

Syllabus for Professional Responsibility -- Spring 2015 -- Prof. Janicke

Required books: (1) Gillers, *Regulation of Lawyers: Problems of Law and Ethics* (9th Edition, Aspen), either eBook or hardcover; (2) Lerman et al., *Ethical Problems In The Practice Of Law: Model Rules, State Variations, And Practice Questions* (Aspen, Dec. 2014), paperback

Additional materials will be posted on Janicke faculty homepage, www.law.uh.edu/faculty/pjanicke.

The course will address the most common ethical issues arising in the practice of law, primarily in four broad areas: Loyalty to clients; confidentiality; duties to the courts and the justice system; and avoidance of conflicts of interest. In the following details of coverage, parenthetical numbers generally refer to pages in the Gillers casebook; "R" numbers refer to rules appearing in the ABA Model Rules of Professional Conduct.

No computers or other electronic devices will be allowed to be on during class sessions.

Students must bring the Lerman paperback book of rules to each class session. Students will be called upon to read aloud from the rules and to answer questions posed by the instructor regarding particular rules.

Chap. I. [1-18] R. 1.1 thru 1.4 -- *Lawyer-client relationship*. Gillers pp. 1-18. Sources of rules of conduct.

Chap. II. [21-94] R. 1.6; R. 1.4 -- *Duty of Confidentiality; duty to keep client informed*. Innocent Lifer (26); HIV Positive (27); All's Not Well (27); Perez (29); Slip and Fall (36); Upjohn (39); Samaritan Foundation (42); Taylor (64); Bakery Machinery (66); Nichols (72); Caine letter (73); What Is the Risk (77); Ms. Niceperson (78); I Don't Plea Bargain (79); Jones (80); Memorandum From General counsel (84); I'd Rather Die (85); Accept the Offer (86); Olfe (87).

Chap. III. [97-111] R. 4.2; R. 4.3 -- *Communicating with another lawyer's client, or with an unrepresented person*. Slip and Fall Redux (101); Checking References (101); Niesig (102).

Chap. IV. [123-181] R. 1.5 -- *Ethics of legal fees*. Brobeck (126); What Are You Worth (133); In re Fordham (135); A Radical Proposal (147); Goldfarb (150); Evans (155).

Chap. V. [185-261] R. 1.7, 1.8, and 1.10 -- *Concurrent conflicts of interest*. Lawyer Realtor (191); Neville (192); Murder One (212) ; Officer Schwarz (214); Cuyler (216); Murder At the Ballgame (224); Wheat (226); Represent Us Both (241); Same Page (241); Restraint of Trade (242); Fiandaca (242); Simpson (261).

Chap. VI. [281-322] R. 1.9 -- *Conflicts regarding former clients*. Divorce and Default (281); Do I Still Owe (281); Stop the High Rise (283); Analytica (284); R. 1.10 -- *Imputation of conflicts to other lawyers in a firm*. You Don't Know (301); Can We Hire (302); Cromley (304).

Chap. VII. [353-422] R. 3.1 to 3.7 -- *Advocacy and ethics*. Out Carousing (353); Nix (356); The Lecture (370); Bennett's Letter (374); Did You Communicate (386); Kornstein article (388); Ruben letter (391); The Eyewitness (397); Playing Games (398); Maxwell's Silver Handle .38 (406); Washington Monthly (409); In re Thonert (419).

Chap. IX. [459-485] R. 4.1, 4.3, 4.4 -- *Negotiations, transactions, duties to others*. Bad Builder's (460); Complex Formula (462); Dead Witness (463); casebook p. 470, questions (a)-(f); text below the line on casebook p. 473; Fire Insurance (471); Hoyt (474); Virzi (477).

Chap. X. [485-516] R. 1.13, 1.2(d) -- *Representing companies and organizations*. Casebook 485-490, including questions 1-5 on p. 486; I Never Worked (490); Please Find Out (491); Tekni-plex (492); Grand Jury Subpoena (498); Who's Your Client (503); casebook 506-513; Murphy (514).

Chap. XI. [523-570] ABA MODEL JUDICIAL CONDUCT CODE R. 2.1 thru 2.4; 2.9 thru 2.11 -- *Judicial Conflicts of Interest*. Conflicts in Bush v. Gore (528); The Clients of My Daughter (529); Caperton (530); The 40 Socratic Questions (543); Liljeberg (547).

Chap. XII. [608-632] R. 8.1, 5.5 -- *Bar membership and the wider world*. Leis (612); Local Office, National Practice (619); Birbower (621).

Chap. XIII A. [649-715] R. 1.1 -- *Quality control and malpractice actions*. When Sally Left (653); Togstad (656); Tante (667); Smith (673); Hendry (676); Viner (680); Adkins (687); Peeler (688); Memorandum (696); Death and Taxes (700); Petrillo (701).

Chap. XIII B. [715-754] Texas Disc. R. 8.03 - 8.04 -- *DISCIPLINE*: Warhaftig (718); Austern (721); The Defense Sting (726); A Research Shortcut (726); Tsoutsouris (729); Jordan Schiff (734); No Men Welcome (739); Strickland (749).

Tex. R. Disc. Procedure 2.10 - 2.17 -- *TEXAS DISCIPLINARY PROCEDURE*. [Course materials for this segment will be posted on the Janicke faculty homepage and in a later class plan TBA.]