

# LEGAL PROFESSION

UC IRVINE LAW SCHOOL  
Syllabus for Professor Southworth  
2019-2020

<b>Professor</b>	<b>Course Details</b>	<b>Office Hours</b>
Ann Southworth Office: LAW 3500D <a href="mailto:asouthworth@law.uci.edu">asouthworth@law.uci.edu</a> 949 824-2917	LAW 507A Section 3 Location: MPAA 420 Time: Mon/Wed 1:10-2:10 p.m.*	T 8:45-10:15 a.m. and by appointment - email Prof. Southworth directly

\*Mandatory class sessions for Speaker Panels will also be held on the following dates from 4:00-5:15 p.m.: Tuesday, September 24, and Tuesday, October 1<sup>st</sup> at the Continuing Education Building, in the Yosemite Room.

## Course Description

This course is designed to prepare you to chart successful, rewarding, and responsible careers in law; it will provide information and perspectives about the legal profession and law practice that will help you navigate your futures. You will learn about lawyers in different kinds of organizations and institutions, and you will begin to examine their roles in protecting individual rights and advancing the common good. Drawing from cross-disciplinary perspectives (in sociology, philosophy, organizational behavior, economics, psychology, and critical legal studies), the course will also teach you about the ways in which lawyers' work and legal practice can influence the societies in which they are embedded. Critical to this orientation, then, is thinking about your own place as a future lawyer. How do you become a "good" lawyer? What *is* a good lawyer? What might that entail, and how might various options influence your path?

One of the purposes of this course is to help you decide what to do with your law degree and to appreciate the tradeoffs that various choices entail. To that end, we will systematically examine the different practice settings in which lawyers work, including prosecutors' offices, public defender organizations, small, medium, and large private firms, boutiques, corporate counsel offices, nonprofit advocacy groups, legal aid, and government agencies. That information will help you assess the fit between various types of practices and your own character traits, values, strengths, and aspirations. Even if you already have decided how to use your law degree, this class will provide a valuable overview of the legal profession and an appreciation for the enormous range of things that lawyers do.

Like courses typically offered at other law schools to satisfy the American Bar Association professional responsibility requirement, this course will teach you the Model Rules of Professional Conduct and other elements of the law that governs lawyers. We will consider gaps and ambiguity in that law and how lawyers respond (and should respond) to such legal uncertainty. This course departs significantly from standard legal ethics courses, however, in its emphasis on the relationship between lawyers' ethics and the practice contexts in which lawyers work. A major premise of this course is that lawyers' workplaces are arenas of professionalism, where lawyers' views about their roles and obligations take shape. Those arenas are at least as important as ethics rules, disciplinary committees, liability controls, and lawyers' individual consciences in determining how lawyers frame and resolve ethical conundrums. Therefore, we will study legal ethics in context, paying close attention to lawyers' work settings, institutional roles, and economic pressures.

To accomplish these purposes, we will use a combination of written materials, speakers, and group exercises. We will provide you with the best available empirical accounts of various practice settings, and

we will convene panels of lawyers from each practice type to discuss their work and experiences. You will also participate in role-playing exercises built on typical problems confronted in practice, allowing you to imagine how you would respond to challenges that arise in the everyday lives of real lawyers.

As future leaders of the profession, you also need to understand issues and problems that confront the profession as a whole. Such issues include the legal services market and its regulation, the distribution of legal services, the profession's demographics and social structure, lawyers' roles in regulatory processes, and the implications of technology and globalization. Whether you like it or not, friends and strangers alike will begin looking to you for commentary on the legal profession and its function in American society. You will be held to account for the public's general skepticism about lawyers. Responding to questions about the profession (and to lawyer jokes) will be easier once you have developed well-informed views about those issues. This course will push you to decide which criticisms are justified, what policy responses are appropriate, and which sectors of the profession will win and lose under various reform proposals.

The course is divided into six parts. **Part I** introduces the concept of a profession, the market for legal services and its regulation, perspectives on the lawyer's role, professional identity, diversity of the legal profession, lawyer satisfaction and well-being, and other major concepts and themes that will arise throughout the course. **Part II** examines the attorney-client relationship, including the allocation of decision making authority in the relationship and various rules that protect clients against lawyer overreaching. We will then pause to consider two categories of lawyers whose conceptions of role and relationships with clients raise especially dramatic and interesting questions: criminal defense lawyers and prosecutors. **Part III** focuses on the attorney-client privilege and the duty of confidentiality. We will consider justifications for confidentiality, the duty's exceptions, and its applications to organizational clients. **Part IV** covers conflicts of interest – a general category of rules designed to ensure that lawyers serve clients loyally. **Part V** examines issues of professionalism as they arise in the many settings in which lawyers practice. We will first consider lawyers who serve large organizational clients, beginning with lawyers in large law firms, and then turning to in-house counsel for corporate clients and lawyers who work in government. We then examine the public interest sector -- lawyers in legal assistance programs and nonprofit advocacy groups. Next, we will study lawyers in solo and small firms, who represent primarily individuals and small businesses, and lawyers who represent primarily plaintiffs. Finally, we will consider mediators and arbitrators. **Part VI** addresses issues facing the entire profession, including unauthorized practice and non-lawyer involvement in the provision of lawyer services, practice across borders and boundaries, technology's influence on practice, globalization, and the legal profession's future.

## Learning Outcomes

- Know, understand, and respect the rules and more general law of professional responsibility
- Understand the importance of pro bono and contributing to the improvement of access to justice
- Learn the importance of nondiscrimination and of encouraging diversity and inclusiveness in the profession
- Learn to respect the duty to clients while maintaining personal and professional integrity
- Know the different practice settings, the ethical and moral challenges for lawyers in particular settings, and develop pathways to maintain integrity while building a successful career

## Course Materials

The required textbook for the course is Ann Southworth and Catherine Fisk's *The Legal Profession: Ethics in Contemporary Practice* (2d ed. 2019). All other readings will be available through the Canvas course website. Those other readings include the ABA Model Rules of Professional Conduct, the 2019 Update to the Textbook, other rules and statutes, and various academic and popular press articles. The website includes links to on-line resources, and the academic and popular press articles will be available through the Canvas course website. If you prefer to have the Model Rules in book form, you may purchase a copy from the UCI Bookstore.

I do not recommend that you purchase supplemental study guides. The content of this course is sufficiently different from other legal profession and professional responsibility courses that commercially available sources are unlikely to be helpful. However, you might find the following (entirely optional) supplemental readings relevant and interesting:

- Spencer Headworth, Robert Nelson, Ronit Donivitzer, and David B. Wilkins (eds.) *Diversity in Practice* (2016)
- Elizabeth Mertz, *Language of the Law School* (2007)
- Alan B. Morrison & Diane T. Chin, *Beyond the Big Firm: Profiles of Lawyers Who Want Something More* (Aspen/Wolters Kluwer, 2007).
- Kathryn M. Young, *How to Be Sort of Happy In Law School* (Stanford University Press, 2018).

## Assessment and Grades

Grades will be based on multiple assignments and assessment methods:

- Class Participation: 20%
  - General class participation and attendance (5%)
  - Panel participation (5%)
  - Questions for speaker panels (6%)
  - Brief reflection memos (1-2 p. each; submit for 2 role-play exercises) (4%)
- Lawyer Interview Essay (due April 17, 2020) 20%
- Take-Home Midterm Examination (End of Fall 2019 term): 30%
- Take-Home Final Examination (End of Spring 2020 term): 30%

Note: This is a year-long four credit course, and you will not receive a final grade on your transcript until the end of the spring term. The final grade will be based on all of the work you have done throughout fall and spring semesters. You will receive an “interim grade” at the end of the fall semester which will not appear on your transcript but will give you a chance to assess your progress through the first term.

### ***Class Participation (General Class Participation and Attendance, Panel Participation, Questions for Speaker Panels, Reflection Memos) (20% of grade):***

This is a course that expects (and depends on) your class participation and involvement. Class attendance is mandatory, and an unreasonable number of absences will result in ineligibility to take the examination and, therefore, no credit for the course. The American Bar Association asks law schools to certify that each student has attended classes. I take attendance at the beginning of each class and speaker panel using an electronic sign-in system. You are responsible for signing in each time you are present. If you need to arrange for an excused absence, contact me by e-mail before that class.

Learning is a collaborative endeavor, and we share responsibility for making this a good educational experience. I encourage your engagement and productive participation and ask that you help facilitate others’ participation (take space, make space). Effective lawyering requires good listening and communication, cross-cultural exchange, effort to understand various perspectives, teamwork, initiative, responsibility, strategic judgment, hard work, planning and prioritizing, timeliness, respect, life-long learning, and more. Take the opportunity to develop these skills this semester and beyond.

This course will follow a panel system whereby each of you will be “on call” for eight classes. The group assigned to be on call will form the “panel” for the day’s class and should be prepared to answer questions and lead discussion. Please sign up for five panels during the fall semester through Canvas after our first class meeting on Monday, August 19<sup>th</sup>. I will ask you to sign up for three additional panels at the

beginning of the spring semester. While those students who are on panel will be expected to play a particularly active role in class discussions, I expect all students to attend class and participate even when not on panel. I also expect you to participate in at least two role-play exercises this year; one will be a mandatory negotiation exercise in which all students will participate in the spring semester, and the other will be role-play exercise for which you will volunteer. (The various role-play exercises are highlighted below in the course schedule. I will seek volunteers close to the dates of the role-plays.) If you are nervous about participating in class discussions and role-play exercises, please talk to me early in the semester so that we can develop a plan for you to contribute. I do not want anxiety to interfere with your learning.

In addition to panel participation and general class participation and attendance, the course also requires students to submit a question for each speaker panel and to submit two short (1-2 page) reflection memos based on role-play exercises. One of those two reflection memos will focus on a negotiation exercise in which all students will participate in the spring semester, and that memo will be due (via Canvas) before the first class on negotiation. The other reflection memo should focus on your choice of any of the other role-play exercises listed in the syllabus, and that memo will be due by noon two days after the exercise (via Canvas). Questions for speaker panels are due (via Canvas) by noon the day *before* the speaker panel.

Late submissions of questions for speaker panels and reflection memos will receive a deduction of 25% per day. You may obtain an extension with advanced written permission from me, which I will grant where exigent circumstances warrant an extension. (I encourage you to plan for and meet deadlines, as a litigator who misses a court deadline risks a default judgment against the client, a malpractice claim, a professional conduct complaint, sanctions, and other negative career consequences, and a transactional attorney who misses a deadline also risks serious negative consequences for the client and attorney.)

***Lawyer Interview Essay (20% of grade):***

Each student will be required to write a reflective analytical essay of *no more than 3,000 words* based on an interview (approximately one hour) with a practicing lawyer located anywhere in the world. You may interview a lawyer you know or have met, a lawyer assigned to you as a mentor, or any other lawyer you choose. If you are unable to identify a lawyer to interview, I will help you find one. The essay should focus on any issue(s) raised by or relating to the course materials. It could, for example, address the sources of satisfaction and disappointment in the lawyer's career, reflections on the current state and/or future of the profession, issues relating to the market for legal services, the organizations or conditions of practice, relationships with clients, or any other issues relating to legal ethics, professionalism, or practice settings. Please plan to consult with me to identify and develop an appropriate paper topic. This is an opportunity for you to personalize the course for yourself and perhaps also to prepare to bring perspectives you learn from the interview to our discussions.

The essays are due on Friday, April 17, 2020 at 5 p.m. (via Canvas). Each essay must document its word count, the date and length of the interview, and whether you conducted it in person or by telephone. At the time you submit the essay, you must also submit a short abstract of the paper. The professors will compile the abstracts for all sections and share them. In grading these essays, I will emphasize originality, analytical rigor, organization, clarity, style, and good use of interview data and course materials. More information about the essay—including instructions, advice about choosing a topic, a suggested timeline/checklist, and grading rubric—will be distributed this semester.

***Midterm & Final Examinations (60% of total grade -- 30% each):***

There will be a take-home examination at the end of each semester. The exams will consist entirely of essay questions and will be open-book and open-note. We will discuss the exam format and expectations closer to the time of the exams. Examples of old exams and exam memos will be available on Canvas.

An optional mid-semester practice examination will be made available in October, and I will also distribute a sample answer. I will not grade the practice exam, and it will not count in your grade for the course, although I will be happy to review your midterm answers with you during office hours.

## Additional Notes

**Email Policy.** I am generally available on email, but I reserve a 24-hour period for responses. For questions pertaining to paper submissions/deadlines, note that I will *not* respond for a 48-hour period preceding the submission deadline.

**Office Hours and Coffee Meetings.** My office hours will be Tuesdays from 8:45-10:15 a.m. and by appointment. I also encourage you to sign up for small group meetings and will post available times through Canvas. I am happy to discuss anything related to the course, navigating law school generally, legal careers, and anything else of interest.

**Canvas.** Unless otherwise indicated, please submit all speaker panel questions, reflection memos, the lawyer interview essay, and other course assignments through Canvas.

**Honor Code:** As with any of your courses, you are subject to the School of Law Honor Code and the University of California, Irvine Honor Code.

## Reading Assignments and Course Schedule

### *PART I. AN OVERVIEW OF THE LEGAL PROFESSION AND THE ROLE OF THE LAWYER*

Monday, 8/19:	Chapter 1: The Role of the Lawyer
Wednesday, 8/21:	Chapter 2: The American Legal Profession: An Overview
Monday, 8/26:	Chapter 3: The Amoral Conception and Its Critics (skip section F) <b>Role-Play Exercise #1</b>
Wednesday, 8/28:	Chapter 4: Diversity of the Legal Profession
<b>Monday, 9/2:</b>	<b>Labor Day – No Class</b>
Wednesday, 9/4:	Chapter 5: Expressions of Self in Lawyering
Monday, 9/9:	Chapter 37: Lawyer Satisfaction and Well-Being

### *PART II. THE LAWYER-CLIENT RELATIONSHIP*

Wednesday, 9/11:	Chapter 6: Starting, Negotiating, and Ending the Attorney-Client Relationship
Monday, 9/16:	Chapter 7: Protections Against Overreaching

### *LAWYERS IN THE CRIMINAL JUSTICE SYSTEM*

Wednesday, 9/18:	Chapter 14: Criminal Defense, Sections A-D Chapter 3, Section F <b>Role Play Exercise #2</b>
Monday, 9/23:	Chapter 14: Criminal Defense, Sections E-F
Tuesday, 9/24:	<b>Speaker Panel on Criminal Defense, 4-5:15 p.m., Yosemite Room</b>
Wednesday, 9/25:	Chapter 15: Criminal Prosecution, Sections A-E
Monday, 9/30:	Chapter 15: Criminal Prosecution, Section F-G
Tuesday, 10/1:	<b>Speaker Panel on Criminal Prosecution, 4-5:15 p.m., Yosemite Room</b>
<b>Wednesday, 10/2:</b>	<b>No class</b>

**10/7-10/11: Mid-Semester Review Week – No Class**

*PART III. CONFIDENTIALITY*

- Monday, 10/14: Chapter 8: Introduction to the Duty of Confidentiality and the Attorney-Client Privilege
- Wednesday, 10/16: Chapter 9: Exceptions to Confidentiality and to the Attorney-Client Privilege
- Monday, 10/21: Chapter 10: Confidentiality and Privilege and the Organizational Client

*PART IV. CONFLICTS OF INTEREST*

- Wednesday, 10/23: Introduction to Part IV, pp. 241-243  
Chapter 11: Concurrent Conflicts of Interest, Section A-G
- Monday, 10/28: Chapter 11: Concurrent Conflicts of Interest, Sections H-L
- Wednesday, 10/30: Chapter 12: Conflicts Involving Former Clients
- Monday, 11/4: Chapter 13: Imputed Conflicts

*PART V. PROFESSIONALISM IN CONTEXT: A SURVEY OF PRACTICE SETTINGS*

*THE LARGE ORGANIZATIONAL SECTOR*

- Wednesday, 11/6: Introduction to Subpart B: Large Organizational Clients, pp. 403-408  
Chapter 16: Large Law Firms, Sections A-G
- Monday, 11/11: **Veterans Day – No Class**
- Wednesday 11/13: Chapter 18: A Large Firm Lawyer's Downfall,  
**Role-Play Exercise #3**
- Monday, 11/18: Chapter 17: Supervisory and Subordinate Relationships
- Wednesday, 11/20: Chapter 33: Pro Bono, pp. 877-93
- Monday, 11/25: **Speaker Panel on Large Law Firms, Yosemite Room**
- Wednesday, 11/27: **No Class**

**Reading Period: 12/2-12/5**

**Examination Period: 12/6-12/18**

**Very Tentative Reading Assignments and Course Schedule: Legal Profession II (Spring 2020)**

*THE LARGE ORGANIZATIONAL SECTOR (continued)*

Chapter 19: Counseling

*IN-HOUSE LAWYERS*

Chapter 20, In-House Counsel

**Speaker Panel on In-House Lawyers**

Chapter 21: Government Lawyers

**Speaker Panel on Government Lawyers**

*THE PUBLIC INTEREST SECTOR*

Chapter 29: Legal Services

**Speaker Panel on Legal Services**

Chapter 30: Public Interest Law; **Role-Play Exercise #4**

**Speaker Panel on Public Interest Law**

*THE INDIVIDUAL AND SMALL BUSINESS SECTOR*

Chapter 22: Solo and Small Firm Practice, Chapter 22; Chapter 33, Pro Bono, pp. 893-99

Chapter 23: Advertising and Solicitation, pp. 611-top of p. 639 (including Problem 23-2), 640-45

Chapter 24: Plaintiffs' Practice; Chapter 25: Boutiques

**Speaker Panel on Solo/Small Firm, Plaintiffs' Practice**

*LAWYERS AND THE PRACTICE OF DISPUTE RESOLUTION*

**Role-Play Exercise #5 outside of class, before first class on negotiation**

Chapter 26: Negotiation

Negotiation (continued)

Chapter 27: Lawyers and Third-Party Neutrals: Mediation and Arbitration

**Speaker Panel on Lawyers as Third-Party Neutrals**

*PART VI. CHALLENGES AND OPPORTUNITIES FOR THE PROFESSION IN THE 21ST CENTURY*

Chapter 32: Unauthorized Practice and Non-Lawyer Involvement in the Provision of Legal Services; **Role-Play Exercise #6**

Chapter 34: Practice Across Borders and Boundaries

**Speaker Panel on Cross-Border Practice**

Chapter 35: Legal Education, Chapter 35

Chapter 36: Bar Admission and Discipline, and the Law of Malpractice; **Role-Play Exercise #7**

Chapter 38: Reflections on the Future of the Legal Profession (and Your Place Within It)

**Speaker Panel on Technology and Artificial Intelligence**

**Reading Period 4/22-4/24**

**Examination Period 4/27 – 5/8**