtesy to your fellow students and your professor. Coming late to class, leaving early, or leaving for a prolonged period during class without prior permission, counts as an absence. Students may be absent no more than two (1) classes. Students who miss more than the permitted number of classes will see a reduction in their final grade. Zoom policy, Zoom attendance is based on administration policy. No exceptions will be made.

You – and you alone – are responsible for keeping track of your attendance; you will not receive a warning that you have reached the permitted number of absences.

- V. **EXAMINATIONS AND GRADING.** Each student will receive a numeric grade for the course. Course grades will be based on attendance (10%) participation (20%) mid-term (25%) and a final examination administered during the final examination period (45%) (approximately 65% essay and 35% Multiple choice). The final will consist of essay questions and multiple choice questions. **Students will be permitted to use only their Selected Standards textbook;** no other texts and/or supplements may be used (Richard Thomas D. Morgan and Ronald D. Rotunda, Selected Standards on Professional Responsibility. 2020 Edition). Additional information will be provided as we draw near to the final examination.

Practice Examinations: I may distribute previously administered essay exams. Examinations may be based off of material available on the internet.

- VI. **OFFICE HOURS.** I do not have set office hours. Accordingly, please contact me at bfoxx@sbcglobal.net to schedule an appointment. Most likely I will be able to meet after class. You may also contact me at (714)309-3689.
- VII. **RECORDING CLASSES.** If you want to audio record a class, you must ask for permission before each class. Otherwise, no recording is permitted.
- VIII. **CLASSROOM TIME, MAKE UP CLASSES & SPECIAL CLASS SESSIONS.** Because of some obligations I have with my office, it is possible that I may have to cancel a class and reschedule it. If that happens, it may require that we meet on a weekend day.
- IX. **PREPARING FOR CLASS.** Please note that the Course Schedule on the following pages is divided into five (5) columns: Week, Dates, Assignment, Focus on Questions, Topic and Supplemental Readings. The first, second, third and fifth columns are self-explanatory. In the fourth column, I have tried to narrow your focus to those questions that are most relevant to the kinds of issues you might confront in your practices. The last column sets out the supplemental cases, ethics opinions, etc., for which you are responsible. Please be prepared on Monday to discuss all of the week's assignment.
- X. **HOMEWORK TIME AND EXPECTATIONS.** In connection with Section IX above, this Course requires a significant amount of reading, evaluation and analysis. Students should expect to complete, on average, six (6) hours of homework for every three-hour session.
- XI. **COMPLIANCE WITH ABA STANDARD 310.** This Course is in compliance with ABA Standard 310 regarding requirements for credit hours earned. See http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/governancedocuments/2016_standard_310_guidance_memorandum.authcheckdam.pdf

XII. **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.

XIII. **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. 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 Allen Easley at aeasley@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

WEEK	DATES	ASSIGNMENT	FOCUS ON QUESTIONS ⁷	TOPIC	SUPPLEMENTAL READING ⁸
1	I. INTRODUCTION: BACKGROUND AND FUNDAMENTAL ISSUES				
	8/30	Casebook, pp. 1-21	N/A		
	II. REGULATION OF LEGAL PROFESSION				
	8/30	Problem 1 (23-32)	ALL QUESTIONS	ADMISSION TO THE BAR	1. HYPO: Vietnam War Bomber, ⁹ Polin Bar Admission Factors; <u>In re Glass</u> (2014 58 Cal.4 th 500, <u>Matter of Pasyanos</u> (2005 4 Cal. State Bar Ct. Rptr. 746; <u>Application of Grimsley</u> (S244); Cal. Rule 8.1.
		Problem 2 (33-48)	ALL QUESTIONS	LAWYER DISCIPLINE AND THE DISABLED LAWYER	2. <u>Matter of Elkins</u> (2009) 5 Cal. State Bar Ct. Rptr. 160;
Problem 3 (48-63)		ALL QUESTIONS	REGULATING LAWYERS OUTSIDE THE FORMAL DISCIPLINARY SYSTEM	3 ABA Model Court Rule on Ins. Discl; Cal. Rule 1.4.2.	
2	III. FUNDAMENTALS OF THE LAWYER-CLIENT RELATIONSHIP				
	9/6	Problem 4 (66-82)	A. 1,2,3,4 B. 1,4 C. 1,2,3,4 D. 1,2,3,4	UNDERTAKING TO REPRESENT A CLIENT	4. HYPO: The party Attorney; <u>Amjadi v. Brown</u> 68 Cal.App.5th 383, 283 Cal.Rptr.3d 448 (2021); ABA Op. 21-500 [A.1-4,C.]. ¹⁰
		Problem 5 (82-97)	A. 1,2.a—c,3,4.a B. 1.a,b,2,4.a,b C. 1,2,3,4 D. 1,2	BILLING FOR LEGAL SERVICES	5.HYPO: Legal Fees; <u>Taylor v. County of Los Angeles</u> , 50 Cal.App.5th 205, 263 Cal.Rptr.3d 768 (2020) ABA Formal Op 93-379

⁷ Class discussions will focus on the questions that follow each problem. Be sure to do the readings that follow the questions, and read carefully the supplemental court decisions, ethic opinions and other material that are referenced in the column labeled “Supplemental Readings.”

⁸ Students are required to obtain copies of the cases through LexisNexis or Westlaw. Sometimes the cases will be posted on LexisNexis Classroom. Other items listed under “Supplemental Readings” (e.g. hypotheticals and handouts) will be available by the class before the class in which they are discussed.

⁹ The handouts for Problem 1 are available on Lexis Classroom.

¹⁰ Where applicable, numbers in brackets identify the specific question in the problem to which the supplemental reading relates.

WEEK	DATES	ASSIGNMENT	FOCUS ON QUESTIONS	TOPIC	SUPPLEMENTAL READING
3	9/13	Problem 5 (82-97) (cont)	A. 1,2.a—c,3,4.a B. 1.a,b,2,4.a,b C. 1,2,3,4 D. 1,2	BILLING FOR LEGAL SERVICES	5.HYPO: Legal Fees; Taylor v. County of Los Angeles, 50 Cal.App.5th 205, 263 Cal.Rptr.3d 768 (2020)ABA Formal Op 93-379
		Problem 6 (98-113)	A. 1,2,3,4,5,6 B. 1,2,3,4,5.a,c C. 1,2,3,4 D. 1,a-c,2,4	HANDLING CLINET MONEY & PROPERTY & WITHDRAWING FROM REPRESENTATION	6.
4	9/20	Problem 7 (112-136)	ALL QUESTIONS AND OTHER MATERIALS AT PP. 132-136	THE DUTY OF CONFIDENTIALITY ¹¹	7. Confidences & Privilege Handout; <u>Costco Wholesale v. Super Ct.</u> (2009) 47 Cal. 4 th 725; City of San Diego v. Superior Court, 30 Cal.App.5th 457, 241 Cal.Rptr.3d 604 (2019); <u>Uber Technologies, Inc. v. Google LLC</u> , 27 Cal.App.5th 953, 238 Cal.Rptr.3d 765 (2019); <u>Behunin v. Super Ct.</u> (2017) 9 Cal. App. 5 th 833; <u>Matter of Skinner</u> (Georgia 2013) 740 S.E. 2d 171; Cal. Ethics Op. 1977-150; Cal Ethics Op. 2003-161; Cal. Ethics Op. 2004-165; Cal Ethics Op. 2010-179; Cal Ethics Op. 2012-184; Cal Ethics Op. Cal. Ethics Op. 2016-195 ABA Op. 479; ABA 477R; ABA Op. 11-459 HANDOUT (PROBS. 4, 5 & 7): THE UNPAID FEE.
IV. THE REQUIREMENT OF LOYALTY TO THE CLIENT –CONFLICTS OF INTEREST					
4 CONT	9/20	Problem 9 (137-150)	A. 1,2,3 B. 2,3,4,5.b C. 1,2.a,c,d,3.a,b,4.a,5,6 D. 1.a,b,2.a,b	REPRESENTING MULTIPLE PARTIES DEALING WITH EACH OTHER	8. Conflicts Handout #1; Overview; Handouts: Conflict Letters;

¹¹ There are three separate topics in this problem: The ethical duty of confidentiality, the attorney-client privilege, and the work product doctrine. The additional material at pages 116-120 concern: (i) privilege and work product in a corporate setting; (ii) common interest privilege among multiple joint parties; and (iii) limits on confidentiality where there is a risk of physical or financial injury to third parties, i.e., as set forth in MR 1.6(b)(1), (2) and (3).

WEEK	DATES	ASSIGNMENT	FOCUS ON QUESTIONS	TOPIC	SUPPLEMENTAL READING
PREPARE PROBLEMS 10-15 FOR CLASS ON 9/27					
5	9/27	Problem 10 (151-175)	A. 1,2,3,4.a,b,5.a,b,6. B. 1,2,3.a-c C. 1,2,3,d,e D. 1,2,b,c,4	THE DUTY OF LOYALTY	9. <u>Sheppard, Mullin, Richter & Hampton v. J-M Manufacturing</u> (2018) 6 Cal. 5 th 59; <u>Oasis Est v. Goldman</u> (2018) 51 Cal. 4 th 811; <u>M'Guinness v. Johnson</u> (2015) 243 Cal. App 4 th 602; Cal. Ethics Op. 1997-150{A.4.b};
		Problem 12 (175-190)	A. 1.a,b,2,3. B. 1,3.a,b C. 1.a,b,d,2,3.b D. 2,3 AND Publication Rights (188) 3 rd . PARTY PAYOR (189)	CONFLICTS BETWEEN THE CLIENTS INTERESTS AND THE LAWYERS PERSONAL INTERESTS	10. <u>Matter of Bradley</u> (2015) Case No. 05-O--03819 <u>Disciplinary Counsel v. Detweiler</u> (Ohio 2013) 989 N.E.2d 41
		Problem 14 (191-204) Problem 28 (369-399)	A. 1, 2.a-c B. 1,2.a,b,e,3,4.a,b C. 1,2.a,b.3 D. 1,b AND Prob. 28(D.1-4) [LAWYER AS WITNESS](396-399)	THE LAWYER AND HER FORMER CLIENT; GOVERNMENT LAWYERS ¹²	11. Conflicts Handout #2: Mitigating Lawyer; HYPO: The Law Clerk; <u>Oasis West v. Goldman</u> (2011) 51 Cal. 4 th 811; <u>City & County of San Francisco v. Cobra</u> (2006) 39 Cal. 4 th 839; <u>People v. Speedee Oil</u> (1999) 20 Cal. 4 th 1135; Hassett V. Olsen (S84) <u>Ochoa V. Fordel</u> 146 Cal.App.4th 898, 53 Cal.Rptr.3d 277 (2007) <u>Fluidmaster, Inc. v. Fireman's Fund Ins. Co.</u> (2018) 25 Cal. App. 5 th 545; <u>Costello v. Buckley</u> (2016) 245 Cal. App. 4 th 748; <u>Ochoa v. Fordel</u> (2007) 146 Cal. App. 4 th 898; <u>Pound v. DeMera DeMera Cameron</u> (2005) 135 Cal. App. 4 th 70; <u>City of Santa Barbara v. Super Ct.</u> (2004) 122 Cal. App. 4 th 17; <u>Adams v. Aerojet</u> (2001) 86 Cal. App 4 th 1324; <u>Kirk v. First American Title</u> 183 Cal.App.4th 776, 108 Cal.Rptr.3d 620 (2010); Cal. Ethics Op. 1997-150; Cal. Ethics Op. 2003-161
		Problem 15 (205-222)	A. 1,2,3.a-c, 4.a,c B. 1,2.b,c,3.b,4,5,6 C. 1.b,2.b,3 D. 1,2,3	IMPUTED DISQUALIFICATION	12. Same as problem 14; refer to Cal. Ethics Op. 1997-150 in relation to A.4; See also <u>Kirk v. First American Title, Supra.</u>

¹² Case text can be obtained here: <http://www.statebarcourt.ca.gov/Portals/2/2documents/opinions.Bradley.pdf>

NOTE: Although I have not assigned **problem 16**, my lectures will cover government lawyer conflicts, **for which you are responsible**

WEEK	DATES	ASSIGNMENT	FOCUS ON QUESTIONS	TOPIC	SUPPLEMENTAL READING
6	10/4	Same as 9/22 (week 5)	Same as 9/22 (week 5)	CONT. DISCUSSION OF CONFLICTS SUMMARIZE & FINISH CONFLICTS OF INTEREST	
7	10/11	MIDTERM REVIEW			
8	10/18	MIDTERM			
V. <u>ADVISING CLIENTS</u>					
9	10/25	Problem 17 (240-253)	A. 1,2,3 B. 1.a,b,3.a,4.a C. 1,2.b, 3.a,4.a D. 1,2.a,3	THE LAWYER FOR AN INDIVIDUAL CLIENT	13. <u>Supplement</u> -Instructions for Preparing for Problem 17; Cal. Op. 2021-207 (S382); ABA Op. 21-500 (S283).
		Problem 18 (253-265)	A. 1.a,2.a,b,3.a,4 B. 2,3,4 C. 1,2.b-d,3.a,3 D.3	ADVISING THE BUSINESS CORPORATION	14. <u>United States v. Ruehle</u> (9th Cir. 2009) 583 F. 3d 600;
10	11/01	Problem 19 (265-278)	A. 1,2.a-c,3.b,c,4,5 B. 1.b,d,2,3.a C.1.a,2,3,b,c	COMMUNICATIONS WITH REPRESENTED AND UNREPRESENTED PERSONS	15. <u>Doe v. Super Ct.</u> 36 Cal.App.5th 199, 248 Cal.Rptr.3d 314 (2019); <u>City of San Diego v. Super Ct</u> 30 Cal.App.5th 457, 241 Cal.Rptr.3d 604 (2019); ABA Op. 95-396 Summary (S257); <i>see also</i> Cal. Rule 4.2.
VI. <u>ETHICAL PROBLEMS IN LITIGATION</u>					
11	11/8	Problem 23 (310-324)	A.1.b,2.b,3,4 B. 1.a,c,2,3.b,c C.1,2 D. 1,2.a,3.a-c	THE DECISION TO FILE A CIVIL SUIT	16.
		Problem 24 (325-338)	A. 1,2,3.a,b,4 B. 1.c,2 C. 1,2,3	LITIGATION TACTICS & CIVILITY	17. <u>Falcon Brands v. Mousavi & Lee</u> 74 Cal.App.5th 506, 289 Cal.Rptr.3d 521 (2022); <u>Martinez v. O'Hara</u> 32 Cal.App.5th 853, 244 Cal.Rptr.3d 226 (2019); <u>McDermott Will v. Super Ct</u> 10 Cal.App.5th 1083, 217 Cal.Rptr.3d 47 (2017); <u>Hindlin v. Prescription Songs</u> 4 Cal. State Bar Ct. Rptr. 746, 2005 WL 103065

WEEK	DATES	ASSIGNMENT	FOCUS ON QUESTIONS	WEEK	DATES	
					(Rev.Dept. 1/13/2005); Cal. Op. 2013-188 (S354); ABA Op. 11-460 (S262).	
11 CONT.	11/8	Problem 25 (338-350) Problem 20 (286-287)	A. 1.,2.a B. 1,2,3,b,4.b C.1,2 D. 1,2,b,c <u>Bradly V Maryland</u> (Prob. 20, C.3 (CB 286-287) & Prob. 29, D1 (CB 411-413)	DISCLOSURE OF LAW OR FACTS FAVORABLE TO THE OTHER SIDE	18. Cal Rules 3.3 & 3.8 (Brady.)	
		Problem 26 (351-355)	A. 1,2,3	HANDLING PHYSICAL EVIDENCE	19. <u>Issue</u> : Confidentiality of clients identity	
12	11/15	Problem 27 (367-368)	ALL QUESTIONS	THE CLIENT WHO INTENDS TO COMMIT PERJURY	20. Cal Rule 3.3.	
		Problem 29 (400-414)	A.1,2,3,a,c,4,5,6 B. 1,b,2,3.a C.1.a,2.a D.1,2,3	THE CRUSADING PROSECUTOR		
		VII. THE DELIVERY OF LEGAL SERVICES				
12 CONT.	11/15	Problem 31 (418-444)	ALL QUESTIONS	MARKETING PROFESSIONAL SERVICES	19. HYP: Internet Advertising; Cal. Ethics Op. 2001-155; Cal. Ethics Op. 2004-166; Cal. Ethics Op. 2012-186; Cal. Ethics Op. 2016-196; ABA Op. 22-501	
		Problem 32 (455-456)	A. 1 B.1,2,a,b,3,4 C. 1,2,3,a,d,b.a D. 1,2,3,4.a	ETHICS OF REFERRAL TO A SPECIALIST; FEE SPLITTING	20. HYPO: Fee Splitting;	

		Problem 33 (456-466)	A. 1,2,3,4,5 B. 1,2.b-d,3	ROLES AND RESPONSIBILITIES IN A MODERN LAW FIRM	21. <u>Heller Ehrman v. Davis Wright</u> 4 Cal.5th 467, 411 P.3d 548, 229 Cal.Rptr.3d 371 (2018); Cal. Ethics Op. 2020-201
WEEK	DATES	ASSIGNMENT	FOCUS ON QUESTIONS	WEEK	DATES
13	11/22	Problem 34 (466-479)	A. 1,2,3,4,5 B. 1.b,2,3 AND SALE/PURCHASE of LAW PRACTICE (477- 478)	LEAVING ON LAW FIRM AND FORMING ANOTHER	22. <u>Heller Ehrman LLP v. Davis Wright Tremaine LLP</u> (2018) 4 Cal. 5 th 467; Cal. Ethics Op. 2014-190
		Problem 35 (480-498)	A. 1 B. 2 C. 1,2,3 D. 1,2,3 AND The Problem Funding litigation (495-498)	THE DUTY TO WORK FOR NO COMPENSATION	23. <u>HANDOUT: CALIFORNIA BAR TASK FORCE ON ACCESS THROUGH INNOVATION OF LEGAL SERVICES (“ATILS”)</u> Proposals
13	11/22	Problem 37 (498-520)	A.1,2,3,4,5,6,7 B. 1,2,3,4,5 C. 1,2.c,d,3 D. 1,3,4	THE FUTURE OF THEPRACTICE OF LAW	23. ABA Ethics 2020 Commission, <u>PRELIMINARY ISSUES OUTLINE</u> (S398); California MJP Rules; Cal. Op. 2001- 155; Cal. Op. 2004-165; Cal. Op. 2004-166; Cal. Op. 2012-184; Cal. Op. 2012-186
14	11/29	FINAL REVIEW SESSION			
15	TBD	<u>FINAL EXAM- PLEASE CONSULT OFFICIAL FINAL EXAM SCHEDULE FOR DATE, TIME AND LOCATION</u>			