



COURSE SYLLABUS

Faculty:	Kate Kruse/ Sharon Press Room 106/ Room 306A 651-523-2472/651-523-2356 kkruise02@hamline.edu spress01@hamline.edu
Course:	Practice, Problem-Solving and Professional Responsibility
Semester:	Spring 2015
Time and Place:	Tues/Thurs 2:30-4:00 pm Room 101 (large group) Rooms 4/6 (small groups)
Course Materials	<u>Practice, Problem-Solving and Professional Responsibility</u> (Kruse& Press, eds. Wolters-Kluwer 2015) Minnesota Rules of Professional Conduct , available at http://lprb.mncourts.gov/rules/Pages/MRPC.aspx Barbri Practice Exam (available on TWEN) Additional Readings (available on TWEN)

INTRODUCTION

Whatever career choices you make after law school, you will be a **problem solver**. Lawyers are representatives of clients, community leaders, legislators, and chief executives. Lawyers work in law firms, in government offices, and in corporations. Lawyers litigate and negotiate. What lawyers do has a profound effect upon those who cannot speak for themselves. Lawyers solve problems – including non-legal problems—for clients, for the legal system, and for society as a whole.

Lawyers' work is **governed by law**. The legal profession governs itself through bar admission and discipline. Clients have legal remedies of malpractice and breach of fiduciary duty. And, courts can sanction or disqualify lawyers for violating their professional duties in specific cases. Knowing the contours of these legal rules, regulations, and sanctions can help lawyers steer clear of malfeasance.

But, much of professional regulation comes from lawyers themselves, through the

exercise of professional judgment. To exercise sound professional judgment, lawyers must internalize the professional duties they owe to clients, to adversaries, to third parties, to the court, and to society. By internalizing and acting in accordance with the principles that underlie these duties, lawyers shape our system of law into a system of justice.

This class introduces you to all three of these dimensions of professional role and professional duty: lawyering as problem-solving, the law governing lawyers, and the exercise of sound professional judgment.

LEARNING OUTCOMES FOR THE COURSE

- Students will demonstrate knowledge of the professional rules of conduct and other law that governs the practice of lawyers.
- Students will demonstrate a working understanding of the policies that underlie the rules of professional conduct and how those policies inform the exercise of professional judgment.
- Students will demonstrate a working understanding of the basic problem-solving skills of identifying clients' non-legal objectives and interests and an appreciation of the importance of giving voice to those concerns in legal representation.
- Students will reflect on the variety of careers that lawyers pursue and the roles lawyers play in society.

ATTENDANCE AND PARTICIPATION

The program of instruction at the School of Law is based on an active and informed exchange between instructor and student and between student and student. Regular, prepared class attendance helps develop skills essential to the competent practice of law. A student who violates the attendance policy, including the instructor's specification of class expectation described below, may lose his or her right to take the exam in the course, to receive course credit or may receive other penalties described below and in Academic Rule 108. Persistent or frequent lateness or unpreparedness may also be the basis for reduction of the grade awarded in a course. See Academic Rule 108 for further details.

Students are expected to attend all scheduled classes and to be prepared to discuss the assigned reading material in class. Attendance will be taken at the beginning of class by circulation of a sign-in sheet, which will be the official record of class attendance. It is each student's responsibility to make sure that he or she is signed in. Students who need to miss a class for any reason should email the professor in advance of the class to explain the reason for needing to miss the class.

- **Anyone missing more than 3 class meetings** may have his or her grade lowered no more than one increment (e.g. B to B-; B- to C+ . . .), at the discretion of the professor, taking into account the reasons for missing class.
- **Anyone missing more than 6 class meetings will receive NO CREDIT for the course.** This limit applies to absences regardless of the reasons for missing class.
- **A student's grade may be bumped up** no more than one increment (e.g. B to

B+, B+ to A-, etc.) for exemplary participation over the course of the semester, at the discretion of the professor.

POLICY ON LAPTOP USE IN CLASS

Laptops are not to be used in class unless specifically authorized on a particular day. All PowerPoint slides displayed during class will be available on the TWEN site for this course. You are encouraged to print relevant Minnesota Rules of Professional Conduct for use during class.

ASSESSMENT

Written Problem Analysis Assignments (see Appendix for more details)

Students are required to complete written analyses of four problems assigned during the course of the semester. Answers will be scored on a scale of 1-10. The lowest score of the four papers will automatically be dropped, and you will be graded on your top three scores.

Your grade on the written problem analysis assignments will constitute 30% of your final grade.

Final Examination

The final examination in this course will be a closed-book exam, which will consist of multiple choice and essay questions requiring you to analyze potential disciplinary action under the Minnesota Rules of Professional Conduct, as well as lawyers' liability and other available remedies defined by other law governing lawyers.

The final examination will constitute 50% of your final grade.

Reflective Writing Assignments (see Appendix for more details)

There will be four reflective writing assignments due during the course of the semester, worth 5 points apiece. These reflective writing assignments are not scored; however, each assignment must be completed in a timely and satisfactory manner to receive the allotted 5 points. Assignments that are turned in late will be reduced one point for each day they are late, unless you have sought an extension of time prior to the due date and time, and your extension has been granted by the professor. Assignments that are unsatisfactory will be returned to you with an explanation of why they are unsatisfactory and may be resubmitted for reduced points at the discretion of the professor.

The cumulative point total for the four reflective papers will constitute 20% of your grade.

CLASSES AND ASSIGNMENTS

Tues. 1/20 **Legal Problem Solving: A Case Study of Practice at Its Best**
Large group TWEN: Summons and Complaint for the 35W bridge collapse case

AREAS OF PRACTICE REFLECTIVE WRITING ASSIGNMENT due Wed. 1/21 by 9:00 am.

Thurs. 1/22 **Lawyering Roles and Careers**
Small groups Kruse/Press 1-20

Mon. 1/26 **Lawyer-Client Relationship**
Large group Kruse/Press 21-51
MRPC: Preamble
TWEN: Gregory: *Who Is My Client?*
Barbri Practice Exam Q3, Q18

Wed. 1/28 (Press) Interviewing

Thurs. 1/29(Kruse) Kruse/Press 53-74
Small groups TWEN: Sternlight & Robbennolt: *Good Lawyers Should be Good Psychologists: Insights for Interviewing and Counseling Clients* (excerpt)

Tues. 2/3 **Competence**
Large group Kruse/Press 75-97
MRPC: 1.1, 5.1, 5.2
Barbri Practice Exam Q38

Thurs. 2/5 **Control and Communication**
Small groups Kruse/Press 99-131
MRPC: 1.2, 1.4, 1.14, 2.1
Barbri Practice Exam Q42, Q49

Tues. 2/10 **Choice of Process**
Large group/
Small groups Kruse/Press 133-141
TWEN: Sander & Rozdeiczer: *Matching Cases and Dispute Resolution Procedures: Detailed Analysis Leading to a Mediation-Centered Approach* (excerpt)
TWEN: Minn. R. Civ. Pro., Rule 114

WRITTEN PROBLEM ANALYSIS #1 (Problem 5-3 “The Foster Child”) due Thurs. 2/12 at 9:00 am.

Thurs. 2/12 **Client Counseling**
Large group/
Small groups Kruse/Press 143-166

Tues. 2/17
Large group

Intro to Confidentiality and Privilege
Kruse/Press 167-192
MRPC: 1.6
Barbri Practice Exam Q5, Q32

Thurs. 2/19
Small groups

Confidentiality: Exception to Prevent Harm
Kruse/Press 193-201
TWEN: Cramton & Knowles: *Professional Secrecy and Its Exceptions: Sapulding v. Zimmerman Revisited (excerpt)*

Tues. 2/24
Large Group

Confidentiality: Exception to Prevent Financial Harm
Kruse/Press 203-227
MRPC: 1.6, 1.13
Barbri Practice Exam Q33, Q36

Thurs. 2/26
Small groups

Confidentiality: Bounds of the Law
Kruse/Press 229-251
MRPC: 1.6, 1.2

WRITTEN PROBLEM ANALYSIS #2 (Problem 9-1 “Your Dinner with Anna, Scene 3”) due Thurs. 2/26 at 9:00 am.

SPRING BREAK

Tues. 3/10
Large group

Alumni Panel

ALUMNI INTERVIEW REFLECTIVE WRITING ASSIGNMENT due Mon. 3/9 at 9:00 am.

Thurs. 3/12
Large group

Duties of Candor
Kruse/Press 253-276
MRPC: 3.3, 4.1, 8.4
Barbri Practice Exam Q35

Tues. 3/17
Small groups

Negotiation
Kruse/Press 277-286

Thurs. 3/19
Small groups

Discovery Ethics and Obstructing Access to Evidence
Kruse/Press 287-308
MRPC: 3.4
***Bring to class your written response to the discovery situation outlined in Problem 14-2
Barbri Practice Exam Q8, Q15, Q40

Tues. 3/24
Large group
Improper Influence
Kruse/Press 309-336
MRPC: 3.4, 3.5, 3.6, 3.7, 4.2, 4.3, 4.4
Barbri Practice Exam Q6, Q24, Q27, Q39

WRITTEN PROBLEM ANALYSIS #3 (Problem 12-3 “The Drug Test”) due Tues.
3/24 at 9:00 am.

Thurs 3/26
Large group
Conflicts: Joint Representation
Kruse/Press 337-360
MRPC: 1.7, 1.8(b), 1.10, 1.12, 1.13
Barbri Practice Exam Q11, Q28

COURT OBSERVATION REFLECTIVE WRITING ASSIGNMENT due Mon. 3/30 at
9:00 am.

Tues. 3/31
Small Groups
Conflicts: Lawyer Interests
Kruse/Press 361-384
MRPC: 1.7(b), 1.8, 1.10
Barbri Practice Exam Q12, Q30, Q58

Thurs. 4/2
Large Group
Conflicts: Former Clients
Kruse/Press 385-397
MRPC: 1.9
TWEN: Neimi v. Girl Scouts of Minnesota and Wisconsin Lakes
and Pines (Minn. Ct. App. 2009)

Tues. 4/7
Small Groups
Imputed Conflicts
Kruse/Press 399-415
MRPC: 1.7, 1.9, 1.10
Barbri Practice Exam Q16

WRITTEN PROBLEM ANALYSIS #4 (Problem 17-1 “Starting a Business”) due Tues.
4/7 at 9:00 am.

Thurs. 4/9
Large Group
Fees: Reasonableness
Kruse/Press 417-451
MRPC: 1.5
Barbri Practice Exam Q7, Q9

REPUTATION INDEX due Mon. 4/13 at 9:00 am.

Tues. 4/14
Large group
Fees and Property
Kruse/Press 453-478
MRPC: 1.5(e), 1.8, 1.15
Barbri Practice Exam Q21, Q23

Thurs. 4/16

No Class

Tues. 4/21

Small groups

Bar Admission

Kruse/Press 479-503

MRPC: 8.1, 8.3, 8.4

Barbri Practice Exam Q54

Thurs. 4/23

Small groups

Access to Justice

Kruse/Press 505-519

MRPC: 6.1, 6.2

Tues. 4/28

Large group

Pro Bono Panel

TWEN: Easton: *My Last Lecture: Unsolicited Advice for Future and Current Lawyers (excerpt)*

APPENDIX: WRITTEN ASSIGNMENTS

Written Problem Analysis Assignments

During the course of the semester, you must submit four short (2-4 page) papers analyzing assigned problems using the three-level analysis on which professional judgment is typically based. These papers ask you to exercise judgment by consulting the sources that lawyers typically consult to see what rule(s) might apply to an ethical question. They also require you to search these sources for guidance on the exercise of professional judgment based on the policies underlying the rules and the role that lawyers play in the legal system and in society. These assignments will be graded on a scale of 1-10, and your cumulative score will count for 30% of your grade. Your lowest-scoring paper will automatically be dropped. All written assignments should be double-spaced with 12-pt font.

The written problem analysis should give a brief description of the relevant facts and discuss any Minnesota Rules of Professional Conduct that apply and—importantly—how the policies underlying the rule come into play in answering the question(s) posed by the problem. In these papers, we will be looking for three levels of analysis (language, policy and role).

- **Language: What rules apply?** Do the rules prescribe clear limits or do they leave discretion to the lawyers? If there is a clear line, how close to the line is the conduct in question? *These questions should be answered by reference to the language of the specific rules in question.*
- **Policy: What are the policies and purposes behind the specific rule(s) that apply to the situation?** Why do we have the rule? What kind of conduct is the rule designed to prevent or encourage? Does the conduct in question fall within the spirit of the rule? How close is it to the “core” conduct that is meant to be proscribed by the rule? *These questions should be answered after consulting the Comments following the applicable rules, which often provide further information and explanation.*
- **Role: What is the context of the rule(s) within the larger definition of the role(s) that lawyers play in the system of justice?** How do the applicable rule(s) fit within the larger and more general policies that help define the role that lawyers play in society? How do they serve the functioning of the lawyer-client relationship? Of the adversary system of justice? Of the more general professional duties to see that justice is served and that the rule of law is respected? *The basic roles that lawyers play in the adversary system of justice and in society are laid out in a general way in the Preamble to the rules, but to undertake this analysis you will need to think about how the rules help lawyers function to fulfill the role(s) assigned to them.*

Reflective Writing Assignments

There will be four reflective writing assignments due during the course of the semester, worth 5 points apiece. These reflective writing assignments are not scored; however, each assignment must be completed in a timely and satisfactory manner to receive the allotted 5 points. Assignments that are turned in late will be reduced one point for each day they are late, unless you have sought an extension of time prior to the due date and time, and your extension has been granted by the professor. Assignments that are unsatisfactory will be returned to you with an explanation of why they are unsatisfactory and may be resubmitted for reduced points at the discretion of the professor. All written assignments should be double-spaced with 12-pt font.

Areas of Practice Reflective Writing Assignment

Write a 1-3 page reflective paper on your personal goals and values in pursuing a career in the law. What makes you want to be a lawyer? What experiences, goals or values in your life led to your decision to enter law school? What contribution do you hope to make to society or the legal profession? Identify two areas of practice you think you might be interested in pursuing after you graduate from law school. Identify the skills you believe are important to each area of practice.

Alumni Interview Reflective Writing Assignment

In assigned groups of two to four students, set up an interview through HUSL Link with a 2010 *or earlier* graduate of Hamline University School of Law. Together, prepare for and conduct a personal interview of the lawyer. Try to gain an understanding of the professional identity of the lawyer you interview. Uncover skills especially important to this career. After the interview, write a reflective paper (3-4 pages) on what you learned about being a lawyer. We encourage you to discuss your interview with others in your group; however, your paper must be an individual effort capturing your personal perspective on the experience.

Court Observation Reflective Writing Assignment

You must attend a trial court proceeding. Our preference is that you observe a motion argument, although observation of a bench (judge) or jury trial is acceptable. You are permitted to attend small claims, housing, family, general civil, or criminal proceedings. After attending a court hearing, submit a 3-4 page reflective paper in which you:

- Identify where you went and what generally you saw and heard
- Identify any surprises about what you saw and heard
- Describe and comment on any issues related to professionalism
- Describe how you imagine that a client would feel about what went on in the courtroom (or in the hallway)

Reputation Index

A reputation index instrument will be distributed at the second class. You must complete it and submit it by the due date. Results will be compiled and provided back to each student privately. The activity will also be discussed in class when we discuss Bar Admission on April 16.