

**PROFESSIONAL RESPONSIBILITY FINAL EXAM  
TAKE-HOME QUESTION**

Professor Simon

Spring 2006

**INSTRUCTIONS**

A. General

1. This question will constitute 1/3 of your final exam grade.
2. You must bring your answer with you to the in-class portion of the final exam and turn it in with your bluebook.

B. Format

1. Your answer must be typed. Type on only one side of a page.
2. You are limited to a total of 900 words (roughly three pages). You will be penalized if you exceed this limit so please be sure to use the “word count” feature of your word processing program.
3. With these word limitations, you must take time to organize your answer. On the take-home portion of the examination, I am expecting higher quality answers than I would expect in an in-class examination. I am looking to see how well you **organize and analyze** the issues raised in the question. You will get little credit for simply stating conclusions.
4. Your answer should be double-spaced. Use 8 x 11 paper. Use 1.5 inch left margins. All other margins should be 1 inch. Use 12 point Times New Roman, Courier, or Century font.
5. Put your exam number on the top of each typewritten page you turn in. Place a page number on the bottom of each page you turn in. The page numbers may be handwritten.

C. Honor Code Issues

1. The Pierce Law School Honor Code applies to this examination. You are to work alone. You may consult your notes, books or any other material, but you are not to talk to or work with anyone else. If you compose your exam in the library or computer center, please do not put drafts of your answers in the recycle boxes.

2. You are to rely solely on the materials you used for the course and are **not to do any additional legal research** on this question once the question has been made available.

3. I believe there are important educational benefits to using a take-home for this type of question. I know this can increase the temptation to improperly collaborate, especially with students under the stress of the exam period. Please do not jeopardize your future by violating the Honor Code on this exam.

4. Your submission of an answer will be deemed to certify your compliance with sections B (2), C (1), and (C)(2) above.

D. Question (75 Points)

For almost 25 years, Katherine Smith has been an attorney with Acme Corporation, the largest company in Our State. She shares office space with Jim Crane, another attorney who graduated from law school ten months ago. They have been working together in the contracting department of the General Counsel's Office (GC) since Jim was hired.

Katherine has been very helpful to Jim during his transition to the real world. In addition to the informal training that experienced lawyers often perform, Katherine has gone the "extra mile" for Jim. For example, when Jim was reviewing his first construction contract, Katherine agreed to take it home over the weekend and check his work. She found a very serious error and helped him correct it. His work on this contract led to praise from the GC and greater responsibility. Had he approved the contract as originally drafted, the corporation could have lost a significant amount of money.

Though Katherine is quite a bit older than Jim and is married with one child, she and Jim have become quite friendly. Jim, who grew up in California, has spent several holidays with Katherine and her family. A former college baseball player, Jim has agreed to coach her son's Babe Ruth League baseball team this spring.

Katherine has had a lifelong dream to visit Hawaii. She learned in November of a conference in Hawaii on a new statute that would likely be very important to her work. She applied to the GC to attend. Her request was denied. Katherine was angry and felt she deserved this trip. She had not had a promotion in quite some time and believed the refusal to let her go to an important conference showed that the new GC did not value her work.

She was complaining over lunch about this to another colleague who suggested that if she could get on a panel, the GC would have to allow her to go since the GC recently allowed another lawyer to go to a distant conference for that reason. Katherine in early December renewed her request indicating that she would be a panelist at the conference. Based on this, the GC approved the trip. Katherine went and had the time of her life. However, in reality she had not been selected for any panel at the conference.

When she returned, the GC requested a copy of the conference brochure to keep in his internal files. Katherine indicated that she did not retain it. The GC then went to the conference website and could not find her name on the presenter list. When the GC confronted Katherine, she insisted that she had been “spoken” at the conference. She did not tell the GC that her “speaking” at the session was to ask a question from the floor.

The GC a week later after calling the conference sponsor to get the updated presenter list again confronted her. Cornered, she admitted that she had not been on a panel. She was subsequently fired. Jim, in whom she had confided all these details, was saddened to see her leave, continued to see Katherine socially and was given her position.

Katherine, believing that no company would hire her with this past work history started a small practice, which she ran from her home. She focused on transactional work. Initially, business was slow for many months. This caused problems with the family’s finances. About a year after she left Acme, one of her first clients filed a complaint with the Attorney Discipline Office (ADO) charging her with gross negligence and alleging that she had improperly taken client funds from her Trust Account. The ADO found probable cause and filed charges. Katherine later was disbarred for improper trust fund accounting and improper use of client funds.

During its investigation, the ADO learned of her prior problems at Acme. The ADO investigator interviewed the GC and Jim. It decided to charge each with a violation of the Rules of Professional Conduct for failing to report Katherine’s actions at Acme. These charges, especially as applied to Jim, have caused some controversy within the Bar.

You are the incoming Bar President. The Bar Newsletter asks you to write an article addressing **two issues** raised by Jim’s charge. Specifically, the editors want you first to comment on whether, in your opinion, the charges are justified under existing rules. Regardless of whether you think the charges against Jim will be sustained, the editors believe the case has caused controversy about the legitimacy and scope of the reporting duty. Thus, they also want you to comment on whether lawyers should have a duty to report. They ask you to provide detailed reasoning to support your conclusion.

You are to write an “op. ed” (opinion editorial) piece. This is the type of article found on the editorial pages of most newspapers expressing the opinions of various commentators on the issues of the day. Though these articles are opinion pieces, you will need to use careful reasoning to support whatever conclusion you reach. Credit will be given for reasoned reflection. Credit will not be given for mere conclusory observations.

E. Have a good summer, and thanks for an enjoyable semester.