

THE LEGAL PROFESSION AND PROFESSIONAL RESPONSIBILITY SYLLABUS WINTER 2009

Jocelyn Downie

Room 320 494-6883
jocelyn.downie@dal.ca

COURSE DESCRIPTION (FROM CALENDAR)

“This required third year course examines various aspects of the nature and organization of the legal profession in Canada, including its history and evolution, the legal and ethical responsibilities of lawyers and the influences of the adversary system. In particular, the class covers specific ethical rules which affect all lawyers in their organized legal profession.... Serious attention will be given to dilemmas facing lawyers and the legal profession today.”

COURSE FORMAT

Students will meet once a week, 1:00-2:00 p.m. on Thursday, for a lecture and whole class discussion, and once a week for one hour of “small group” discussions, later on Thursday, at either 2:00 or 3:00. Each small group will discuss that day’s lecture topic. You are responsible for the assigned material whether or not it is discussed in class, and you should raise any difficulties with it in class.

You have been assigned to one or other of the small groups. Attendance is required and switching is permitted only where you are unable to make your regular group. It is mandatory that you receive permission in advance to switch groups.

COURSE OBJECTIVES

This course is intended to develop students’:

- awareness of and ability to resolve ethical problems in law
- understanding of the different possible roles for lawyers, the legal profession, and the legal system
- knowledge of the relevant legislation, regulations, rules of professional conduct and common or case law
- knowledge of legal and quasi-legal responses to unethical conduct and professional incompetence
- ability to make informed and reasoned contributions to the development of the legal profession and legal system

Upon successful completion of the course, it is hoped that students will be able to:

- make informed and reasoned decisions when they are confronted with ethical dilemmas during law school
- make informed decisions about what kinds of lawyers they want to be (if any) and how they want to use their law degrees (if at all)
- meet articling and Bar Admission professional responsibility requirements
- make informed and reasoned decisions when they are confronted with ethical issues after graduation
- make informed and reasoned contributions to the development of the legal profession and legal system
- clearly express and defend positions on a range of issues in professional responsibility
- conduct a respectful discussion of controversial professional responsibility issues with individuals holding contrary views

EVALUATION

Option A

Final exam 90%

Participation (based on small group attendance) 10%

Option B

Final exam 60%

Participation (based on small group attendance) 10%

Paper x 20 pages (including footnotes and bibliography) 30%

(The paper topic is to be approved by me by February 18th, 2008. The paper is due by 4:30 p.m. April 3rd, 2008)

REQUIRED READING

1. *Lawyers' Ethics and Professional Regulation*, eds. Alice Woolley, Richard Devlin, Brent Cotter, and John Law (Toronto: LexisNexis, 2008). [Available at the Bookstore]
2. Documentary Supplement: The Nova Scotia *Legal Profession Act*, the *Nova Scotia Barristers' Society Regulations* passed under the *Act*, and the rules of legal ethics in *Legal Ethics and Professional Conduct: A Handbook for Lawyers in Nova Scotia*. [Available at the Bookstore or at the Barristers' Society home page, <http://www.nsbs.ns.ca>]

3. Any handouts made available on an *ad hoc* basis through the Materials Room.

SPECIAL NOTES

Scented products

Please be aware that there are students in the Law School who suffer from multiple chemical sensitivities (sometimes known as environmental illness). Scented products can adversely affect their health as well as their ability to participate fully in class. Please do not use perfume, cologne, aftershave, hairspray, scented shaving cream, scented shampoo, scented deodorant, scented soap, scented laundry soap, or scented fabric softeners. There are many unscented products now readily available in local stores. Just look on the label for an indication that the product is unscented/fragrance free. A little effort on your part can make a big difference to the health and educational experience of your classmates.

Students with disabilities

Professor Dianne Pothier is the Faculty Advisor to students with disabilities. Students with disabilities must self-identify to Professor if they have any in-class or study concerns or needs. Students with disabilities who wish to request accommodation regarding exam writing or other aspects of evaluation must make the request in writing to the Studies Committee. For information about accommodation, students should speak to Professor Elizabeth Hughes or Associate Dean Michael Deturbide. Material for the Studies Committee can be given to Tiffany Coolen-Jewers.

Plagiarism:

All students in this course must read:

- the University policies on plagiarism and academic honesty referenced in the Policies and Student Resources sections of the plagiarism.dal.ca website, and
- the Law School policy on plagiarism, as set out in:
 - the law school regulations (available in hard copy from the Associate Dean's office and online at http://law.dal.ca/Current_Students) or
 - the First Year Handbook (provided to all first year students and available from Associate Dean's Office).

Any paper or assignment submitted by a student at Dalhousie Law School may be checked for originality to confirm that the student has not plagiarized from other sources. Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the law school, or even revocation of a degree. It is essential that there be correct attribution of authorities from which facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above.

Ignorance of the policies on plagiarism will not excuse any violation of those policies.

CLASS SCHEDULE

- Jan 9 Introduction to Legal Ethics
Text: Chapter One
Handbook: Foreword, Chapters 1, 13, 14, 18, 21, 23, 24
- Jan 15 The Legal Profession and Lawyer Regulation in Canada
Text: Chapter Two
Handbook: Chapters 18, 19, 24
Act: Scan whole Act, pay particular attention to 4-5, 16-26 and 27-54
Regs: Scan all regulations, pay particular attention to 2.9 3.1, 3.3, 3.6, 3.7, 3.9, 5.6
- Jan 22 Formation and Termination of the Lawyer-Client Relationship
Text: Chapter 4 sections A, B, D, E
Handbook: Chapters 11, 12, 15, 20
Regs: 7.6.1-7.6.9
- Jan 29 Competency and Quality of Service
Text: Chapter 4 section C
Note that there will be no workshops this week as the Wickwire lecture will be held at 4:30 p.m. instead. Attendance at the lecture is mandatory and the material covered in the lecture is examinable.
Handbook: Chapters 2, 3, 4
Act: 4(1), 4(2), 5(2), 28(1), 28(2), 33, 45(1)(c)
Regs: 3.1.1, 3.3.2, 3.3.3, 3.3.4, 8.2.1, 8.2.2, 8.3.2, 8.4.1, 8.4.2, 9.1.3, 11, 12, 13.2
- Feb 5 Ethics in Advocacy
Text: Chapter 5
Handbook: Chapters 1, 10, 13, 14
- Feb 12 Confidentiality/Privilege
Text: Chapter 6
Handbook: Chapters 5 and 14, especially Guiding Principles 14(b) and (e) and Commentaries 14.2, 14.3. See also 4.21, 9.5, 9.7, 11.11, 14.13, 16.10, and 22.2

- Feb 19 The Duty of Loyalty and Conflicts of Interest (Part One – client-client conflicts)
Text: Chapter 7 sections A, B
Handbook: Chapters 4, 5, 6, 6A, 11.1(c) and 16
- Feb 26 Reading Week
- March 5 The Duty of Loyalty and Conflicts of Interest (Part Two – lawyer-client conflicts)
Text: Chapter 7 section C
Handbook: Chapters 7, 8, 9, 11, 4.14-4.22 and Chapter 6, Guiding Principles 10, 11, and 12 and Commentaries 6.9 to 6.11
- March 12 Ethics and Criminal Law Practice
Text: Chapter 8
Handbook: Chapters 10, 14, and 17
- March 19 Counselling and Negotiation
Text: Chapter 9
Handbook: Chapter 8
- March 26 Access to Justice
Text: Chapter 11
Handbook: Chapters 12, 15, 19, 20, 21, and 22
Act: 4(1)
- April 2 Issues in Regulation
Text: Chapter 12
Handbook: Chapters 1, 18, 19
Act: 5, 16, 17
- April 6 Examination