Required Texts:

One: CASEBOOK: Choose either the 12th or the 13th Full/Unabridged Editions with Casebook Plus. I will require that all students complete the objective questions on Casebook Plus, so you will either have to buy the Casebook Plus edition of the book or the new or used book plus the objectives questions directly from West Academic. The questions alone cost approximately $35.

NOTE: Because the publication date of the 13th edition was uncertain, I chose the 12th edition for this early summer course, but in May the publisher ran out of copies of the 12th edition so the bookstores will no longer be able to buy it. Either book is fine. If there is a note that I will cover in detail only in the 13th edition, it will be placed in the modules on the website so the 13th edition users will have it.

T. Morgan, R. Rotunda & J. Dzienkowski, Professional Responsibility: Problems and Materials (12th ed. 2014) - ISBN 9781640206458 (casebook plus edition) or used book copies as 978-1-60930-325-9 plus the Casebook Plus problems only from West Academic. I will have the link for you. NOTE: This is the full edition and not the Concise edition.

OR


Two: The course requires the study of the 2019 ABA Model Rules of Professional Conduct. You are welcome to buy either of the following supplements or any supplement after 2016.


OR


NOTE: My exams are open note and open book and having the Model Rules in a book during the exam is helpful.

Class Preparation and Attendance:

We will cover approximately 35-40 pages per day. Please read one topic ahead. Attendance is very important to your preparation for the final examination. This syllabus is intended as a goal and not an imperative. We will trim assignments as time requires.
After the first class day, in order to generate class participation, I will prepare an on call list for the class. You will be expected to be on call once for half a class during the semester. Each class will have approximately 3-4 students on call for each half of the class. I will not call on everyone on the list for a particular day, but I will expect those on the list to be prepared to answer questions based upon the assigned material. I can accommodate planned absences but if you skip class or if you are unprepared your class participation credit will suffer. When you are on call during a class, you are expected to be in the room at least 5 minutes before class starts so we can test your microphone connection.

**Objective Examination Questions - 65% of the Grade**

The examination will consist of 65-100 objective (multiple choice) questions. This exam be open book and will count 65% of your final grade. The questions will come from the assigned reading and class lecture. *For the examination, you are responsible ONLY for content of the 2019 Version of the Model Rules and not the Model Code.* You can prepare for the examination by studying the Model Rules questions available on the Casebook Plus platform or through CALI in your law school library or on the internet. I also have some sample questions on line. And, you can also practice taking objective questions on ethics from the questions found on line at [www.ncbex.org](http://www.ncbex.org) or in many of the MPRE study books.

**Essay Examination Questions – 20% of the Grade**

The examination will also contain two short essay questions and this section will constitute 20% of the final grade.

**Short Paper on an Ethics Topic of Your Choice – 10% of the Grade**

Every student will be responsible for writing a 5 page double spaced 1 inch margins paper on a current ethics topic. I strongly suggest that you select a topic in an area of law that you would like to practice in as it will give you some insight into the current issues faced by lawyers in that practice area. The paper is due on the last day of class and should be submitted online. No extensions will be granted.

**Casebook Plus Objective Questions by Casebook Problem – 5% of the Grade**

Students will be expected to complete the assigned objective questions in Casebook Plus by the end of the classes with a score of 60% or higher. A failure to complete the questions with this minimum score will result in a proportionate reduction of the points awarded for this section. There are two sets of questions, one general one and one by casebook problem. I will only require completion of the set that correlates to the problems in the book.
Class Participation

I reserve the right to raise a grade to the next step for class participation or to lower a grade one step because of poor performance or lack of attendance. In this online class, participation on your on call day or in the discussion forums will count towards class participation credit.

Multistate Professional Responsibility Examination (MPRE)

Most states require that all members of the bar pass the MPRE examination. The examination is offered three times a year throughout the country. A packet describing the examination is available online at www.ncbex.org and at the top of the page there is a sign up link for the MPRE. Most states allow you to take the MPRE as a second year; however, a few states (Alabama, Illinois, and Florida for example) require that you take the MPRE within one year of taking the bar exam. In that case, you must wait until your third year to take the MPRE. Please look up your state to verify when you may take the exam so that it counts for your bar admission. This may change year to year so please look at the relevant state law.

Comparing this On-line Class to my Traditional Class

I have spent considerable time putting together this class into discrete modules with powerpoints and on-line material. The reading assignments and material are not onerous. I expect students to do the reading before class so that they can follow our dialogue about the material. I am very excited to teach my class in this format and I look forward to the first day of class.
May 28-July 3. Exams July 8th - 12th
Review Session will be on July 6th 12:00-2:00 CST.

Professional Responsibility of Lawyers
SYLLABUS

The first page numbers in brackets are to the 12th edition and the second page numbers without brackets are to the 13th edition.

May 28th
Introduction to the Course and Grading
Multistate Professional Responsibility Exam

Topic 1: The Legal Profession
The American Legal Profession - pages [1-8] / 1-9
Codes of Professional Responsibility - pages [15-18] / 16-20
Design and Topics of the Various Codes - Online

Topic 2: Admission to the Bar
Requirements for Admission to the Bar (page [31] / 35)
Citizenship, Residency, and In-State Office - pages [44-45] / 48-49
Character and Fitness - Problem 1 - pages [32-37] / 36-41
(MR 8.1, MR 8.4)

After we cover this material, you should do the Casebook Plus Questions for Problem 1.

May 29th
Topic 3: Lawyer Discipline & The Disabled Lawyer
Problem 2 - pages [45-46] / 49-50
Conduct That Subjects a Lawyer to Discipline & MR 8.4 - pages [46-51] / 50-55
Aggravating and Mitigating Factors in Discipline Cases - pages [51-53] / 55-57
Duty to Report Another Lawyer’s Misconduct - pages [55-59] / 60-64
(focus on Himmel case and Riehlmann cases)
(MR 8.4, 8.3, 8.5)

After we cover this material, you should do the Casebook Plus Questions for Problem 2.

May 30th
Fundamentals of the Attorney-Client Relationship

Topic 4: Undertaking to Represent a Client
Problem 4 - pages [81-83] / 90-91
Duties to Prospective Clients
   Competence: MR 1.1 & Togstad case - page [89] / 98
After we cover this material, you should do the Casebook Plus Questions for Problem 4.

**June 3rd**

**Topic 5: Unintended Clients (Including Entity Representations)**

- Corporate Employees: Perez case
- Drafting Documents for a Nonclient: Parker case
- Japanese Investors Case Study
- Reviewing Unintended Client Exam Questions

(MR 1.18, 4.3)

**June 4th**

**Topic 6: Employment Arrangements and Compensation**

- Problem 5
- MR 1.8(a)’s Duty to Charge Only a Reasonable Fee
- Nonrefundable Fees
- Must the Fee Agreement be in Writing? MR 1.8(b), (c)
- Increasing a Fee During a Representation
- Special Rules for Contingent Fees & MR 1.5(c), (d)
- Sharing Fees with Attorneys Outside of the Law Firm
- Personal Injury Fee Agreements
- Commercial Litigation Agreement

(MR 1.5)

After we cover this material, you should do the Casebook Plus Questions for Problem 5.

**June 5th**

**Topic 7: Handling Client Property and Withdrawing from a Representation**

- Problem 6
- MR 1.15 and Fiduciary Duty to Clients
- Handling Client Funds & MR 1.15(a), (b), (c)
- Handling Client Physical Property
- Duties Upon Receipt of Client Property & MR 1.15(d)
- Disputes Involving Client Property & MR 1.15(e)
- Withdrawing from a Representation
  - Mandatory Withdrawal
  - Permissive Withdrawal & MR 1.16(b)
  - Duties to Client Upon Withdrawal
- Attorney Liens and Other Security Interests

(MR 1.1, 1.2, 1.18, 6.5)
After we cover this material, you should do the Casebook Plus Questions for Problem 6.

**Performance of the Attorney-Client Relationship**

**June 6th**  
**Topic 8:** Confidentiality

- The Basic Duty of Confidentiality ........................................MR 1.6
- Nona Byington Case Study................................................Online
- The Buried Bodies Case .....................................................Online
- Spaulding v. Zimmerman...................................................Online
- Examining the Other Exceptions to Confidentiality (MR 1.6)

After we cover this material, you should do the Casebook Plus Questions for Problem 7.

**June 10th**  
**Topic 9:** An Overview of Conflicts of Interest Policy, Rules, and Implementation

- Policies Underlying the Regulation of Conflicts....................Online
- Why Conflicts Management is So Important to Law Firms........Online
- The Important Concept of Imputation................................Online
- Law Firm Conflicts Checking Systems.................................Online
- An Overview of the Conflicts of Interest Rules....................Online

**Topic 10:** Conflicts: Representing Multiple Parties

- Representing H & W in a Divorce: Problem 9 ........page [160] / 180 (MR 1.7)
- Directly Adverse or Materially Limited?.........................pages [160-162] / 180-182
- Hypo: Representing Passenger and Driver in an Accident........Online
- Hypo: Holding an Investment in the Opposing Party........Online
- Waiver of the Conflict by the Client.................................pages [162-164] / 182-185
- Nonconsentable Conflicts..............................................pages [164-170] / 185-188
- Remedies for Conflicts of Interest.................................pages [170-172] / 191-193

After we cover this material, you should do the Casebook Plus Questions for Problem 10.

**June 11th**  
**Topic 11:** Representing Multiple Parties in Forming a Deal: Lawyer as Intermediary

- Vineyard Venture.............................................................Online.
  (2001 Version of MR 2.2)

**Topic 12:** Representing Multiple Clients in Criminal Litigation

- Problem 11 .................................................................pages [191] / 216-217
- Hypo: Representing Twins Charged with a Crime............Online
- The Public Interest in Prohibiting Conflicts.....................pages [197-199] / 221-223
Publication Rights Related to the Representation………pages [202-203] / 226-228 
(MR 1.7, 1.8(d))

After we cover this material, you should do the Casebook Plus Questions for Problem 11.

June 12th
Topic 13:  
Duty of Loyalty: Suing a Present Client on an Unrelated Matter

Loyalty to Clients………………………………………………pages [173-178] / 194-201  
Texas Rule and Federal Courts in Texas - Dresser……Online  
Firing a Current Client; The Hot Potato Rule …………pages [183-185] / 207-209  
Advanced Consent & Comment 22 to MR 1.7…………pages [185-188] / 209-212  
Positional Conflicts of Interest  
Text………………………………………………pages [188-190] / 212-216  
Hypotheticals……………………………………Online

NO CLASS JUNE 13th

June 17th
Topic 14:  
Personal Conflicts of Interest

Investing in a Client: Problem 12…………………pages [203-204] / 228-229  
Stock in a Client & MR 1.8(a)……………………………pages [204-209] / 229-233  
Using Confidential Client Information & MR 1.8(b)…..pages [209-210] / 233-236  
Accepting Gifts/Bequests from Clients & MR 1.8(c)…..pages [210-213] / 236-238  
Financial Assistance to Clients in Litigation ………….MR 1.8(e)  
Third Party Payors of Another Person’s Legal Services…MR 1.8(f)  
Aggregate Settlement Rule…………………………….MR 1.8(g)  
Settling Past Malpractice or Limiting Future Malpractice…MR 1.8(h)  
Proprietary Interests in Cause of Action…………………MR 1.8(i)  
Intimate Relations with Clients & MR 1.8(j)………..pages [213-216] / 238-241  
MR 1.8

After we cover this material, you should do the Casebook Plus Questions for Problem 12.

June 18th
Topic 15:  
Former Client Conflicts

Suing a Former Client: Problem 14 …………………pages [232] / 259  
Same or Substantially Related Matters………………pages [233-239] / 260-268  
American Airlines & Analytica Hypos………………..Online  
Using/Disclosing Former Client Confidential Information. page [240] / 269-270  
Playbook Information: Maritrans………………………..Online  
(MR 1.9, 1.8(b))

After we cover this material, you should do the Casebook Plus Questions for Problem 14.

June 19th
Topic 16:  
Imputed Disqualification

Imputed Disqualification: Problem 15 ………………page [244] / 272-273  
General Concepts of Imputation……………………….pages [244-247] / 273-276  
Special Rules for Personal Conflicts…………………..pages [245] / 274
Special Rules for Migratory Lawyers .......................... pages [247-251] / 276-283
Family Members in Opposing Law Firms ........................ pages [254-256] / 283-283
Use of Screening and Its Effectiveness ........................ pages [257-260] / 286-289 (MR 1.10)

After we cover this material, you should do the Casebook Plus Questions for Problem 15.

**Topic 17: Government Lawyers Conflicts Lecture**

The Revolving Door Between Government Service and Private Practice
The Concept of Screening
The Definition of a Matter
The Concept of Personal and Substantial Participation
Judges and Conflicts
Law Clerks and Negotiating for Employment
(MR 1.11, 1.12)

After we cover this material, you should do the Casebook Plus Questions for Problem 16.

**JUNE 20th**

**Topic 18: Advising Individual Clients**

Advice vs. Advocacy ........................................ pages [279-282] / 324-327
Clients Under a Diminished Capacity .................. pages [284-287] / 329-333
Hypotheticals on Diminished Capacity .................. Online
Lawyering for Those Not Capable of Forming a Relationship (MR 1.2, 1.14)

After we cover this material, you should do the Casebook Plus Questions for Problem 17.

**June 24th**

**Topic 19: Advising the Business Corporation**

Who is the Client? ............................................. pages [291-294] / 324-327
Up the Ladder and Reporting Outside the Entity ....... pages [294-296] / 327-329
Hypos Involving Closely Held Entities and Government Clients... Online
Noisy Withdrawal ............................................ Online
The Lawyer Who is Fired or Who Withdraws ............ Online
Lawyer Liability for Failing to Act ...................... pages [296-299] / 329-333
OPM Leasing Hypothetical ................................. Online
Special Problems of In-House Counsel ................. pages [300-302] / 333-336 (MR 1.13)

After we cover this material, you should do the Casebook Plus Questions for Problem 18.

**Topic 20: Client Fraud**

When Client May Be Engaged in a Fraud: Problem 22 .. pages [348-349] / 385-386
Disclosure of Client Fraud (MR 1.6, 1.13, and 4.1) ...... pages [350-353] / 387-390
National Student Marketing case .......................... Online
Enron, Worldcom & Tyco Hypos ............................ Online
SEC Responses to the Corporate Frauds ................. pages [353-364] / 390-401 (MR 1.13, 1.6, 4.1)

After we cover this material, you should do the Casebook Plus Questions for Problem 22.
June 25th
Topic 21: Contact With Represented and Unrepresented Persons

Basics of MR 4.2……………………………………………………Online
Hypotheticals…………………………………………………………Online
  Copying Opposing Clients on Correspondence
  Duty to Ask When Negotiating with Unrepresented Persons
  Can Unrepresented Persons Waive MR 4.2
Interviewing Employees and Former Employees……pages [303-306] / 337-340
Client to Client Direct Communications……………pages [306-308] / 340-342
Prosecutors and Law Enforcement Activities…………pages [314-318] / 342-345
Dealing with Unrepresented Parties Review…………MR 4.3
(MR 4.1, 4.2, 4.3)

After we cover this material, you should do the Casebook Plus Questions for Problem 19.

ADVOCACY ETHICS

June 26th
Topic 22: The Decision to File a Civil Suit

Ethical Standards (MR 3.1) and Judicial Rules (Rule 11)....pages [369-375] / 407-10
Delay Tactics…………………………………………………………pages [376-378] / 410-415
(MR 3.1, Rule 11)

Advocate Witness Rule
Hypotheticals……………………………………………………..Online
(MR 3.7)

After we cover this material, you should do the Casebook Plus Questions for Problem 23.

June 27th
Topic 23: Litigation Tactics

Using Deception to Gather Evidence………………pages [388-394] / 432-436
  HP Pretexting Scandal
  Paulter Case
  NY County Ethics Opinion
Inadvertently Disclosed Confidentiality Information..pages [395-399] / 436-439
(MR 4.1, 4.4)

After we cover this material, you should do the Casebook Plus Questions for Problem 24.

Topic 24: Disclosure of Unfavorable Facts or Law

Candor about Adverse Legal Authority………………pages [404-406] / 444-447
Incomplete or Inaccurate Discovery Responses………pages [406-411] / 447-452
(MR 3.3(a))

After we cover this material, you should do the Casebook Plus Questions for Problem 25.
July 1st
Topic 25: Client Perjury

Problem 27......................................................... pages [434-435] / 479-480
Lawyer’s State of Mind........................................... pages [435-438] / 480-483
Decision to Call A Witness Who May Testify Falsely…pages [438-442] / 483-487
Calling a Defendant Who May Commit Perjury………pages [442-451] / 487-496
Reasonable Remedial Measures................................pages [451-454] / 496-500
(MR 3.3)

After we cover this material, you should do the Casebook Plus Questions for Problem 26 & 27.

REGULATION OF THE LEGAL PROFESSION

July 2nd
Topic 26: Roles and Responsibilities in a Modern Law Firm

Overview of Firm Responsibilities.......................... Online
Problem 33................................................................. pages [534-535] / 591-592
Duties of Supervisory Lawyers......................... pages [535-540] / 592-597
(MR 5.1, 5.2, 5.3)

After we cover this material, you should do the Casebook Plus Questions for Problem 33.

June 3rd
Topic 27: Future of the Practice of Law

Unauthorized Practice of Law...............................pages [607-612] / 671-677
Lawyer Control Over the Practice of Law and Its Profits...Online
(MR 5.4, 5.5)
Multijurisdictional Practice of Law & MR 5.5..........pages [612-618] / 677-683
Alternative Legal Service Providers to Big Law.......Online

After we cover this material, you should do the Casebook Plus Questions for Problem 37.

Topic 28: Delivery of Legal Services

Bates v. Arizona....................................................Online
Problem 31................................................................. pages [498-500] / 549-552
Advertising.........................................................pages [500-506] / 552-560
Solicitation............................................................pages [507-512] / 560-566
New Developments in Advertising......................pages [512-518] / 566-572
(MR 7.1 through 7.5)

After we cover this material, you should do the Casebook Plus Questions for Problem 31.

NOTE: There are problems on material that we did not cover and you may wish to review those if you are studying for the MPRE.

July 6th 12:00-2:00 CST - Review Session for the Exam