SYLLABUS

This class focuses on real-world problems faced by lawyers in practice every day. **This is not an MPRE review class.** However, the class will cover many of the Illinois Rules of Professional Conduct and the ABA Model Rules of Professional Conduct, with a special focus on some of the differences between the Illinois Rules and the ABA Model Rules. We will also talk about other areas of the law, such as civil procedure, tort law, and criminal law, that help to define lawyers’ obligations and permitted behavior, and we will talk about what role personal morality should play in a lawyer’s decisions and actions. As the semester goes on, you may notice issues of Professional Responsibility in the news or in your own life. I encourage you to bring these examples to my attention.

Class materials:

1. The assigned casebook is Rhode & Luban, *Legal Ethics* (4th edition 2004). It is referred to in the syllabus as R&L.
2. The ABA Model Rules of Professional Conduct are available at [http://www.law.cornell.edu/ethics/aba/](http://www.law.cornell.edu/ethics/aba/), and the Illinois Rules of Professional Conduct are available at [www.iardc.org/rulesprofconduct.html](http://www.iardc.org/rulesprofconduct.html). Please print out the rules, download them, or bookmark the websites. I will expect you to have quick access to the rules during class.
3. There will be some handouts and other outside reading assigned. Some of this additional reading may not appear on the syllabus. Handouts may be distributed via internet links, Westlaw cites, or downloadable copies from my website, by e-mail, or in class. In general, I try to distribute the handouts in the way calculated to cost you the least money.
4. There will be two assignments that you will be expected to complete outside class and turn in. They will not be graded, but they are mandatory and count towards your class participation. Failure to turn them in or to make a good faith effort will be noted.

Where Rules of Professional Conduct (RPC) are assigned, please **read the Rules themselves as well as all accompanying comments**, unless the assignment specifies only certain ones or indicates that you do not need to read the comments. **If the assigned reading refers to Rules that are not listed on the syllabus, you are required to read those Rules as well, including any relevant accompanying comments.** In general, when reading the comments, you should read them carefully enough to understand their overall purpose and content, and to understand what issues the drafters deemed ambiguous or complex enough to warrant comments. To the extent that the assigned reading highlights particular issues, review the comments to the assigned rules to see if they address those issues. **You should also refer to Model RPC 1.0 or the Terminology section in the Illinois RPC for definitions of key terms, even where those definitions are not explicitly assigned on the syllabus.**

Although the reading assignments are organized by class, sometimes our discussion of the reading may overlap two class periods. Sometimes more than one topic is assigned for a particular class. The syllabus is subject to change during the semester.
# Professional Responsibility

## Professor Carolyn Shapiro

### Spring 2009

## READING ASSIGNMENTS

<table>
<thead>
<tr>
<th>Week #1</th>
<th>The Lawyer's Role: Introduction and Appropriate Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 21</td>
<td></td>
</tr>
<tr>
<td>R&amp;L</td>
<td>140-41 (Problem 1)</td>
</tr>
<tr>
<td></td>
<td>136-37</td>
</tr>
<tr>
<td></td>
<td>146-51</td>
</tr>
<tr>
<td></td>
<td>174-85</td>
</tr>
<tr>
<td></td>
<td>460-65</td>
</tr>
<tr>
<td></td>
<td>204-08</td>
</tr>
<tr>
<td>Week #1 Handout (on Professor Shapiro’s class website):</td>
<td></td>
</tr>
<tr>
<td></td>
<td><a href="http://www.kentlaw.edu/faculty/cshapiro/classes/">http://www.kentlaw.edu/faculty/cshapiro/classes/</a></td>
</tr>
<tr>
<td>R&amp;L</td>
<td>185-88</td>
</tr>
<tr>
<td>Article on Lynne Stewart, link available on class website</td>
<td></td>
</tr>
<tr>
<td>R&amp;L</td>
<td>200-03</td>
</tr>
<tr>
<td>NPR story on lawyers representing Guantanamo detainees (listen), link available on class website</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Week #2</th>
<th>The Nature of the Rules and Discipline</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 28</td>
<td></td>
</tr>
<tr>
<td>R&amp;L</td>
<td>104-21</td>
</tr>
<tr>
<td></td>
<td>124-27</td>
</tr>
<tr>
<td>Handout on Rules (on class website)</td>
<td></td>
</tr>
<tr>
<td>New RPC¹ Preamble and Scope</td>
<td></td>
</tr>
<tr>
<td>Illinois RPC Preamble</td>
<td></td>
</tr>
<tr>
<td><strong>SKIM:</strong></td>
<td></td>
</tr>
<tr>
<td>ABA Model Code of Professional Responsibility (CPR) at</td>
<td></td>
</tr>
<tr>
<td><a href="http://www.law.cornell.edu/ethics/aba/mcpr/MCPR.HTM">http://www.law.cornell.edu/ethics/aba/mcpr/MCPR.HTM</a></td>
<td></td>
</tr>
<tr>
<td>You should look over this material well enough to understand the basic structure of the Model Code.</td>
<td></td>
</tr>
</tbody>
</table>

### Jurisdiction and Choice of Law

<table>
<thead>
<tr>
<th>R&amp;L</th>
<th>127-35</th>
</tr>
</thead>
<tbody>
<tr>
<td>Avoiding ARDC Anxiety: A Disciplinary Primer, 84 ISBA Journal 452 (September 1996), available at</td>
<td></td>
</tr>
<tr>
<td><a href="http://www.iardc.org/article_avoidanxiety.html">http://www.iardc.org/article_avoidanxiety.html</a></td>
<td></td>
</tr>
<tr>
<td>New RPC 8.5</td>
<td></td>
</tr>
<tr>
<td>Illinois RPC 8.5</td>
<td></td>
</tr>
</tbody>
</table>

¹The Handout for this class defines the Old RPC and the New RPC.
Week #3
February 4
Confidentiality and the Attorney Client Privilege:
Privilege and Its Rationale
R&L  234-47
Old RPC 1.6
New RPC 1.6
Illinois RPC 1.6

Crime-Fraud Exception to Privilege
R&L  247-52
   254 note 2- 265
New RPC 1.0(d)
Illinois RPC Definitions (definition of “fraud”)

Confidentiality and the Attorney Client Privilege:
Organizational Privilege
R&L  265-73
Old RPC 1.13
New RPC 1.13
Illinois RPC 1.13

Week #4
February 11
The Duty of Confidentiality and Client Wrongdoing
R&L  273-97
New RPC 1.2(d), 1.16, 3.1, 3.3, 3.4(a)-(b) with comments [1]-[3], 4.1
Illinois RPC 1.2(d), (g)-(h), 1.16, 3.1, 3.3, 4.1
Assignment on Client Fraud distributed

Week #5
February 18
Neutral Partisanship, Zealous Advocacy, and Accompanying Dilemmas
Defending the Guilty, Perjury, and Impeachment
R&L  308-13
   315-18
   322-24 (top)

Smoking Guns and Societal Interests: Documents and Witnesses
R&L  341-56

2Depending on pacing, some or all of this topic may be covered in Week #4.
**Week #6**  
**February 25**  
*Ethics in Organizations*  
**REVIEW:**  
RPC 1.6 and 1.13 (Old, New, and Illinois)  
New RPC 1.16 and Illinois RPC 1.16  
**READ:**  
R&L  410-16  
424-26  
416-23 (Sarbanes Oxley regulations)  
*Read the regulations carefully enough to address the questions in the casebook and to understand regulations’ purpose, structure, and requirements.*  
Handout: Illinois Whistleblower Act, 740 ILCS 174/1 et seq., on class website  
R&L  391-95  
435-46  

**Week #7**  
**March 4**  
*Corporate Culture, Other Lawyers, and Law Firm Culture*  
**REVIEW:**  
R&L  391-95  
435-46  
Illinois Whistleblower Act  
**READ:**  
R&L  447-49  
New RPC 5.1, 5.2  
Illinois RPC 5.1, 5.2  

*The Himmel Duty and Its Implications*  
R&L  938-44  
946-49  
New RPC 8.3, 8.4  
Illinois RPC 1.2(e), 8.3, 8.4(a)  
(available on class website)  

**Week #8**  
**March 11**  
*Ethics for Government Lawyers*  
R&L  356-63  
363-67 (ABA Standards Relating to the Administration of Criminal Justice)  
371-73  
376-79  
381-88  
Handout: *Principles to Guide the Office of Legal Counsel,* 81 Indiana L.J. 1345 (2006), link available on class website
Handout: *The Woman Who Knew Too Much*, Brown Alumni Magazine (March/April 2004), link available on class website

**Week #9**

**Conflicts: Introduction and Simultaneous Representation**

March 25

R&L  541-44
    562-92
New RPC 1.7, 1.8, 1.18, 6.5
Illinois RPC 1.7 and 1.8

**Week #10**

**Conflicts: Successive Representation and Imputed Disqualification**

April 1

R&L  592-621 note 6
New RPC 1.0(k), 1.9, 1.10, and 1.11
Illinois RPC 1.9, 1.10, and 1.11
ABA Report 109, link available on class website
Handout: Conflicts chart
*Negotiation assignment distributed*

**Week #11**

**Conflicts: Government Representation and Class Actions**

April 8

R&L  621 note 7 - 636 (top)
    641-46
    655-62
Handout: *Recent Developments Affecting the Ethical Obligations of Attorneys in Class Actions*, available on Westlaw at 213 PLI/Crim 117
Handout on problems in government representation

**Week #12**

**Negotiation**

April 15

Prepare negotiation exercise, instructions on pp. 458-59 (due by 5 pm Monday, April 13)
R&L  458-88
Review as needed: Rules 1.2, 1.6, 1.13, 3.3, 4.1, 4.3 (all versions)
Week #13  
April 22

Fees and the Economy of Lawyering
R&L  787-809  
New RPC 1.5, 6.2  
Illinois RPC 1.1  
Handout: Former partner with Holland & Knight charged with billing fraud, Chicago Tribune (Dec. 24, 2008), link available on class website  
Handout: Kill the Billable Hour, Forbes (January 12, 2009), link available on class website  
Handout: CA Legislature: Please Fix This Problem, blogpost on Legal Ethics Forum (January 6, 2009), link available on class website  

Communication with Potential Clients, Witnesses, Third Parties, and Unrepresented Parties
R&L  741-43  
756-64  
New RPC 4.2, 4.3, 4.4, 7.1, 7.2, 7.3  
Illinois RPC 7.1, 7.2, 7.3  

Week #14  
April 29

Discovery and Litigation Abuses and Limitation
R&L  208-25  
New RPC 3.1, 3.2, 3.3, 3.4, 3.5, 3.7, 4.4  
Illinois RPC 1.2(f), 3.3, 3.4, 3.7  
Illinois Supreme Court Rule 137, link available on class website  

Real World Stresses and Problems
R&L  66-79  
672-75  
725-27  
Handout on Mistakes and Mishaps  
REVIEW  
R&L  460-64