PROFESSIONAL RESPONSIBILITY
Professor Drew L. Kershen

Fall 2004
2:00 p.m. to 3:00 p.m.
Monday, Tuesday, Wednesday
Classroom 1002
First Class Day: Monday, August 23
Last Class Day: Wednesday, December 1
Final Examination: Thursday, December 16 at 9:00 a.m. Please read more about the examination below.

Coursebook

2. Kershen, Supplement (CLE-Fall 2004)-- You must buy this Supplement. It has substantial changes from all previous supplements. If you do not buy this Fall 2004 Supplement you will not have the correct materials for the course. The Fall 2004 Supplement compares the OkRPC to the new ABA MRPC 2002. You must buy this Supplement immediately in order to know the Assignments for the course, including the first day of class.

Assignment:

The Daily Assignment is in the front of the Supplement. You must buy the Supplement at the CLE office in order to know the assignments for the first day of class. You must be prepared for the first day of class.

The proposed assignment for each day of the semester is set forth on the following pages. We will try to follow it closely. You should consult this schedule to know what each day's assignment is.

Each day's assignment consists of a textual reading assignment from the Zitrin & Langford book or the Supplement plus a reading assignment from one of the primary or secondary sources reprinted in the Supplement. Most often the primary source in the Supplement is a reading from the Rules of Professional Conduct. On each day, you should read the relevant Rules, including the accompanying commentary, in order to be able to address the problems and/or cases that you read as part of your textual reading assignment.

Students are assigned to be especially prepared on certain days. On those days, you must identify those portions of the Rules of Professional Conduct (RPC) which are relevant to the textual reading assignment from the Zitrin & Langford book or the Supplement. You should be
prepared to discuss how the language of the Rules of Professional Conduct (RPC) helps direct your judgment about how to act ethically. In other words, you must be prepared to apply specific Rules of Professional Conduct (RPC) to the textual readings for the day. Moreover, you must be prepared to analyze and resolve any problems that the authors of the case book or the Supplement present in the assigned textual reading. The casebook adopts the problem method of teaching professional responsibility. In class, the class discussion focuses on the assigned Problem(s) using the additional readings to enhance and deepen our understanding of the ethical issues in the problems.

Although specific students are assigned to certain days and are expected to be especially prepared on those days, every student is expected to be prepared every day. Class participation is expected and demanded.

STUDENTS NOTE WELL: Although we do not have time during the course to discuss Judicial Ethics, you are assigned to read the Oklahoma Code of Judicial Conduct in the supplement. The Oklahoma Code of Judicial Conduct is part of the course and part of the final examination with one multiple choice question. I put the Code of Judicial Ethics into the supplement so that students have easy access to it as students study for the Multistate Professional Responsibility Examination (MPRE). I assign the Code so that you may begin to prepare properly for the MPRE. The MPRE always has five to six questions on judicial ethics and the outside assignment in my course assists you in getting ready for these MPRE judicial ethics questions.

Class attendance:
If you miss more than 4 class sessions, your grade can be adversely affected. If you miss more than 7 class sessions, I will have you dropped automatically from the class.

Final Examination:
The final examination will be a multiple choice examination.

To prepare for the final examination, you should do two things:

1. Read the Rules of Professional Conduct (RPC) in the Supplement at the beginning of the class and once more before the examination. Know the Oklahoma Rules of Professional Conduct (OkRPC) thoroughly. You must also read and be familiar with the other codes relating to lawyers ethics that are included in the Supplement. On the multiple choice examination in this course, the OkRPC are the default rules that govern the correct answer unless the question explicitly asks for the ABA MRPC answer.

2. Be prepared on a daily basis on both the assigned textual reading from Zitrin & Langford or the Supplement and on the relevant provisions from the primary or secondary sources in the Supplement. Be involved in the discussion by actively listening at all times and actively participating as much as possible.
Beginning in March 2004, the Multistate Professional Responsibility Examination (MPRE) will use the ABA Model Rules of Professional Conduct 2002 (MRPC) as the model rules about which students are tested. To prepare students for this MPRE change to the ABA MRPC in March 2004 explains why the Kershen Supplement Fall 2004 now compares the OkRPC with the ABA MPRC 2002.

DAILY ASSIGNMENTS:


No students assigned for this day. Lecture and Introduction to course.

AUG 24 Z&L, Problem 1, pp. 37-58; Rules of Professional Conduct (RPC 1.1; 1.2; 1.3; 1.4; 1.5, 1.18)

Group 1:

AUG 25 Z&L, Problem 2, pp. 59-76; RPC 1.2; 1.7; 1.16; 6.1, especially (b)(3); 6.2

Group 2:

AUG 30 Z&L, Problem 3 pp. 77-102; RPC 1.1; 1.2; 1.4; 1.5; 1.8 especially (a), and (j), 1.16, 1.18; OkRGDP Rule 1.4(d)

Group 3:

AUG 31 Z&L, Problem 5 pp. 131-150; RPC 1.2(c), 1.6; 1.8(b), 3.3, 4.4

Group 4:

SEPT 1 Z&L, Problem 6 pp. 151-174; RPC 1.6; 4.4; Oklahoma Creed & Oklahoma Guidelines for Professional Courtesy

Group 1:

SEPT 6 No class – Labor Day Holiday

SEPT 7 Z&L, Problem 4 pp. 103-130; RPC 1.2(c)&(d) [ABA and Ok], especially (d) and Comments; 1.6; 3.1; 3.3; 3.4; 4.1

Group 2:
SEP 8     Same reading assignment as the previous day. This is a catch-up day. RPC 3.4.
          Group 3:

SEP 13    Z&L, Problem 7 pp. 175-196; Rules 1.0(e),(m), (n) [definitions] 1.4; 1.7 and
          Comments; 1.16; 2.2 (1983 Rules), 2.4 (2002 Rules)
          Group 4:

SEP 14    Z&L, Problem 8 pp. 197-226; RPC 1.7 and Comments; 1.13; 2.1; 3.4(f); 4.2; 4.3;  
          Group 1:

SEP 15    Z&L Problem 9 pp. 227-252; RPC 1.5, including Comment, paragraphs 1 and 3;  
          1.7, Comment, paragraphs 4 and 6; 1.8; 1.16, especially (b)(3), (b)(5), (b)(6) and  
          (d); and Comment, paragraph 8; 8.3; OkRGDP Rule 1.4(d)
          Group 2:

SEP 20    Extra Day – continuation of discussion of Conflicts of Interest based on the  
          Problems 7, 8 & 9 – no new assignment
          Group 3:

SEP 21    Z&L, Problem 10 pp. 253-275; RPC 1.2, 1.7; 1.9; including Comment, paras. 3 et  
          seq.; 1.10; 1.11; 1.12; 1.16, especially (d).
          Group 4:

SEP 22    Extra Day – continuation of discussion of conflicts of interest based on Problem  
          10 and accompanying readings – no new assignment
          Group 1:

SEP 27    Z&L Problem 11 pp. 279-306; RPC 1.2; 1.4, 1.6(a); 1.7, including 2002  
          Comment, para. 25; 1.8(b)(c) and (f), including 2002 Comment para. 11; 1.16;  
          2.3; 5.4(c); 5.5; 7.2; 7.3
          Group 2:

SEP 28    Z&L Problem 12, pp. 307-332; RPC 1.2, 1.8(f), 1.14; 1.16; 2.1; 5.4(c)
          Group 3:
SEPT 29  Z&L, Problem 13 pp. 335-358; RPC 1.1; 1.2; 1.3; including Comment; paragraph 1; 1.4; 1.16; 3.1; 3.3; 6.2
Group 4:

OCT 4  Extra Day – continuation of discussion of Problems 12 & 13 – no new assignment
Group 1:

OCT 5  Z&L, Problem 14 pp. 359-386: RPC 1.2(c); 1.2(d) and Comment, paragraph 6; 1.6; 1.16; 3.3
Group 2:

OCT 6  Z&L, Problem 15 pp. 387-414; RPC 3.1; 3.2; 3.3; 3.4; 8.4(d) – Oklahoma Bar Association Guidelines for Professional Courtesy
Group 3:

OCT 11  Z&L, Problem 16 pp. 415-442; RPC 1.2(b); 3.1; 3.2; 3.4(d); 4.4; 5.1; 5.2(b)
Group 4:

OCT 12  Extra Day – continuation of discussion of Problems 15, 16
Group 1:

OCT 13  Z&L, Problems 17; RPC 4.1
Group 2:

OCT 18  Z&L, Problems 18, pp. 467-486; RPC 3.3, especially (a)(1) and (4); 3.4; 3.5, especially (a), (c) and Comment, paragraph 2; 4.1; 8.4(c)
Group 3:

OCT 19  Z&L Problem 19 pp. 487-516; Supp. Oklahoma Bar Association, Lawyers’ Creed and Guidelines for Professional Courtesy pp. 170-174; RPC 3.4; 3.4(c); 3.5; 3.5(a), (c) and Comment, paragraph 2; 3.6; 4.1; 4.4; 8.2
Group 4:
OCT 20  Z&L, no new assignment; continuation of discussion of previous two classes;  
Supp. Selected Federal Statutes and Rules on governmental conflicts of interest,  
18 U.S.C. § 297  
**Group 1:**

OCT 25  Z&L, Problem 20, pp. 517-538; RPC 3.3(d); 3.4(e); 3.8; 4.1; 4.2, Comments  
paragraphs 1-5 to the 2002 Rule; 4.3; Selected federal statutes, 28 U.S.C. §530B  
**Group 2:**

OCT 26  Z&L, Problem 21, pp. 539-564; RPC Scope, 1983 rules, paragraph 4; 1.6,  
Comment, paragraph 8; 1.13, including Comment, paragraph 6  
**Group 3:**

OCT 27  Z&L, Problem 22 pp. 565-586; RPC 1.2(d) and Comment, 7 paragraph 6 (2002  
Rules, Comment paragraph 10); 1.4; 2.1  
**Group 4:**

NOV 1  Z&L, Problem 23, pp. 587-612: RPC 1.2(d), and Comment, paragraph 6; 1.4(b);  
1.6, especially 1.6(b)(1) and 1983 Comment, paragraphs 9, 10, 12, and 13; 1.6  
(2002 version); 1.13(b); 2.1  
**Group 1:**

NOV 2  Z&L, no new assignment; Supp. Sarbanes-Oxley statute and regulations  
**Group 2:**

NOV 3  Z&L, Problem 24 pp. 613-634; RPC 1.1, 1.2(a); 1.4; 1.12; 2.1; 2.2 (1983 version);  
2.4 (2002 version); 5.6; 8.4  
**Group 3:**

NOV 8  Z&L Problem 25, pp. 635-664: RPC 1.0(d); 1.2; 1.6; 1.16; 2.3; 4.1; 5.1; 5.2; 8.3;  
8.4  
**Group 4:**

NOV 9  Z&L, Problem 26, pp. 665-690: RPC 1.4(b); 1.5; 1.15; 1.16(d); 7.1(a); OkRGDP  
1.4(d)

-f-
Group 1:

NOV 10  Z&L, Problem 27, pp. 691-719, Preamble, paragraphs 5 and 6; 5.1; 8.4(d) and Comments

Group 2:

NOV 15  Z&L, Ch. 13, Part B Discipline of Lawyers; Supp. Oklahoma Rules Governing Disciplinary Proceedings

No students assigned. Lecture.

NOV 16  No new reading assignment. Second day on Oklahoma Discipline.

No students assigned. Lecture.

NOV 17  Supp. Oklahoma Lawyers-Helping-Lawyers; RPC 8.3(d); Supp. ABA Model Rules on Lawyer Assistance Programs

No students assigned. Viewing Tape “Danny Hill: Public Life; Private Pain.”

NOV 22  Z&L, Problem 28, pp. 719-742: Supp. Oklahoma Rules Governing Disciplinary Proceedings Rules 6.2A, 10 and 12; RPC 1.1; 1.3; 5.1; 5.2; 8.3

Group 3:

NOV 23  Z&L, Problem 29, pp. 743-768; RPC 1.5(e); 7.1; 7.2; 7.3; 7.4

Group 4:

NOV 24  No Class – Thanksgiving Holiday

NOV 29  Z&L Problem 30, pp. 769-790, 3.1; 6.1; 6.2

Group 1:

No student group assigned. Lecture.

DEC 1 Last Day of Class. Discussion of the Final Examination.