

WESTERN STATE COLLEGE OF LAW

PROFESSIONAL RESPONSIBILITY – SUMMER 2023

LAW 240 – Room(s) FA 207 & L 834

Professor: Cassandra Mellas, Esq.
Email: cmellas@wsulaw.edu
Class Time: Tuesdays & Thursdays, 6:40 – 9:50 PM
Office Hours: TBD – *on campus & telephonic/zoom options will be available*

Required Text

- 1- Morgan, Dzienkowski, and Regan's Professional Responsibility, Problems and Materials, 14th Edition. ISBN: 9781636596730

Required Digital or Printed Access – *(for both, In-Class and Self Study Purposes)*

- 1- **California Rules of Professional Conduct**
 - a. <https://www.calbar.ca.gov/Portals/0/documents/rules/Rules-of-Professional-Conduct.pdf>
- 2- **ABA Model Rules of Professional Conduct**
 - a. https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_table_of_contents/

One of the following suggested, based on your own personal learning preferences

1. Abramson's Acing Professional Responsibility, 4th. ISBN: 9781647082970
 2. Understanding Lawyers' Ethics, 5th. ISBN: 978163284507
 3. Examples & Explanations for Professional Responsibility, Fifth Edition. ISBN: 9781454876069
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COURSE DESCRIPTION

This Professional Responsibility course is the study of the organization of the legal profession and the duties and responsibilities of lawyers toward clients, the public, the courts, and other attorneys. Professional Responsibility applies to those professionals (attorneys) making judgments, applying their unique skills, and reaching informed decisions for, or on behalf, of others, as professionals. Attorneys must exercise due care and responsibility in their areas of specialization, namely law and legal advice.

The importance of Professional Responsibility as both legal doctrine and ongoing affirmative legal duties cannot be understated. Some argue, Professional Responsibility is the only subject you know, for a fact, you will be tested on before you are allowed to enter the practice of law. The MPRE (Multi-State Professional Responsibility Exam) is a two-hour, nationally administered exam comprising of **60** multiple choice questions, each attorney in the United States must complete before licensure. As for the California Bar Exam, Professional Responsibility has been tested in 41 of the last 42 exams given, there is a **97.6%** chance you will write a Professional Responsibility Essay answer when you take the bar exam.

Best practices suggest reading every syllabus section in full, even ones you think you have read before.

COURSE METHODOLOGY

There are three learning opportunities in preparing for and attending a Professional Responsibility class: **(1)** CA/ABA Ethical Rules, **(2)** casebook & in-class problems, and **(3)** examples & legal policy. Please be purposeful in your class preparation.

Professional Responsibility is a tremendously complex class, as the rights and duties of an attorney are sometimes in direct contrast with the wishes of the legal client. There are both mandatory and permissive rules, both of which strive to balance the interests of the public against the interest of the legal client. All while assuring confidentiality reigns supreme. Professional Responsibility requires both a robust knowledge of the rules (*CA and ABA ethics rules & case law*) themselves ***and*** their underlying policies.

The course is designed around the premise that the subject of professional responsibility is the single most relevant to students' future careers as members of the bar.

COURSE OBJECTIVES

- Understanding the driving policies and principles encompassing legal ethics,
- Identifying ethical, moral, and professional dilemmas attorneys may face in practice,
- Understanding the importance of professionalism and civility as a member of the legal profession,
- Develop an analytical appreciation of the lawyer's role in society, to the justice system as well as to their clients and better understand the meaning of being a member of the legal profession,
- Expanding legal analysis and oral communication skills during class debates,
- Articulate understanding of the legal *and ethical* importance of these rules,
- Utilizing critical thinking skills to explore the nuance of human error within the law, &
- Understanding of Professional Responsibility sufficient to prepare you for the CA Bar Exam.

COURSE POLICIES

Class Preparation - You are expected to spend, at minimum, 2 hours of preparation for every one hour of official class time. For our purposes, this means you should expect to spend a minimum of 12 hours per week preparing for a summer class. This may include briefing, reading official comments/rules, taking notes, writing flashcards, outlining, supplements, listening to audio lectures, watching educational videos, or anything else needed in preparation of class.

This class will demand a high level of both out of class work and attention for success.

In Class Expectations – You are expected to brief each case and prepare all questions from the casebook – *in your own words* – and be prepared to explain to the class upon request. ***DO NOT recite from any brief, outline, resource, brief bank, or any other materials besides your own thoughts.*** You are expected to have a prepared answer to each question assigned in *Morgan, Dzienkowski, & Regan*. I strongly caution against letting work pile up in a course such as Professional Responsibility, as it is voluminous and easy to fall behind.

You are expected to complete **EACH** and every problem/question in your assigned reading from *Morgan, Dzienkowski, & Regan*. You **MUST** bring a written or printed copy to class to turn in, beginning with Class 1.

Each item **MUST** be printed & turned in for credit, email is not adequate.

Participation - Participation, is defined as meaningful contributions to class time, discussions, office hours, thoughtful questions, and the like. Participation is not, asking an abundance of questions attempting to get participation points. Participation is expected to be robust, meaningful, and qualitative. All views are encouraged and respected in this classroom. Disrespect of peers or their ideas will be met with zero tolerance and you will be asked to leave the classroom session. **There is a distinct difference between being unprepared and being unable to answer questions.. Professional Responsibility is a nuanced subject and to learn, there must often be struggles. Getting a question incorrect is not a problem, so long as you are putting forth a good-faith effort in the class. I encourage participation and bravery.*

Professionalism – Professionalism includes being respectful to your peers, attending class on time, and communicating in a respectful manner. Under no circumstances will any unprofessional conduct be tolerated. Everyone will be respectful, courteous, and professional. *(Part of being professional is giving class time the respect it deserves, individuals using computers for non-notetaking purposes will lose participation and professionalism points.)*

Attendance - No more than **2 (two) absences** are permitted without being withdrawn from the course and receiving a failing grade, under the guiding policies of Western State College of Law. You are responsible for your own attendance and will not receive a warning from the Professor.

Missing 2 (two) night classes is the equivalent of missing about 15% of class, amounting to a substantial amount of instruction. Best practices recommend attending every class, if possible.

***IMPORTANT NOTES REGARDING ABSENCES** – (1) all assigned work is due at the start of class, whether you are absent or not. If you are absent, you may email your assignment or work before the start of class, otherwise, you will be expected to print all assignments and work. (2) If you are absent, you waive the right to participate or view any multiple choice, essay, or other in class assignments, there will be no second opportunity to review the materials. *(Please contact me if there is an emergency, to discuss.)*

Assignments – Assignments & Reading are expected to be completed, in full. Example: In *Morgan, Dzienkowski, & Regan*, you must prepare answers to the “questions” in the book, as you read each chapter. *(See above for specific assignment preparation and printing instructions.)*

If a CA or Model rule is mentioned, you are expected to refer to said rule for understanding.

ELECTRONICS POLICIES

Computer Use – While you are strongly discouraged from any computer use during class, it is permissible to use your computer for note taking or briefing purposes **only**. Tasks including Discord, IMessage, WhatsApp, email, games, texting, sharing briefs, social media, or any non-class related

activities, are **prohibited**. You will have approximately 40 hours of in-class time in this course, make it count! ****If this policy is broken, it may become a computer free classroom.*

Cell Phones – Cell phones, will not be permitted during class time. If there is a family emergency or other reason to be “on call” during class, please reach out before class time starts.

Audio/Video Recording – No audio, video, photographic, or other recording or any kind shall take place without prior express permission of the Professor. *CA is a 2-party consent state.*

PLAGIARISM

There is a zero-tolerance plagiarism policy in coursework, exams, briefs (*book, written, digital, audio, or otherwise*), assignments, “group-work”, or **any** other type of verbal or written work.

Basic definition - Plagiarize: to steal and pass off (the ideas or words of another) as one's own: use (another's production) without crediting the source. (*Webster's, 2022*)

Nuanced definition - “Plagiarism is the act of taking a person’s original work and presenting it as if it was one’s own. Plagiarism is not illegal in the United States in most situations. Instead, it is considered a violation of honor or ethics codes and can result in disciplinary action from a person’s school or workplace. However, plagiarism can warrant legal action if it infringes upon the original author’s copyright, patent, or trademark. Plagiarism can also result in a lawsuit if it breaches a contract with terms that only original work is acceptable. Email, “I read it all!” to cmellas@wsulaw.edu for bonus points by 6:40 PM the first day of class. But, shh! To avoid plagiarism, a person should always properly attribute any information they use to the original author through quotes or citations. Further, there are free online plagiarism checkers to ensure that a person’s work is free of plagiarism such as Grammarly, Duplichecker, or Quetext.”
(*Updated in November of 2021, Wex Definitions Team for Legal Information Institute.*)

For more information on plagiarism, please see: [https://www---staging-mp6ykpk7cbbg.us.platform.sh/sites/default/files/policy%20\(1\).pdf](https://www---staging-mp6ykpk7cbbg.us.platform.sh/sites/default/files/policy%20(1).pdf)

Any violation of standards set forth may result in the following: being removed from the class session, being marked absent, losing all participation & professionalism points, and maximum penalties available in the WSCL Student Handbook.

NOTABLE DATES:

June 15th – Assignment A Due

June 29th – Assignment B Due

July 3rd – Monday Night Class, *No Class 7/4*

July 3rd – Midterm Examination

July 13th – Assignment C Due

July 20th – Final Examination - Part A Due

July 27th – Final Examination - Part B, 6:45 – 9:45 PM

GRADING

In-Class Participation & Professionalism – 15%

Assignments, In-Class & Take-Home – 5%

Midterm Examination – 20%

Final Exam – 60% [Part A (10%) and Part B (50%)]

<p>Class 5 6/20/23 & Class 6 6/22/23</p>	<p>Pages 131- 151 Pages 171- 184</p>	<p>Costco Wholesale v. Super Ct, https://scocal.stanford.edu/opinion/costco-v-super-ct-33789</p> <p>O’Gara Coach v. Ra, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjkc-B1_j-AhWgKEQIHRztASYQFnoECBgQAQ&url=https%3A%2F%2Fwww.courts.ca.gov%2Fopinions%2Farchive%2FB289698M.DOC&usg=AOvVaw2PuSqEPq8P3xoXsDocJBd1</p> <p>City of San Diego v. Super Ct., 136 Cal.App.3d 236 (Cal. Ct. App. 1981)</p> <p>Uber Technologies v. Google, 28 Cal.App.5th 372 (Cal. Ct. App. 2018)</p> <p>Behunin v. Super Ct, https://caselaw.findlaw.com/court/ca-court-of-appeal/1852796.html</p> <p>Matter of Skinner, In re Skinner, 292 Ga. 640 (Ga. 2013)</p> <p>Cal. Op. 1997-150 Cal. Op. 2003-161 Cal. Op. 2004-165 Cal. Op. 2010-179 Cal. Op. 2012-184 Cal. Op. 2016-195 ABA Op. 479 ABA 477R ABA Op. 11-459</p>	
<p>Class 7 6/27/23</p>	<p>Pages 184- 234 Pages 246- 263</p>	<p>Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Co., https://law.justia.com/cases/california/supreme-court/2018/s232946.html</p> <p>Oasis West Realty, LLC v. Goldman, 51 Cal.4th 811 (Cal. 2011).</p> <p>M’Guinness v. Johnson, 243 Cal.App.4th 602 (Cal. Ct. App. 2015).</p> <p>Cal. Op. 1997-150</p> <p>Cal. Rules 1.7(b), 1.7(c), 1.8.1, 1.8.10.</p> <p>City and County of San Francisco v. Cobra Solutions Inc., 38 Cal.4th 839 (Cal. 2006).</p> <p>People v. Speedee Oil, 147 Cal.App.4th 424 (Cal. Ct. App. 2007).</p> <p>Hassett v. Olson, 78 Cal.App.5th 866 (Cal. Ct. App. 2022)</p> <p>Costello v. Buckley, 245 Cal.App.4th 748 (Cal. Ct. App. 2016).</p> <p>Ochoa v. Fordel, Inc., 53 Cal. Rptr. 3d 277 – 2007.</p> <p>Santa Barbara v. Superior Court, 41 Cal.4th 747 (Cal. 2007).</p> <p>Kirk v. First American Title Ins. Co., 183 Cal.App.4th 776 (Cal. Ct. App. 2010).</p> <p>Adams v. Aerojet-General Corp., 104 Cal. Rptr. 2d 116 - Cal: Court of Appeal, 3rd Appellate Dist. 2001</p> <p>Cal. Op. 2003-161 Cal. Op. 1997-150</p>	
<p>Class 8 6/29/23</p>	<p>Pages 263-280 Pages 513- 525</p>	<p><i>Refer to Cal. Op. 1997-150 & Kirk v. First American Title. (Both Above.)</i></p>	<p>Assignment B Due</p>

<u>Class 9</u> 7/3/23		<u>MIDTERM EXAM</u> & Post Midterm, In-Class Activity	
<u>Class 10</u> 7/6/23	Pages 297-351	Cal. Op. 2021-207 ABA Op 21-500 U.S. v. Ruehle , 583 F.3d 600 (9th Cir. 2009). City of San Diego v. Superior Court , 136 Cal.App.3d 236 (Cal. Ct. App. 1981). ABA Op. 95- 396 Cal. Rule 4.2.	
<u>Class 11</u> 7/11/23 & <u>Class 12</u> 7/13/23	Pages 429-470 Pages 351-369 Pages 470-512	Mcdermott Will & Emery LLP v. Superior Court of Orange Cnty. , 10 Cal.App.5th 1083 (Cal. Ct. App. 2017). Martinez v. O'Hara , 32 Cal.App.5th 853 (Cal. Ct. App. 2019). Cal. Op. 2013-188 ABA Op. 11-460 Cal. Rules 3.3 & 3.8 (Brady). Cal. Rule 3.3.	<u>Class 12</u> Assignment C Due
<u>Class 13</u> 7/18/23	Pages 563-643	Cal. Op. 2001-155 Cal. Op. 2004-166 Cal. Op. 2012-186 Cal. Op. 2016-196 ABA Op. 22-501 Cal. Op. 2020-201 Cal. Op. 2004- 165 Jay v. Mahaffey , 218 Cal.App.4th 1522 (Cal. Ct. App. 2013). Heller Ehrman v. Davis Wright , S236208 (Cal. Mar. 5, 2018).	
<u>Class 14</u> 7/20/23	Carryover, Practice, & Final Review Session		Final Examination Part A Due

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."

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.