

Review Essay

**Pedagogy Without Purpose:
An Essay on Professional Responsibility Courses
and Casebooks**
Erwin Chemerinsky

ANDREW L. KAUFMAN, *Problems in Professional Responsibility*. 2d edition. Boston: Little, Brown & Co., 1984. Pp. xxv + 870. \$29.50.

THOMAS D. MORGAN & RONALD D. ROTUNDA, *Problems and Materials on Professional Responsibility*. 3d edition. Mineola, N.Y.: Foundation Press, 1984. Pp. xliii + 482. \$17.00.

MORTIMER D. SCHWARTZ & RICHARD C. WYDICK, *Problems in Legal Ethics*. St. Paul, Minn.: West Publishing Co., 1983. Pp. xxxvii + 285. \$16.95.

The involvement of so many attorneys in the Watergate scandal caused the bar to wonder how to better train ethical lawyers. The American Bar Association instituted an accreditation requirement that law schools compel their students to take a professional responsibility course. Additionally, many states began requiring passage of the Multistate Professional Responsibility Examination as a condition for admission to the bar. These actions, however, were taken with little thought about how legal ethics should be studied. Rather, the assumption has been that a lawyer is ethical if he or she knows the Code of Professional Responsibility and can demonstrate that knowledge on a multiple choice test.

I believe that such an approach to professional responsibility, emphasizing just learning the Code, is largely useless. Memorizing a few rules has little relation to ethical practice. In fact, such an approach is counterproductive—instead of encouraging students to consider the difficult issues confronting all lawyers, it lets them feel content merely to learn a handful of canons and disciplinary rules.

To illustrate how pervasive this approach to legal ethics is, and how empty, I want to focus on three major casebooks on professional responsibility that have been published in the past two years. They are selected because they are extensively used and therefore likely reflect how professional responsibility

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often is taught. The three textbooks are remarkably the same. Each poses a hypothetical situation illustrating a given topic before presenting cases and other readings. Each contains copious references to the Model Code of Professional Responsibility and the Model Rules of Professional Conduct, although none actually reprint the pertinent code sections.¹ Each is meant to be used by students enrolled in courses on legal ethics and professional responsibility.

They also suffer from the same major flaws. All seem to assume that the only purpose of a legal ethics course is to familiarize a student with the professional codes and some of the situations that students might later encounter in practice. None make any attempt to encourage students to examine critically the role of the attorney in society. All assume that the attorney's highest mission is zealous representation of clients. None consider whether the attorney might have equally important obligations to individuals other than clients, often innocent third parties. All assume that it is appropriate for attorneys to act professionally in ways that they never would act outside their role of lawyer. None consider whether such role-differentiated behavior is healthy for the individual or best for society.²

In fact, I believe that the books do not even succeed in their goal of preparing students for the practice of law. Code sections are mentioned cryptically, often with little explanation. The problems are artificial and disproportionately emphasize litigation situations.

A course on legal ethics is an ideal opportunity for encouraging students to think about the profession they are joining and about the lawyer's role in society. It is a chance for students to critically examine the basic premises of the system they will be part of. These casebooks are disappointing because they fail to take advantage of the opportunities that a course on professional responsibility presents. The books offer a course indistinguishable from other classes that students attend in law school: they take what should be one of the most exciting law school courses and discard much of what could make it stimulating. They reflect the problem that is the point of this essay: the lack of thought that has been given to how society can train the ethical lawyer.

I

Analysis of these casebooks should begin by identifying the goals of a professional responsibility course. I see three major purposes for a legal ethics class. First, it should encourage students to think about the role of the lawyer and of the legal profession. Attorneys often face conflicting duties. Fulfilling

1. The American Bar Association adopted the Model Rules of Professional Conduct in Aug. 1983, after lengthy debate. See Kaufman at 16. The Model Code of Professional Responsibility, adopted by the ABA in 1969 and amended several times (last in 1980), has been adopted in all states, in some form. Three of the major publishers of law texts have produced statutory supplements, containing all of the codes, which are bought separately and can be used in conjunction with these casebooks.

2. For an excellent discussion of the concept of role-differentiated behavior of attorneys, see Richard Wasserstrom, *Lawyers as Professionals: Some Moral Issues*, 5 *Human Rights* 1 (1975).

the obligation to clients may conflict with the duty to help the legal system discover truth or may lead to negative consequences for society. For example, an attorney's efforts might mean that a dangerous criminal goes free or a harmful product stays on the market. Sometimes attorneys are asked to argue against their personal beliefs. A professional responsibility course should make students aware of the conflicting duties attorneys face and encourage them to assess the proper role of the lawyer.

Second, a legal ethics course should help prepare students to deal with the ethical issues that they likely will confront in their legal careers. Certainly, a component of such preparation is familiarizing students with the codes of professional conduct. Also, in part, it is encouraging students to think about how to handle ethical problems before they actually confront them. History, to say nothing of bar disciplinary proceedings, reveals that situational ethics is often no ethics at all. Ethical positions are best arrived at before an individual has a vested stake in the outcome of the ethical choice. I also believe that positions on difficult questions of ethics are best arrived at through a dialectical process where all viewpoints are expressed and challenged.

The third and final major goal for the course is encouraging students to think about the methods of regulating the delivery of legal services and the practice of law. In one sense, a legal ethics class is really a course about how one industry, the legal profession, is regulated. Students, therefore, should be asked to consider the purposes of regulation and the alternative forms of regulation that might better achieve these goals. There are many underlying questions to consider: How did the current system of regulation develop? Why is the market system inadequate? What are codes of professional responsibility trying to accomplish? Are there better ways of assuring competent and trustworthy lawyers?

Perhaps my disagreement with the authors of these casebooks is really over the purposes of the course. For example, the Schwartz and Wydick book seems to have little purpose other than familiarizing students with the codes of professional responsibility.³ It is a short book, with almost exclusive emphasis on the codes. It concludes each chapter with a set of multiple choice questions designed to test a student's knowledge of the codes. I see little value in such an approach: memorization of code sections, followed by inevitable rapid onset of amnesia after the course is finished, serves little purpose. Although coverage of the codes is necessary, it is not sufficient to prepare students for practice, because such a small percentage of actual ethical problems are dealt with in code provisions.

I believe that a legal ethics course must do more than just prepare students for the Multistate Professional Responsibility Examination. The bar review courses already perform that task. A professional responsibility course should encourage students to analyze basic and difficult questions concern-

3. Schwartz & Wydick's book begins by stating that its purpose is to "introduce you to the rules of ethics that apply to lawyers" (at 1). The preface to the book (actually ch. 1, consisting of pp. 1-3) clearly states that its purpose is teaching students the rules contained in the codes of professional responsibility.

ing what lawyers should do with their careers. My criticism of these casebooks—and more generally, the manner in which professional responsibility often is studied—is that they fail at all three goals I have described.

II

The current codes of ethics are based on the idea that an attorney has a fundamental duty to provide zealous representation to clients.⁴ This duty is reflected in requirements such as those compelling attorneys to preserve client confidences and to avoid conflicts of interest.⁵ All three casebooks examine these topics at length, but uncritically. None examine the underlying question: Why is there a duty to provide zealous representation?

Two justifications for the traditional model are often advanced, although not in these texts. One is instrumental: attorneys zealously represent clients as a way to further the adversary system that is believed to be the best way to discover the truth.⁶ The notion is that conflicts between individuals or other entities should be resolved accurately, that is, on the basis of proper application of legal principles and the most accurate fact finding possible. It is thought that a system whereby a judge makes a decision based on personal investigation is less accurate than one based on adversary presentations of information. Zealous representation of each side maximizes the likelihood that such adversary presentations will occur and that the best decisions will result.

An alternative defense for zealous representation is based on the intrinsic desirability of providing representation: upholding the rights and dignity of the individual requires that the individual be represented by counsel. The assumption is that individuals cannot adequately protect their own rights, but instead need an attorney to help them. The rights and dignity of a person are best served if his or her interests are zealously represented.

The validity of these premises is hardly obvious. For example, Geoffrey Hazard, Reporter for the Model Rules Commission, has stated that we have “no proof that the adversary system yields truth more often than any other system of trial.”⁷ At the very least, for the adversary system to produce truth there would need to be two sides with approximately equal resources and with lawyers of approximately equal ability presenting the issue to the courts. Why trust the adversary system in all the instances where resources are great-

4. See, e.g., Model Code of Professional Responsibility Canon 7 (1980) (“A lawyer should represent a client zealously within the bounds of the law”).

5. See, e.g., *id.* at Canon 4 (“A lawyer should preserve the confidences and secrets of a client”); Canon 5 (“A lawyer should exercise independent professional judgment on behalf of a client”).

6. A superb description and critique of this view is found in William H. Simon, *The Ideology of Advocacy*, 1978 Wis. L. Rev. 29. Simon’s article is a lengthy examination of the assumptions of a system that bases representation on the belief that partisan advocacy best finds truth. It is revealing that none of the three casebooks mention Simon’s article.

7. *Quoted in* Deborah L. Rhode, *Ethical Perspectives on Legal Practice*, in Geoffrey C. Hazard & Deborah L. Rhode, eds., *The Legal Profession: Responsibility and Regulation* 151 (1985). The recently published Hazard & Rhode book is a collection of essays that examine the issues raised in this essay. A teacher interested in considering these underlying questions might want to consider using this anthology along with the more traditional casebook.

ly unbalanced?⁸ Furthermore, why believe that the adversary system produces truth when both sides do all they can to hide damaging information and present everything in the most biased and favorable light?⁹ Attorneys generally have no duty to reveal information adverse to their clients. They can impeach truthful witnesses and coach their clients into telling the best possible story. Computer analysts long ago coined the phrase, “garbage in, garbage out.” Why believe the legal system can do better than that? If inaccuracies and obfuscations are allowed to fill the system, it is hard to imagine the results being any better than the input.

Intrinsic justifications for zealous representation are equally problematic. If the dignity of the individual is paramount, why are attorneys only concerned with their clients’ dignity and not the dignity of third parties?¹⁰ For example, why does zealous representation justify humiliating opposing witnesses, as when a defense attorney cross-examines a rape victim about her prior sexual history? If an attorney is truly concerned about dignity, how is it possible to help a parent who abused a child regain custody without considering what is best for the child?¹¹

Certainly, there are responses to these indictments of the traditional defenses for zealous representation. For example, an argument can be made that society is best off in the long term if all interests are represented and attorneys do not serve as gatekeepers to the legal system. My point here is not to evaluate the debate. Rather, I am merely trying to point out that there are two sides and that it is important for law students to critically examine the traditional rationalizations for zealous representation. The typical professional responsibility course is deficient because it ignores these questions. For instance, Morgan and Rotunda’s book begins with a chapter on the history of the American legal profession and on basic concepts of ethics.¹² It then addresses problems in regulating the legal profession and in the requirement of loyalty to clients. There is no discussion of why loyalty is required or whether the traditional instrumental and intrinsic justifications for loyalty make sense. The other two volumes proceed similarly.

All three books ignore other obligations attorneys face that conflict with the goal of providing zealous representation. For example, every law student

8. For an excellent discussion on how resource imbalances are virtually inherent in the current system of allocating legal talent, see Jerold S. Auerbach, *Unequal Justice* (1976). Again, it is revealing that none of the three casebooks excerpt or quote from Auerbach’s famous book.

9. Israel Putnam Callison, *Courts of Injustice* 569–71 (1956) (“the attorney’s ability to convince himself that out of this mass of incoherent, conflicting, abysmal mumbo-jumbo the truth will emerge stands out as the super achievement of our present day legal magicians”).

10. Rhode, *supra* note 7, at 153–54.

11. Morgan & Rotunda present a hypothetical situation of an attorney employed to help a parent who abuses her child regain custody (at 153–54). There is no discussion in the notes accompanying the case of the attorney’s duty to the child or of how concern for dignity of the individual creates a conflict between protecting the dignity of the client and protecting the dignity of the child.

12. Morgan & Rotunda spend eight pages on what they term “some contributions from moral philosophy to the study of legal ethics” (at 10–18). The other two books do not even mention that philosophers long have worked at developing principles of ethics. Although Morgan & Rotunda’s treatment is brief and basic, it at least familiarizes students with some basic concepts of moral reasoning (e.g., utilitarian vs. deontological approaches (at 16–18). The other books do not even do that.

worries about whether it is appropriate for an attorney to help a guilty person go free. How should the attorney balance the duty to a client against the prospect that successful representation might mean that a dangerous person is on the streets? Certainly, there are justifications for representation; what is troubling is that none of the casebooks mention the conflict between the duty to the client and the duty to society.

Moreover, this conflict is not unique to criminal law practice. Many clients are engaged in socially harmful conduct and use attorneys to assist their efforts. Attorneys represent drug companies that are fighting government efforts to remove drugs from the market or companies challenging environmental regulations. To what extent should an attorney be concerned that his or her efforts are, by the attorney's views, making society worse off?¹³ Even if it can be uncritically assumed that all interests deserve representation, that still does not explain why a given attorney must provide representation when he or she believes that the social effects of advocacy will be undesirable. Except in the rare situation where no other attorney will take the case, an attorney should not necessarily feel compelled to provide representation to a particular client.¹⁴ Students should be encouraged to think about how they want to spend their careers and their time.

Furthermore, students should realize that how they spend their professional lives directly affects their personal lives and personal beliefs. The legal profession emphasizes role-differentiated behavior—that it is appropriate for an attorney to act differently in the professional role than he or she would otherwise act.¹⁵ Yet, social psychologists have demonstrated “that it is difficult for people to act one way and believe another. Ultimately, either action conforms to belief, or belief to action. After years of representing a client's position, it is not unexpected that a lawyer begins to agree with, if not act like, his business retainers.”¹⁶

My point is a simple one: above all, a legal ethics class should encourage students to think at the “macro” level about the role of the lawyer in society and at the “micro” level about the way the student wants to spend his or her career. These three books—and traditional legal ethics courses—are deficient because they ignore these fundamental questions.

13. Kaufman includes a subchapter titled *The Obligation to Represent an Unpopular Client* (at 423), which consists entirely of a lengthy exchange of letters between David Dudley Field and Samuel Bowles, dated 1870. No attempt is made to apply this material to all the modern situations in which attorneys represent clients who are either unpopular or, more commonly, socially accepted but still socially harmful. Morgan & Rotunda have one problem titled *The Client Who Ought to Lose* (at 153), but there is no analysis—or mention—of the conflict between zealous representation and an attorney's duty to society. Schwartz & Wydick do not discuss the topic at all.

14. See, e.g., Mark Green, *The Other Government* 273–89 (1975). The Code of Professional Responsibility states that “a lawyer is under no obligation to act as adviser or advocate for every person who may wish to become his client.” EC 2-26 (1980).

15. The term “role-differentiated behavior” is Wasserstrom's, *supra* note 2, at 4.

16. Green, *supra* note 14, at 289. See also Erwin Chemerinsky, *Protecting Lawyers from Their Profession: Redefining the Lawyer's Role*, 5 J. Legal Prof. 31, 32–34 (1980).

III

These books disappoint in another way. Clearly, the goal of each is to prepare students for the practice of law. I do not dispute the importance of this objective; rather, I question whether the books fulfill it, even on the authors' own terms.

First, all three books disproportionately emphasize ethical problems in litigation settings. For example, although virtually all attorneys will serve as negotiators at some point in their careers, the books either ignore or treat briefly the ethical problems in negotiations.¹⁷ Schwartz and Wydick do not even mention ethical problems in negotiations. Morgan and Rotunda have one problem titled "Trial and Negotiating Tactics" (at 139-40). Despite the mention of negotiations in the title of the section, the problem focuses exclusively on the conduct of an attorney at trial.¹⁸ Only the Kaufman book directly examines the ethical issues arising in negotiations, and this in less than 20 pages out of 870 (at 405-22).

None of the books include a general discussion of the ethical problems of the attorney as adviser or negotiator. The Kaufman book and the Morgan and Rotunda book do examine the attorney's role as adviser in very specific contexts: Kaufman includes a subchapter on the attorney as adviser in the securities law area (at 301-27); Morgan and Rotunda include a problem on advising the corporate entity (at 35). But neither book attempts to generalize from these specific examples or generally consider the problems confronting an attorney serving as an adviser. Schwartz and Wydick completely ignore ethical issues confronting attorneys in any role other than that of litigator. Yet many students never will see the inside of a courtroom; even students who will be litigators will spend most their time in nonlitigation roles. Moreover, the books even ignore problems confronting the litigator that arise outside the courtroom, such as abuse of discovery to gain a strategic advantage and problems in preparing witnesses' testimony.¹⁹ By emphasizing litigation settings, the books make it seem that ethical issues are the rare exception, rather than a common feature of all forms of legal practice.

Second, the books inadequately prepare students for the practice of law because they ignore the setting in which most students will spend their careers: law firms. Although law firms vary enormously in size, prestige, and

17. For excellent discussions of the ethical problems in negotiations, see Alvin B. Rubin, *A Causerie on Lawyers' Ethics in Negotiations*, 35 *La. L. Rev.* 577 (1975) (reprinted with omissions in Kaufmann at 407-19); James J. White, *Machiavelli and the Bar: Ethical Limitations on Lying in Negotiation*, 1980 *A.B.F. Res. J.* 926.

It should be noted that there are other professional responsibility casebooks that do provide more coverage of ethical problems in negotiations. See Murray L. Schwartz, *Lawyers and the Legal Profession* 167-209 (1979); Gary Bellow & Bea Moulton, *The Lawyering Process: Ethics and Professional Responsibility* 149-70 (1980).

18. Morgan & Rotunda also present a problem on negotiating a guilty plea (at 224).

19. The books, of course, do include a discussion of the problem of client perjury. What they do not discuss is the problem of how preparing a witness to testify inevitably shapes the witness's testimony. See, e.g., Monroe H. Freedman, *Lawyers' Ethics in an Adversary System* 43-49 (1975).

specialty, there are common ethical issues confronting attorneys in firms. What should an associate do if he or she learns that a partner has violated a disciplinary rule? What should an associate do when asked to do something he or she believes to be unethical? None of the books mention ethical problems confronting attorneys in firm practice. Moreover, neither Morgan and Rotunda nor Schwartz and Wydick examine ethical problems of corporate counsel,²⁰ and Schwartz and Wydick ignore government lawyers.

Third, the books are devoid of practical suggestions. For example, one of the most important things that attorneys can do to protect themselves is to make contemporaneous records of their advice to clients. If an attorney advises a client not to do something because it would be illegal, or advises the client about the potential benefits and consequences of a particular decision, he or she should write a memo to the file or to the client recording the advice. Similarly, physicians and hospitals, for instance, always get consent in writing. A contemporaneous written record might protect the attorney from later charges of being an accomplice or of committing malpractice. Yet, none of the books suggests this basic strategy.

At the most fundamental level, the books omit simple practical advice about where an attorney should look when faced with an ethical issue in practice. Why not have a short chapter on researching legal ethics problems? I doubt whether introductory legal research courses cover this subject, and if a course is to be truly practical, what is more useful than telling students where they can look for guidance?

Finally, if the books equate preparing students for practice with familiarizing them with the rules, then I question the failure to reproduce the relevant rules in the text. Perhaps it is just a matter of style, but I think students are more likely to read the rules and understand their relevance to the material if the rules are integrated in the casebook rather than being in a separate rules book.

In sum, preparing students for the practice of law requires an analysis of the roles and settings they are likely to be in. The books do a good job of presenting some of the problems that confront the litigator, but a poor job of helping students apart from that. This failure is indicative of the failure of the codes; litigation issues are emphasized while others are given scanty attention.

IV

In a large sense, the study of professional responsibility is really the study of regulation—how a particular profession should be regulated to assure its competence and trustworthiness. The basic question in any regulated industries course is: Why regulate at all; why not simply trust the market system? This question has received relatively little attention in the literature about

20. Morgan & Rotunda have one problem termed *Advising the Corporate Entity* (at 351), but it focuses on the problems confronting "outside counsel," not the ethical issues facing house counsel.

professional responsibility, and it is not adequately dealt with in these three texts.

The causes of market failure are important in deciding the form of regulation and in evaluating its success. For example, one explanation of market failure is that profit-maximizing behavior often is unethical. Attorneys are rewarded for acting in ways that society and the profession disapprove. If this is the justification for regulation, then monitoring and enforcement are essential because attorneys will not voluntarily comply with standards that decrease their profits. Rules need to be examined to determine whether they are enforceable. Yet, none of the three texts analyze this justification for regulation or the effectiveness of rules in this context.

An alternative justification for regulation is that consumers are unable to evaluate competence and trustworthiness on their own and that therefore government control is necessary to protect the public. Students need to critically examine this justification and consider whether current regulation really assures competence and trustworthiness. Furthermore, this explanation for regulation has important consequences for the allocation of decision-making authority between attorney and client. If regulation is based on the inability of clients to protect themselves, then it is necessary to carefully consider when clients are competent to make decisions and what choices should be made by attorneys. Yet, only Morgan and Rotunda broach this subject²¹ and none of the books include the Supreme Court's 1983 decision in *Jones v. Barnes*, which held that attorneys have full authority to choose what arguments to make on appeal and can disregard the requests of the client in selecting arguments.²²

In addition to needing to identify the purposes of regulation, it also is necessary to consider the proper regulatory mechanism. The legal profession chooses to regulate through a detailed code of conduct combined with restrictive entry into the profession and sanctions on attorneys who fail to comply with the disciplinary standards. Do these mechanisms assure society of ethical practitioners?

There are many basic questions that can be asked about the desirability of a code of ethics. For example, codes may be undesirable because they "give a sense of complacency to professionals about their conduct";²³ attorneys may believe that they act ethically so long as they comply with the code. A code, however, provides only the minimum conduct; it does not state the highest standards that should be aspired to. A code may discourage attorneys from

21. Morgan & Rotunda spend four and a half pages on the topic of allocation of decision-making authority (at 149-53).

22. 463 U.S. 745 (1983). Morgan & Rotunda mention the cases (at 152). The case might have been decided too late for inclusion in Schwartz & Wydick, although they could have mentioned the lower court decision and the Supreme Court's grant of certiorari.

23. John Ladd, *The Quest for a Code of Professional Ethics: An Intellectual and Moral Confusion*, in Hazard & Rhode, *supra* note 7, at 98, 99.

seeking moral or ethical solutions and “can be used as a cover-up for what might be called basically ‘unethical’ or ‘irresponsible’ conduct.”²⁴

Furthermore, regulation may be used as a way to reduce competition, both from outside the profession and from other lawyers.²⁵ Regulation long was used as a way to exclude minorities, especially blacks and Jews, from the profession.²⁶ The prohibitions against advertising and solicitation served to create entry barriers to newcomers, particularly immigrants. The increased requirements for admission to the bar, such as mandatory attendance at college and law school, arose from the same desire to exclude immigrants, especially Jews. As a way to exclude blacks, some states required that individuals seeking admission to the bar receive endorsement from practicing attorneys.²⁷

The point is that studying the legal profession requires careful attention to the history of professional regulation and scrutiny of the current codes to discover whether they enhance ethics or simply protect profits. Traditional legal ethics courses, as represented by these three casebooks, are inadequate because they ignore this history and these issues.

Paradoxically, although the books uncritically assume the need for professional regulation and the inadequacy of the market, they also assume that the market is the appropriate way to allocate the delivery of legal services. Derek Bok has observed that the majority of legal talent goes to provide services for a small minority of wealthy clients.²⁸ Given the importance of legal services in protecting rights, is market allocation best? Although the casebooks examine some of the ethical issues facing legal services attorneys, they omit any discussion about the allocation of legal talent. For example, should attorneys be required to perform pro bono service; should specialization be encouraged and licensed; should government regulate the areas in which attorneys practice? In addition to preparing students for the problems they will face in practice, a course in professional responsibility should encourage students to think about basic questions concerning the regulation of the bar and the delivery of legal services to the public. None of the books do that.

Conclusion

Much of the public regards the phrase “legal ethics” as an oxymoron, a phrase at least as internally contradictory as “military intelligence.” Although all law students are required to take a professional responsibility course, judging from these texts, relatively little thought seems to have been given to what such courses should accomplish. They seem to be like many

24. *Id.* at 99.

25. E.g., rules on unauthorized practice of law and the prohibitions against attorney advertising and solicitation can be viewed as anticompetitive restrictions.

26. See Auerbach, *supra* note 8.

27. *Id.*

28. Derek C. Bok, A Flawed System of Law Practice and Training, 33 J. Legal Educ. 570 (1983).

courses based on detailed codes: focusing on plodding consideration of the application of specific provisions.

I believe there is little justification for such a course. Unlike the tax code, the codes of professional responsibility are easily accessible to the students. A semester teaching “the code” has an enormous opportunity cost. A legal ethics course is a chance to force students to think about whether it is possible to be moral and an attorney. It is a time for students to consider what they want to do with their professional careers. It is an opportunity to challenge students to think about the conflicting responsibilities they will face.

A legal ethics course can, and should, be one of the most exciting and stimulating—and troubling—courses a student takes in law school. It need not preach answers, just raise important questions. The three casebooks I have considered forgo these rich opportunities. To the extent that they reflect current approaches to teaching professional responsibility, they reveal a form of pedagogy with little merit.

