

McGuireWoods Ethics Programs

The attached chart describes materials for ethics programs prepared by McGuireWoods partner Tom Spahn.

The entry for each program includes the following information: title; a "blurb" describing what the program covers; the hypotheticals that can be used for the program; a separate document that repeats the hypotheticals and provides the analyses (based on the ABA Model Rules, but including state rules where appropriate); the number of hypotheticals in the program; the date the materials were last updated. The "notebook" reference is primarily internal to McGuireWoods.

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We welcome corrections, suggestions, disagreements, or questions.

MCGUIREWOODS ETHICS PROGRAMS

(I) GENERAL INTEREST					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Blurb/Comments
(I)(A)	Ethics Issues Facing Corporate Counsel: Part I (Identifying the Client) <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (185 pages) 	80728251 8281771 8103470	10	8/26/16	This interactive program uses hypotheticals to explore the most basic question that all corporate in-house and outside lawyers must answer: exactly who is the "client"? Among other things, the program will discuss: (1) who is the corporate lawyer's client within the corporate entity, and whether lawyers can be retained by a constituent such as an Audit Committee or group of independent directors; (2) who is the client within a corporate family, whether outside lawyers can be adverse to one corporate family member while simultaneously representing another on an unrelated matter, and whether in-house lawyers automatically represent their corporate employer's affiliates; (3) the impact of client identity in corporate transactions, including ownership of the attorney-client relationship (and the accompanying privilege) in stock and asset sales, and the effect of joint representations in selling or spinning off subsidiaries; (4) whether corporate in-house and outside lawyers can also represent corporate employees, the implications of such representations, and how to avoid accidentally creating such representations; (5) whether corporations' shareholders must ever be considered the corporate lawyers' "clients," including the fiduciary exception's application.
(I)(B)	Ethics Issues Facing Corporate Counsel: Part II (Hiring for the Law Department and Preserving Confidences) <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (165 pages) 	85993784 90428636 81662704	28	4/25/17	This interactive program uses hypotheticals to explore conflicts of interests principles facing in-house lawyers, and their duty to preserve their corporate clients' confidences, including: (1) the conflicts risks of hiring lawyers and non-lawyers (such as disqualification principles' application to law departments and "secondment" arrangements); (2) in-house lawyers' personal conflicts; and (3) in-house lawyers' duty to protect their client's confidences by maximizing attorney-client privilege and work product protection for intra-corporate communications and when dealing with third parties.

(I) GENERAL INTEREST (CONT'D)					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Blurb/Comments
(I)(C)	The Ethics of E-Mail and Social Media: A Top Ten List <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (469 pages) 	3327543 6553426 6312230	38	5/9/17	This interactive program uses hypotheticals to explore the unique and quickly evolving issues involving the widespread use of electronic communications such as email and social media, including: (1) creation of the attorney-client relationship (including the effect of an unsolicited email from a prospective client); (2) communications with clients (including the ethical propriety of using unencrypted email, and the effect of clients asking someone to print off their emails); (3) communications within a corporate client (including courts' analysis of intra-corporate communications, the effect of widespread intra-corporate circulation, document creation, and whether a corporation's lawyer can read an adverse employee's personal privileged communications found on company servers); (4) communications with adversaries (including use of "reply to all" when communicating to an adversary, the responsibilities of lawyers receiving inadvertently transmitted communications, and metadata); (5) working with others (including working with service providers and outsourcing of discovery work); (6) discovery (including searches of adverse parties' and witnesses' social media, and the privilege effect of an inadvertent production of a privileged document); (7) jurors (including jurors' independent Internet research); (8) judges (including judges' independent Internet research and "friending" of lawyers); (9) end of the attorney-client relationship (including the effect of marketing); (10) marketing (including the marketing rules' application to "blogs," and bars' characterization of the intrusiveness of electronic marketing).

(I) GENERAL INTEREST (CONT'D)					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Blurb/Comments
(I)(D)	Civil Rights and Diversity: Ethics Issues <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (277 pages) 	61292107 62865285 56718623	28	3/16/15	This interactive program uses hypotheticals to explore numerous ethics issues facing lawyers advocating for civil rights and diversity. Among other things, the program will address: dealing with other lawyers' bigoted misconduct (in law firms and other contexts); lawyers marketing their involvement in civil rights and diversity matters; dealing with clients (including how to deal with clients' direction to pursue offensive conduct, public policy disagreements with clients and representing unpopular clients); civil rights/diversity lawyers' public communications about their cases and about judges; litigation issues (including ghostwriting pleadings); discovery issues (including the ethical propriety of deceptive conduct designed to uncover discrimination); dealing with courts (including challenging court orders and existing law); judicial ethics (including judges' involvement with discriminatory organizations, and judicial bias).
(I)(E)	Artificial Intelligence: Ethics Issues <ul style="list-style-type: none"> • Blurb • Outline (287 pages) 	88274893 88951932		6/2/17	This program explores the ethics implications of relying on artificial intelligence to provide or assist in providing legal advice. First, the program will cover general issues, including: unauthorized practice of law and multijurisdictional rules' application; lawyers' duty of competence; the conflicts of interest, fee/expense, privilege and work product implications of lawyers working with third party AI providers or consultants; lawyers' ability to limit their liability; discoverability and ownership of AI material. Second, the program will address AI issues transactional lawyer may face, including: ethics rules governing lawyers' reaction to transactional adversaries' AI - induced substantive mistakes or typographical errors; ownership of AI material after corporate transactions. Third, the program will cover AI issues litigators may face, including: bars' and courts' handling of ghostwritten pleadings; AI use in discovery, jury selection and judge assessment; lawyers' duty to disclose AI -compiled bad facts and bad law.

(I) GENERAL INTEREST (CONT'D)					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Blurb/Comments
I (F)	The Attorney-Client Privilege and the Work Product Doctrine: Basic Principles and 2018 Developments and Trends <ul style="list-style-type: none"> • Blurb • A Practitioner's Summary Guide to the Attorney-Client Privilege and the Work Product Doctrine (306 pages) • Key Attorney-Client Privilege Issues: Recent Caselaw (108 pages) 	67235805 46499708 92601708		12/28/15 12/5/13 8/5/17	This program will explore perhaps the most important legal doctrine all lawyers should understand -- the attorney client privilege. The program will also address the separate but related work product doctrine protection. With both protections, the program will include up-to-date case law. The program will explore ten topics: (1) how to determine which attorney-client privilege and work product law will apply; (2) clients' nearly universal misunderstanding of the privilege's applicability, and the key legal advice component; (3) privilege protection in the corporate setting (including the danger of widespread intracorporate communications, beyond those with a "need to know"); (4) sources of proof courts examine in analyzing privilege protection, and practical steps for maximizing the protection; (5) basic work product principles (including the "litigation," "anticipation," and "motivation" elements); (6) identifying who is outside privilege protection, including clients' and lawyers' agent/consultants; (7) privilege waiver (including implied, "at issue" and subject matter waivers); (8) joint defense/common interest agreements (highlighting their unpredictability); (9) work product waiver, which dramatically differs from privilege waiver; (10) privilege and work product issues arising before, during and after internal corporate investigations.

(II) LEGAL PROFESSION					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Blurb/Comments
II(A)	UPL, MDP and MJP (Defining What Lawyers Do and Where They Can Do It): Part I <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (205 pages) 	36276053 37771179 35950817	25	12/17/12	This interactive program uses hypotheticals to explore several basic issues involving the legal profession, including: which governmental branch defines the practice of law and enforces unauthorized practice of law restrictions; what is the definition of "practicing law," and what exceptions apply; do self-helps books and online services such as LegalZoom® constitute the "practice of law"; where is the line drawn between permissible and impermissible actions by paralegals; what activities can disbarred or suspended lawyers engage in without violating the law; whether lawyers should be allowed to employ or partner with non-lawyers in providing legal services or non-legal services; whether non-lawyers should be allowed to own a minority or majority interest in a law firm.
II(B)	UPL, MDP and MJP (Defining What Lawyers Do and Where They Can Do It): Part II <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (251 pages) 	36276274 46225034 35951124	26	2/21/17	This interactive program uses hypotheticals to explore lawyers practicing law in states where they are not licensed, including: the effect of lawyers practicing law in states where they are not licensed; the permissibility of lawyers giving advice about the law of states where they are not licensed; the ability to practice "virtually" in other states; litigators' ability to be admitted in another state's courts; permissible temporary practice by lawyers in states where they are not licensed (in both the litigation and the transactional context); the rules governing lawyers moving permanently to another state; the ability of lawyers not licensed in the state where they practice to represent clients before federal agencies, in federal court and in matters involving federal law; limitations on in-house lawyers practicing in states where they are not licensed; the ability of foreign lawyers to practice in the U.S.

(II) LEGAL PROFESSION (CONT'D)					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Blurb/Comments
(II)(C)	Ethics Issues Facing In-House Lawyers Who Represent Companies in Joint Ventures <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (171 pages) 	61291886 39680368 39772178	7	6/11/12	This interactive program uses hypotheticals to explore the subtle and often counterintuitive ethics and attorney-client privilege principles applicable to lawyers representing joint ventures. Among other things, the program will focus on: the basic ethics and privilege principles applying to lawyers who represent joint ventures; the danger of waiving privilege protection during negotiations over creating joint ventures; the possibility of common interest agreements avoiding privilege waiver; the effect of lawyers representing a member of the joint venture and the joint venture itself; the effect of adversity between joint venture members; the conflicts and privilege ramifications of contract (rather than entity) joint ventures.
(II)(D)	Lawyer Marketing: An Ethics Guide <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (327 pages) 	2506476 10062045 9723312	34	2/8/18	This interactive program uses hypotheticals to explore various topics involved in lawyer marketing, including: the standards for judging lawyer marketing (including constitutional issues and the reach of a state's ethics rules); the rules governing content (including self-laudatory and unverifiable claims, testimonials and endorsements); law firm marketing issues (including web sites and law firm names); individual lawyer marketing issues (including areas of practice, inclusion in honorary lists and descriptions of past successes); direct mail marketing; solicitation (including in-person and electronic solicitation); the use of new technology in lawyer marketing.
(II)(E)	Law Firm Break Up <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (383 pages) 	59662878 63130904 63130302	30	12/22/15	This interactive program uses hypotheticals to explore ethics issues that can arise before, during and after law firm breakups. Among other things, the program will cover: permissible and impermissible steps by lawyers who are thinking of leaving their law firm, and by the law firms they are leaving; the ethics rules governing the hiring of lawyers and staff, including the risk of imputed disqualification; trust account rules; ownership of client files; ethics rules that new law firms might face (including fee splitting, law firm names, limits on solicitation and marketing efforts).

(II) LEGAL PROFESSION (CONT'D)					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Blurb/Comments
(II)(F)	The Ethics of Billing and Collecting Fees and Expenses <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (___ pages) 				In progress.
(II)(G)	An Ethics Guide to Hiring Lawyers and Others <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (___ pages) 				In progress.
(II)(H)	Professionalism for the Ethical Lawyer <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (88 pages) 	89729569 29084304 29084419	30	5/31/18	This interactive program uses hypotheticals to explore lawyers' balancing of their laudable desire to act professionally and their ethics duty to diligently serve their clients. Among other things, the program will address issues facing all lawyers (including the duty to supervise other lawyers, avoiding discrimination and bigotry, withdrawal in the face of clients' desire to pursue offensive conduct); issues primarily facing litigators (including the timing of filing pleadings and scheduling hearings, dealing with courts and their personnel, and offering evidence); issues primarily facing transactional lawyers (including collaborative lawyering, dealing with discourteous opponents, and reacting to adversaries' errors).

(II) LEGAL PROFESSION (CONT'D)					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Blurb/Comments
(II)(I)	A Basic Guide for Paralegals and Other Professional Colleagues: Ethics, Confidentiality and Privilege <ul style="list-style-type: none"> • Blurb • Guide (137 pages) 	2647201 2574548		1/2/15	This program covers topics that are important to every paralegal, including: the source of ethics guidance for paralegals; how to avoid the unauthorized practice of law; the importance of preserving confidentiality, and the risks of disclosure; how the attorney-client privilege and work-product doctrine apply in special ways to paralegals (including practical tips for maximizing the protections for paralegals and their employers); conflicts of interest principles applicable to paralegals (including paralegals switching jobs); and other issues.

(III) CONFIDENTIALITY					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Blurb/Comments
(III)(A)	Confidentiality: Part I (Strength and Scope of the Duty) <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (192 pages) 	53454556 54486329 6693340	15	6/2/15	This interactive program uses hypotheticals to explore one of our profession's core duties -- maintaining client confidences. Among other things, the program will address: the strength of the duty; the source, timing and content of information lawyers must keep confidential (for instance, does the duty cover information in the public record, or the disclosure of which would not harm the client?); comparison with the attorney-client privilege; when the confidentiality duty begins (in the context of unsolicited emails and interviews with prospective clients); when the duty ends; what steps lawyers must take to protect client confidences, especially in the context of electronic communications.
(III)(B)	Confidentiality: Part II (Exceptions to the Duty) <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (457 pages) • Attachments to H&As 	63102380 64057668 6693591 64098964	36	1/27/15	This interactive program uses hypotheticals to explore exceptions to lawyers' confidentiality duty. Among other things, the program will address lawyers disclosing client confidential information: in the context of joint representations and common interest agreements; when complying with laws or court orders; in clearing conflicts of interest on a daily basis and when hiring laterals; when defending themselves from clients' and non-clients' claims or criticism; in seeking to collect their fees or withdraw as counsel of record.
(III)(C)	Confidentiality: Part III (Non-Clients' Misunderstanding and Mistakes) <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (201 pages) 	73734026 77254330 65829543	21	4/13/16	This interactive program uses hypotheticals to explore lawyers' confidentiality and disclosure duties in the context of non-clients' misunderstanding and mistakes. Among other things, the program will address: the difference between ethics and professionalism; dealing with unrepresented persons who may misunderstand a lawyer's role; negotiation ethics (including adversaries' factual or legal misunderstanding, substantive mistakes or scrivener's errors); litigators' disclosure duties in the face of litigation adversaries' or courts' misunderstanding, mistakes, or scrivener's errors.

(III) CONFIDENTIALITY (CONT'D)					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Blurb/Comments
(III)(D)	Confidentiality: Part IV (Non-Clients' Misconduct) <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (391 pages) 	73734127 87023808 65833122	23	2/8/17	This interactive program uses hypotheticals to explore lawyers' confidentiality and disclosure duties in the context of non-clients' misconduct, including: determining what state's ethics rules apply; lawyers' possible duty to disclose non-clients' felonies or child abuse; corporate lawyers' "reporting up" employee misconduct; friendly and adverse non-clients' false testimony; lawyers' duty to report other lawyers' misconduct (including lawyers subject to the duty, whom they must report, the reporting duty's standards and timing, and the role of lawyers' confidentiality duty).
(III)(E)	Confidentiality: Part V (Clients' Past and Ongoing Misconduct) <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (424 pages) 	73734552 98360104 66693427	15	12/20/17	This interactive program uses hypotheticals to explore lawyers' confidentiality and disclosure duties in the context of clients' past or ongoing misconduct. Among other things, the program will address: lawyers' possible duty to disclose clients' past fraud on tribunals, or past misconduct in non-corporate and corporate settings; distinguishing between past and ongoing client misconduct (including fugitive clients); client crimes' fruits and instrumentalities; lawyers' silence which causes victim families' anguish, or allows a wrongly convicted person to remain incarcerated.
(III)(F)	Confidentiality: Part VI (Clients' Future Misconduct) <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (___ pages) 				In progress.

(IV) CONFLICTS OF INTEREST					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Blurb Comments
(IV)(A)	Basic Conflicts of Interest Rules: Part I <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (340 pages) 	2599134 10486694 6426237	39	8/25/14	This interactive program uses hypotheticals to explore basic conflicts of interest rules, including: the general rule governing adversity to current clients; conflicts arising in the course of a representation as the result of the client's or the lawyer's actions; the definition of "client" for conflicts purposes (including corporations, associations, estates and others); the definition of "adversity" for conflicts purposes (including business adversity, adverse financial impact, discovery of clients and positional adversity); the complex rules governing joint representations (including joint representations in the corporate setting, during estate administration, in transactional contexts, and elsewhere).
(IV)(B)	Basic Conflicts of Interest Rules: Part II <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (124 pages) 	6581262 10487046 6426308	27	9/26/12	This interactive program uses hypotheticals to explore basic conflicts of interest rules, including: the general rule governing adversity to former clients; determining the status of an attorney-client relationship; application of the information-based conflicts analysis governing adversity to former clients (including the duration of the earlier representation, how long ago it occurred, and the meaning of the "substantial relationship"); a lawyer's ability to withdraw from a representation to cure a conflict (including the "hot potato" rule); the type of consents that can cure a conflict (including which consents are required, the process for obtaining valid consents, the revocability of consents, and prospective consents); courts' approach to disqualification motions based on conflicts of interest.
(IV)(C)	Basic Conflicts of Interest Rules: Key Issues <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (262 pages) 	35674192 38159429 73965944	35	07/20/16	This interactive program uses hypotheticals to explore basic conflicts of interest rules, including: the general rule governing adversity to current clients; the definition of "client" for conflicts purposes (including corporations, associations, estates and others); the definition of "adversity" for conflicts purposes (including business adversity, adverse financial impact, discovery of clients and positional adversity); the complex rules governing joint representations; the general rule governing adversity to former clients; determining the status of an attorney client relationship; application of the "substantial relationship" standard; a lawyer's ability to withdraw from a representation to cure a conflict (including the "hot potato" rule); the type of consents that can cure a conflict (including the revocability of consents and prospective consents); courts' approach to disqualification motions based on conflicts of interest.

(IV) CONFLICTS OF INTEREST (CONT'D)					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Blurb Comments
(IV)(D)	Identifying the Client <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (269 pages) 	61291982 59405352 59405100	20	8/11/14	This interactive program uses hypotheticals to explore one of the most basic yet often confusing questions that lawyers face who is the client? First, the program explores client identification outside a corporate setting, including identifying the client context of partnerships, government entities, associations, insureds and insurance companies, estate and bond work. Second, the program discusses joint representations, including ethics issues involved in their creation, the immediately understood loyalty issues involving possible adversity among joint clients, the often-overlooked "information flow" duties in the absence of an agreement, under an agreement that the lawyer will keep each joint client's secrets from the other, and under a "no secrets" agreement; the privilege ramifications of a later dispute among jointly represented clients. Third, the program will explore identifying the "client" in a corporate setting, including within a corporate entity, within a closely held corporate entity, when dealing with corporate employees; within a corporate family, as a result of corporate transactions and in a joint representation arrangement.
(IV)(E)	Conflicts Between Lawyers and Their Clients: Part I <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (161 pages) 	2633236 2640374 2633034	25	12/4/14	This interactive program uses hypotheticals to explore situations in which lawyers' interests might conflict with their clients' interests, including: the applicability of ethics rules to lawyers' non-legal activities; doing business with clients; accepting gifts from clients; lawyers' other duties to clients (such as serving on client boards of directors or as public officials); lawyers' relationships with other lawyers (friendships and family relationships); lawyers' other personal interests (such as in-house lawyers' wrongful termination claims, and disagreements about public policy matters); and lawyers' romantic and sexual relationships with clients.

(IV) CONFLICTS OF INTEREST (CONT'D)					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Blurb/Comments
(IV)(F)	Conflicts Between Lawyers and Their Clients: Part II <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (243 pages) 	2531394 3489431 3585340	30	8/6/15	This interactive program uses hypotheticals to explore situations in which lawyers' interests might conflict with their clients' interests, including: lawyers' agreements to limit their practice, in partnership agreement non-competes, or in litigation settlements; lawyers selling their practice; lawyers limiting their liability to clients or resolving clients' claims (including agreements to arbitrate fee and malpractice disputes); lawyers' duties to former clients (including file ownership issues); non-clients' claims against lawyers.
(IV)(G)	Conflicts Between Lawyers and Their Clients: Key Issues <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (196 pages) 	35674048 36909894 35713053	22	2/3/12	<p>[This program includes some of the most interesting hypotheticals from Parts I and II of the Conflicts Between Lawyers and Their Clients program.]</p> <p>This interactive program uses hypotheticals to explore situations in which lawyers' interests might conflict with their clients' interests, including: the applicability of ethics rules to lawyers' non legal activities; doing business with clients; accepting gifts from clients; lawyers' agreements to limit their practice in partnership agreements or in litigation settlements; limiting liability to clients; clients' and non clients' claims against lawyers; lawyers' other personal interests (such as disagreements about public policy matters and sexual relationships with clients).</p>

(V) LITIGATION					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Blurb Comments
(V)(A)	Litigation Ethics: Part I (Communications) <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (245 pages) 	3591561 3646799 3638372	38	3/4/15	This interactive program uses hypotheticals to explore topics of interest to litigators (<u>and</u> transactional lawyers whose clients might face litigation), including such issues as allocating authority between client and lawyer; correctly defining the scope of the representation; duty of communication to clients; lawyer speech (including talking to the press about cases and criticizing judges); communicating ex parte with represented adversaries (such as employees of corporate adversaries, and government officials); defensive measures that corporations can take if plaintiffs' lawyers try to contact their employees; threatening adversaries with criminal or disciplinary charges during civil litigation; dealing with unrepresented adversaries, unrepresented allies and other lawyers in the litigation process.
(V)(B)	Litigation Ethics: Part II (Discovery) <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (155 pages) 	4475805 4794520 4792481	18	5/9/17	This interactive program uses hypotheticals to explore topics of interest to litigators (<u>and</u> transactional lawyers whose clients might face litigation), focusing on the ethics of pretrial discovery. The topics include: (1) aggressive and deceptive discovery tactics (including surveillance videotapes; the use of body wires; tape recording telephone calls; the use of admittedly deceptive tactics during public interest investigations such as housing discrimination tests, purely commercial investigations and government investigations); (2) discovery mistakes (including the ethical responsibilities of lawyers who receive privileged communications inadvertently sent by an adversary, electronic documents accompanied by metadata, and privileged documents during litigation).

(V) LITIGATION (CONT'D)					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Blurb Comments
(V)(C)	Litigation Ethics: Part III (Witnesses) <ul style="list-style-type: none">• Blurb• Hypotheticals• Hypotheticals and Analyses (139 pages)	4995933 5294761 5294707	24	2/25/14	This interactive program uses hypotheticals to explore ethics issues arising when lawyers deal with witnesses. The topics include: (1) dealing with fact witnesses (including the permissibility of paying fact witnesses for their time, preparing fact witnesses for testimony, and talking with fact witnesses during deposition breaks); (2) dealing with expert witnesses (including paying testifying and non-testifying experts, and ex parte communications with an adversary's expert); and (3) the "witness-advocate rule" (including the rule's rationale, the proceedings in which the rule applies, application to lawyers appearing pro se, judging the necessity for a lawyer's testimony, and permissible pre-trial and post-trial activities by disqualified lawyers).
(V)(D)	Litigation Ethics: Part IV (Claims and Settlements) <ul style="list-style-type: none">• Blurb• Hypotheticals• Hypotheticals and Analyses (169 pages)	7682930 8439575 6818552	24	4/28/15	This interactive program uses hypotheticals to explore two aspects of litigation. First, the program will focus on litigants' claims, including the ethics implications of advancing frivolous claims in civil and criminal litigation, foregoing meritorious claims, ghostwriting pleadings for pro se plaintiffs, and filing claims for which there are valid affirmative defenses. Second, the program will discuss settlements, including "collaborative" lawyering, aggregate settlements, the limits on deceptive conduct during settlement negotiations, lawyers' duties when the adversary makes a typographical error in a settlement agreement, and enforcement of settlement agreements.

(V) LITIGATION (CONT'D)					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Blurb Comments
(V)(E)	Litigation Ethics: Part V (Courts) <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (220 pages) 	10486119 11096838 4982120	30	2/20/13	This interactive program uses hypotheticals to explore: lawyers' dealings with tribunals (including the obligation to disclose unfavorable facts, unfavorable case law and unpublished case law); lawyers' courtroom and deposition behavior; judges' conflicts of interest based on personal and professional relationships with litigants and lawyers; judge selection and disqualification; judicial bias; judicial ethics based on conduct (including involvement in religious activities and discriminatory organizations); and judges' communications (about their cases, other judges' cases and public policy issues).
(V)(F)	Litigation Ethics: Key Issues <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (274 pages) 	75389374 74686976 74503065	22	5/9/17	This interactive program uses hypotheticals to explore topics of interest to litigators (and transactional lawyers whose clients might face litigation) including such issues as: (1) lawyers' communications (including talking to the press about cases and criticizing judges); (2) deceptive discovery tactics (including tape recording telephone calls, and use of admittedly deceptive tactics in public interest investigations such as housing discrimination tests, and in purely commercial investigations); (3) dealing with fact witnesses (including the permissibility of paying fact witnesses for their time, and preparing them for testimony); (4) claims (including "ghostwriting" pleadings, and filing knowingly time barred claims); (5) settlements (including acceptable levels of deception during settlement negotiations, silence about the law and facts, and the enforceability of settlement agreements); (6) dealing with courts (including the duty to disclose unfavorable facts and law).

(V) LITIGATION (CONT'D)					
Notebook	Program	Document Notebook	Number of Hypotheticals	Last Updated	Notebook
(V)(G)	Litigation Ethics: Communications, Discovery & Witnesses <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (184 pages) 	16595514 33297757 16064899	22	3/10/15	[This program includes some of the most interesting hypotheticals from Litigation Ethics: Parts I, II and III.] This interactive program uses hypotheticals to explore topics of interest to litigators (and transactional lawyers whose clients might face litigation) -- including such issues as (1) lawyers' speech (including talking to the press about cases and criticizing judges); (2) aggressive and deceptive discovery tactics (including surveillance videotapes, use of body wires, tape recording telephone calls, use of admittedly deceptive tactics during public interest investigations -- such as housing discrimination tests, purely commercial investigations, and government investigations); and (3) dealing with fact witnesses (including the permissibility of paying fact witnesses for their time, preparing fact witnesses for testimony, and talking with fact witnesses during deposition breaks).
(V)(H)	Litigation Ethics: Claims, Settlements and Courts <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (162 pages) 	31922166 38812346 31912659	18	3/14/13	[This program includes some of the most interesting hypotheticals from Litigation Ethics: Parts IV and V.] This interactive program uses hypotheticals to explore three aspects of litigation ethics. First, the program will focus on litigants' claims, including: the ethics implications of advancing frivolous factual and legal claims; lawyers' ability to "ghostwrite" pleadings for supposedly pro se litigants; and lawyers' filing of knowingly time barred claims. Second, the program will discuss settlements, including: collaborative lawyering and aggregate settlements; acceptable levels of deception during settlement negotiations; silence about the law and facts; and the enforceability of settlement agreements. Third, the program will deal with courts, including: the duty to disclose unfavorable facts and law to tribunals; judges' disqualification based on personal relationships with litigants and lawyers; lawyers' ability to manipulate the choice of judges.

(V) LITIGATION (CONT'D)					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Notebook
(V)(I)	Applying Abstract Ethics Rules in the Real World: Ex Parte Contacts and the Witness-Advocate Rule <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (252 pages) 	61291773 46543203 40367186	40	3/14/13	[This program includes two topics from litigation ethics programs: the ex parte communication topic from Litigation Ethics: Part I (Communications) and the witness-advocate topic from Litigation Ethics: Part III (Witnesses).] This interactive program uses hypotheticals to explore two seemingly simple abstract ethics rules: (1) a lawyer cannot communicate ex parte with a represented person; (2) a lawyer cannot act as both an advocate and a witness in a trial. The hypotheticals focus on the difficulty of applying such basic principles in the real world.
(V)(J)	Mediation Ethics <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (174 pages) 	65526621 64656432 64649012	32	4/20/15	This interactive program uses hypotheticals to explore ethics issues facing lawyers who act as mediators or represent clients in mediations. Among other things, the program will cover: mediators' pre-mediation obligations (including disclosure of conflicts, and unauthorized practice of law issues); lawyers' pre-mediation obligations (including multijurisdictional, collaborative lawyering, and work product issues); mediators' duties during mediations (including deception, confidentiality, unauthorized practice of law, and conflicts issues); lawyers' duties during mediations (including negotiation ethics, dealing with adversaries' substantive mistakes and scrivener's errors, privilege and work product waiver issues); mediators' post-mediation issues (including liability, conflicts, confidentiality issues, and possible duty to report child abuse and lawyers' misconduct); lawyers' post-mediation issues (including confidentiality, and settlement enforcement issues).

(V) LITIGATION (CONT'D)					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Notebook
(V)(K)	Litigation Conflicts with Non-Party Clients <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (88 pages) 	85107351 88406478 88027712	10	3/17/17	This interactive program uses hypotheticals to explore litigation conflicts other than the classic scenario involving adversity to another party. Among other things, the program will address: the definition of "adversity" to non-parties (including adverse financial impact and positional adversity); discovery and cross-examination of non-party clients (including document discovery, and cross-examination of non-party client expert witnesses working for the adversary); information-based conflicts (including those triggered by confidential communications from non-party clients and third parties); conflicts implications of lawyers' professional relationships (including lawyers' cooperation with, or representation of, an adversary's counsel on unrelated matters).

(VI) MISCELLANEOUS					
Notebook	Program	Document Number	Number of Hypotheticals	Last Updated	Blurb Comments
(VI)(A)	Ethics Issues Facing Trust and Estate Lawyers <ul style="list-style-type: none"> • Blurb • Hypotheticals • Hypotheticals and Analyses (583 pages) 	52732487 42726691 9990705	76	5/9/17	This interactive program uses hypotheticals to explore ethics issues likely to face lawyers involved in trust and estate planning and administration. Among other things, the program will focus on: defining the "clients" in multigenerational family and joint representation settings; conflicts during trust and estate planning, between clients' interests (including assisting one client in disinherit another client) and between clients and their lawyers (including dealing with impaired clients); unauthorized practice of law and multijurisdictional practice issues involved in trust and estate planning; privilege issues (including the impact of family members' and agents' participation in privileged communications); lawyers' liability to non-clients for negligent estate planning; conflicts arising during the administration process (including properly characterizing the "client" when representing an executor or trustee); privilege ownership after a decedent's death.