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New ethics class gives law students more realistic dilemmas

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Like many law students, Brad Humphreys, JD'09, was not eager to take his ethics class, a requirement at all American Bar Association-accredited law schools.

Although the underlying subject is important, in the past such classes have often failed to spark useful discussions.

"People go into it with a certain amount of dread," Humphreys said. "The concern is that the class won't represent what actually happens in practice."

But Humphreys, who soon will begin a clerkship with Judge Pamela Ann Rymer of the 9th Circuit Court of Appeals, was pleasantly surprised by the Law School's revamped ethics seminar, "Legal Profession: Shades of Gray," which launched last fall. The class, an alternative to standard ethics offerings, uses engaging techniques such as having students act out roles drawn from real-life ethical dilemmas.

"It speaks well for the University of Chicago Law School to take something mandatory and experiment with ways to keep it lively and to prevent it from getting stale," said Humphreys.

David Zarfes, Associate Dean of Corporate & Legal Affairs and Schwartz Lecturer at the Law School, led the effort to transform the seminar, something few other schools have tried. Several have already called Zarfes to inquire about the class' format and success.

"For too many law students around the country, the study of Professional Responsibility is undertaken without interest, certainly without passion, but simply as a means to satisfying graduation requirements — in some cases, perhaps, with the hope of getting a leg up on preparing for the MPRE," said Zarfes.

The MPRE, or Multistate Professional Responsibility Examination, is a multiple-choice test on established ethical standards. Passing the exam is required in all but four U.S. jurisdictions to obtain a license to practice law.

The Law School has never sought to teach directly to the MPRE—preferring more thought-provoking course work than basic black-letter law. But the new format of the ethics class strives to be practical while stimulating students' curiosity.

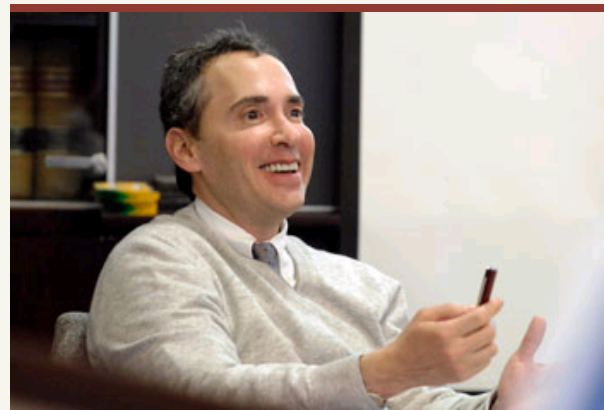
"The ethics class is approached by most students and perhaps even some law schools as a necessary evil," said Zarfes. "Professional responsibility' or 'legal ethics' is often then reduced to simple 'Thou shalt not' catch phrases—with stealing, lying, destroying documents and creating or appearing to create conflicts of interest the principal headlines."

Perhaps it is no surprise that lawyers, even a few well-intentioned ones, find themselves in ethical quandaries sometimes resulting in public shaming, loss of livelihood and imprisonment when confronting more nuanced "real-world" situations.

Certainly, lawyers can always turn to law casebooks for guidance, and the *Model Rules of Professional Conduct*, a guidebook that the American Bar Association created, also helps with concise rules and commentary. Yet there are always attorneys on the sidelines or even at the center of corporate scandals destined for Wikipedia infamy—think "HP," "Enron," or "Madoff."

To help better prepare University of Chicago law students, Zarfes convened a group of experienced practitioners, including alumni, on an ethics planning committee to develop a case-based ethics seminar. It is built around the idea that ethical problems should be viewed, at least in part, from a client's vantage point.

The new class starts traditionally—reviewing and interpreting standards of conduct and



David Zarfes, Associate Dean of Corporate & Legal Affairs and Schwartz Lecturer at the Law School, helped revamp a required ethics class into a lively, engaging seminar titled "Legal Profession: Shades of Gray."

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learning useful tools. From there, though, the class turns to real-life examples. Some weeks, the students write responses to the case studies for discussion, and other weeks they act out different roles in class—freeze-framing at particular moments for discussion. Zarfes, who spent many years as general counsel of a multinational company, says that he always strives to present students with what he calls “turning-point moments,” decisions which set a lawyer on a right or wrong path.

“I don’t think there is any question that students learn more, and want to learn more, when the ethical rules are taught in the context of real situations that confront lawyers in the everyday practice of law,” said Sheila Finnegan, JD’86, a member of the ethics planning committee and a civil litigation partner at Mayer Brown. “There is nothing like a true story of a lawyer getting disbarred and fired from his firm to pique a student’s interest in learning what went wrong.”

Committee members reviewed a number of casebooks that could supplement class discussion. Yet they opted to rely upon their own practice-based materials, the *Model Rules*, and various formal ethics opinions for the immediacy and realism they provide. In some cases they also invited to class the attorney who had prepared (or faced) the particular ethical dilemma.

“The hypotheticals that the planning committee crafted often involved gray areas where there were not necessarily right and wrong answers, just as in real life,” said Finnegan, who led some of the class sessions. “I think this made the classes both more interesting and challenging. The classes that I observed or taught were quite lively. There was definitely a lot of debate and disagreement among the students. The students also posed some great questions.”

Humphreys remembers the sessions taught by practitioners like Finnegan as being a highlight of the class, particularly due to Zarfes’ role as devil’s advocate.

“Dean Zarfes tried to challenge the practitioners presenting their cases to the class. It resulted in lively discussions in what otherwise could have been a dull and preachy class,” Humphreys said.

By Sarah Galer

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