UMKC School of Law Fall Semester 2006

COURSE NAME: Ethical Issues in Family Law

COURSE NUMBER: Law 609

PROFESSOR: Glesner Fines

ESSENTIAL PRE- or COREQUISITES: Family Law, Professional Responsibility

DESIRABLE PREREQUISITES: This course will complement a range of courses and clinical work in which families are represented, such as Children and the Law, Juvenile Offenders and the Law, Family Law Practice, Estate Planning and Drafting, Child & Family Services Clinic, etc.

COURSE BOOKS: Glesner Fines & Hammer, Ethical Issues in the Representation of Children and Families (Draft text materials will be distributed electronically).

METHOD OF GRADING & APPRAISAL OF STUDENT FOR GRADE: This course meets five times during the semester for 2 ½ hours. (During Fall 2005, the course meeting dates will be: August 26, September 16, September 30, October 14 and November 18).

This course will be graded on a pass-fail basis. Students must prepare for, attend and actively participate in all five class sessions and complete one short out-of-class assignment for each class session. If a student must be absent from a class due to medical or family emergencies, he or she will be expected to schedule meeting with the instructor and complete additional assignments to make up the missed session.

SUMMARY DESCRIPTION OF COURSE:
This course will examine selected ethical issues in the representation of families (including representation in estate planning, divorce, custody, abuse & neglect and juvenile cases). Students will opportunities for practice of practical skills to address common problems and discussion of perspectives on key controversial issues. Since the course will be offered concurrently for CLE credit, practicing attorneys will be participating in these exercises and discussions.

COURSE CONTENT:
Session One: Competency in Family Representation
1) Common problems in family representation
2) The need for cross-disciplinary training
   a) Types of expertise required
   b) Locating and working with other professionals
      i) Ethical constraints on multi-disciplinary practice
      ii) Practical roadblocks to cross-disciplinary practice
3) Counseling and the Client in Crisis
   a) What we know about counseling in the lawyer’s office
   b) What we know about counseling from other professions -- Therapeutic Models
c) Special problems of counseling
   i) Clients with Diminished Capacity: Emotional distress
   ii) Juveniles
   iii) Elders

Session Two: Roles and Responsibilities
1) The basic rules
   a) Identifying the client
   b) Determining the scope of representation
   c) Allocating control of decision-making
2) Special problems of role and responsibility
   a) Representing the parents in custody disputes
   b) Representing the child: the role of the guardian ad litem
   c) The children in estate planning – the entity theory of family representation

Session Three: Special Requirements of Dispute Resolution Settings
1) The Adversary Ethic and Representation of Families
2) Counseling and planning
3) “Collaborative Law” and negotiations
4) Mediation
   a) Ethical duties of attorneys
   b) Ethical duties of mediators

Session Four: Selected Issues of Confidentiality and Conflict of interests
1) Confidentiality Issues
   a) Should family law attorneys be mandated reporters for child abuse?
   b) Should estate planning attorneys insist on communication with the family of estate plans?
2) Conflicts Issues: When, if ever, is joint representation appropriate?
   a) Joint wills or estate plans?
   b) The “Friendly Divorce”?
   c) Representing sibling groups?

Session Five: Business Matters
1) Fees
   a) Restrictions on fee agreements
      i) No contingent fees in divorce
      ii) No drafting wills in which attorney is beneficiary
   b) Best practices in communicating fees
2) Communication & Documentation: Best Practices
3) The future of family law representation
   a) Unauthorized practice
   b) Unbundling of legal services

RELEVANCY OF COURSE FOR CAREER PURPOSES: Extremely valuable experience for students interested in a career in family or juvenile law.