



Implementing Best Practices & Educating Lawyers: Teaching Skills and Professionalism Across the Curriculum

Workshop
6E

Helping Students Self-Assess Critical Skills in Light
of Professional Expectations:
A Timekeeping Exercise

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Professor Wigal has been teaching writing and appellate advocacy at the College of Law for eighteen years, and has published several articles and book chapters that relate to litigation and medical malpractice issues.

She currently serves as an officer and board member in the Association of Legal Writing Directors, a professional organization devoted to supporting legal writing teachers in leadership roles in law schools throughout the country.

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Outline of Powerpoint Presentation

*(If you would like a copy of the powerpoint program
or its supporting bibliography, please contact me by email.)*

I. Overview/Timekeeping is a Critical Skill

What do new lawyers need to know?

II. Objectives of a Timekeeping Exercise

- A. *Educating Lawyers* (Carnegie Foundation) report objectives
- B. *Best Practices for Legal Education* report objectives
- C. *Law School Survey of Student Engagement* report objectives
- D. Benefits derived from active learning
- E. Other specific objectives of the West Virginia exercise

III. Understanding Timekeeping and Fair Billing

- A. The Model Rules
- B. Law firm training
- C. The reality of practice

- D. Potential pitfalls
- E. The compensation problem
- F. The efficiency factor
 - 1. Write offs
 - 2. Realization rate
- G. Billing ethically and avoiding malpractice

IV. Knowledge of Law Firm Economics is Empowering

- A. Characteristics of a strong law firm in today's economy
- B. Making choices

V. Timesheet Strategies

- A. Who will review the timesheet and the bill?
- B. Will the timesheet persuade to pay?
- C. What does the timesheet tell me about future representation?

VI. The West Virginia Exercise

VII. What the Bar Says

See attachment

VIII. What I've Learned

See attachment

IX. What Students Said

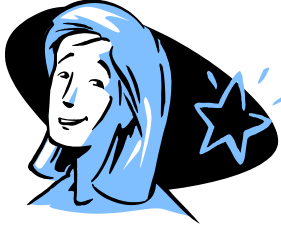
See attachment

X. Selected Bibliography (contact me for the expanded version)

What the Bar Says



1. West Virginia summer associates seem to have a good understanding of how to keep their time daily with an explicit explanation of activities. They are much better at it than most of our associates.
2. I'm glad to hear that you are conducting such a practical exercise. This should certainly help law students understand that they must learn to organize their work day.
3. We tell summer associates that we don't want them to rush through a project. They should write down every minute worked on a project, no matter how much time that might be. We tell them to let the billing partner be the one to decide how to reduce the bill.
4. We aren't interested in making money on the summer associate and want the associate to have time to learn how to work on and finish an assignment. The timekeeping they must do helps them organize, and they learn a lot about time management this way.
5. I'd have the summer associate report back on the assignment half-way through the research process – to avoid tangents. After reading the background material in secondary sources, the student should be able to bring me a general outline and I can guide in a way that can save time. After the research is complete, the outline can become more specific. I'll want to see it again when the outline is finished, but before a lot of time is invested in writing.
6. I expect a steep learning curve with each project. Each project should be completed more quickly, assuming that the later projects do not present issues of much greater difficulty.
7. A large project like this (the federal memo assigned to students) would take at least a week of effort, maybe more. We tell summer associates that it is more important to be thorough and accurate than to be efficient. Efficiency comes with more practice. I would expect around 50 hours in this project.
8. We would bill this product in the \$3,000 range.
9. I'd have an assigning meeting to work out details before the summer associate begins the assignment. We both need to have a clear idea of expectations. I'd also want the associate to meet the client.
10. We would probably have to write off 25 - 50% of the summer associate's time on this kind of project. I'd have to add my time. I would review the memo, review the supporting research, and edit the document before sharing its content with the client.
11. Summer associates often don't seem to understand that I'll have my own time invested in this product. Wow me with the document! I'd rather not bill my own time in tasks like revision, editing, and proofreading. On the other hand, I'll really knock down the associate's time if I have to do too much of the final writing and editing. I don't like having to be the clean-up crew, especially at my billable rate. Summer associates need to think in terms of saving my time and expending their own.
12. I probably wouldn't hesitate to bill this product at \$3,500, but the final bill would reflect the time I put into reviewing the project and meeting with the summer associate.
13. By the time our new associates are in their second year, we expect them to be taking much less time to finish a product. Slow producers will be counseled about improving productivity. So, efficiency is important, but not critical until the second year of practice.



What I Learned

1. Almost all students did a WONDERFUL job on the timesheets, keeping detailed daily records that justified the client's bill. One student called me this summer to say that his law firm was impressed by his timesheets. The supervising partner was going to use his timesheet in a training session for all the attorneys! The supervisor liked the student's ability to describe his work in a way that would encourage the client to pay!
2. Students worked hard on their LRRW assignments. The average for the class was 42 - 48 hours in each of the last three years. Only about 20% of students seriously underestimated the amount of time required for this difficult memo project. Those students tended to put in only about half (or even fewer) of the hours that successful students allocated to the project.
3. Approximately 20% of students put in TOO MUCH time. About half the students who logged the most hours got top grades, reinforcing the notion that students who work hardest get the best grades. But, the other half of the students who noted the most time got grades toward the bottom of the class! These students lacked organizational and time management skills, and floundered around too long trying to find focus. Although they had plenty of desire and work ethic to be successful (hence, the high number of hours), they didn't yet have the skills to be efficient or more than marginally successful. The feedback from the attorneys reinforced that they would have learning opportunities with a summer job, but they MUST correct inefficiencies quickly.
4. Most students were adept at pinpointing inefficiencies accurately, e.g., "I spun wheels in the research by reading the cases first." Or, "I spent far too much time doing final editing that resulted in only a couple of minimal word changes that really didn't matter." Thus, the exercise prompted self-identification of weak areas in the production process. Most students also identified a plan to address the weaknesses next time. E.g., from a memo to the supervisor: "Next time, I'll start with a secondary source to get the big picture first and avoid reading so many irrelevant cases at the beginning." I met with several students to discuss whether they had correctly self-identified the weaknesses; some had not and we were able to agree on a modified plan of improvement.
5. Most students were astute in assigning fair value to their work! Most reduced their bills to the \$3,000 range (the range recommended by the attorneys). They deducted time for their self-identified inefficiencies, but also realized that much of their work had real value for the client. They were proud of that value and wanted to be paid for it!
6. Most students' time was equally divided between the research and the writing process. Students who were well-organized researchers and efficient readers were able to reduce the research time. They started writing sooner. Several students got "bogged down" in research (sometimes a form of procrastination for them). During their "required meeting with the partner to go over the outline," I was able to use the timesheet to counsel about the importance of moving to the writing stage more quickly.
7. Students liked the feedback from the attorneys because it alleviated fears about having the opportunity to learn in the summer experience. It also gave them a glimpse of the "real attorney's" expectations.
8. Students were genuinely concerned about the client who doesn't have the ability to pay large sums to a lawyer. We had good discussions about how to work competently but within the client's ability to pay.
9. Students learned how courts assess statutory awards of fees. They were excited to be able to talk about their work in light of how a judge would value it.
10. I hope to "crunch numbers" during the next year to discover what a thorough statistical review of the timesheets can tell us!!

What Students Said

(2008 students)



1. “I learned I could have been more efficient had I taken more time to actually plan my research. I often blindly ‘research,’ jumping from cases to secondary resources to statutes to regulations. Now I believe I could have saved time had I adhered to the ‘Westlaw Research Pyramid.’ First I should have grasped a greater understanding of the FHAA and how it works by reading more secondary sources and noting the cases in light of the issues. After building that foundation, I should have focused on reading the statute, the regulations, and other cases. My final step would have been to Keycite or Shepardize. I realized near the end that I had been researching ‘through the backdoor’ by Shepardizing first!”
2. “Writing – this is where the fifteen-minute lapses in time really added up. I was surprised to realize that in a four hour time frame, I actually worked only three hours. I became aware that I actually do not work the entire time that I intended to work. These lapses in time can be contributed to getting distracted by such things as email, browsing the internet, getting phone calls, talking to friends in person, talking to friends on instant messenger, etc. I wouldn’t do these things in a summer job, but I learned a valuable lesson in time management. I learned that when I sit down to write, I need to disconnect the internet, turn off my phone, and find a quiet place to work.”
3. “My billable hours should reflect my lack of skill level and expertise in the area. Courts usually consider factors such as experience, reputation, and ability of the attorney in determining a reasonable number of hours and rate.”
4. “Going to the library and printing off 400 pages of cases is not a good first step. Back to square one I went. I needed a plan. Once I mastered Boolean searches, I found that I could really begin to methodically sort through the cases, and when I limited the search by circuit, then Bingo! I realized that procrastinating isn’t a problem for me, but rather the problem is developing a good research plan from the get go. Next time, I’ll start with the plan.”
5. “I tried a slightly different writing approach this time, and I think that it worked fairly well for me. In the past, I have usually compiled all my research, read everything thoroughly, and put together an outline in my head. Then I would write, starting from the beginning and going straight to the end. This time I tried sitting down and creating the rule blocks for the different issues first in a working outline like you suggested. First, I created an issue sheet for each defendant. Then I created the IRAC for each defendant, putting in the rules. Finally, I wrote the analysis for each defendant. Later, I added the QPS, BAs, and a conclusion. Doing the paper this way helped me organize quickly, but I also found the missing research quickly. The gaps in the research were obvious. I didn’t spend a lot of time wondering where to go from here! I found no negatives in this approach, so I’m going to use it again.”
6. “I look forward to writing another memo. No kidding. I can really feel myself improving each time I write.”
7. “With this assignment, I feel that I have evolved into someone more concerned about time management. Although I may have evolved from what I once was, I still believe I have some remnants of a procrastinator lurking within me. For example, looking at my timesheet I noticed that I spent the most time working on my paper the final two days before the paper was due. I realize that it may have been easier and less stressful had I spent more time on the paper throughout the semester rather than rushing to finish and edit it the last few days.”
8. “With this assignment I began to see the benefits of making an outline before I began writing the actual memo. It allowed me to see the gaps in my research or arguments. Outlining helped me generate all my thoughts before I actually began writing my memo and getting caught up in the technicalities of how I wanted to

say what I was thinking. Writing was much easier after establishing a plan.”

9. “The case law I encountered while researching suggested that ‘reasonable’ attorney’s fees are calculated ‘according to the prevailing market rates in the relevant community.’ This means that the \$5,000 bill I could submit may not be a ‘reasonable’ amount according to what more experienced attorneys would charge.”

10. “My biggest weakness is in not asking others for help. I feel bad about imposing on others. I have to learn to ask key questions at appropriate times.”

11. “The biggest thing I learned from the timesheet is that the writing isn’t really where the work lies; instead, it’s the research. I have a ton of doubts. I’m going to meet with you more next time to get help on knowing when I’m done with the research.”

12. “Next time, I’m going to keep a log of my research terms. Now I know that when I change my terms, I get different results, so I need to know what paths I’ve already taken and how each worked.”

13. “I found weaknesses in my writing process. . . . I have a tendency to research beyond what is necessary. . . . If I begin writing earlier, filling in gaps as I go, I can save time and finish assignments more efficiently. . . . I also need to develop a more thorough understanding of the questions early in my research process In other words, I need to be more aware of the recipient’s intent for my document. I went off on unnecessary tangents.”

14. “I highly recommend that our firm bill almost the entire number of hours I invested in this project because our firm stands a high probability of recovering from the defendants. However, because I spent a large portion of my time revising and editing for perfection, I recommend that our firm discount my billables by twenty percent.”

15. “I learned that the best approach is to consult the supervisor when I encounter time-consuming problems that might be answered easily by a person with experience.”

16. “Billing must be reasonable. . . . My hours probably should be reduced by half. From what I understand, big firms often reduce billing of new associates to let clients think that they are special. All the firm is really doing is billing at the rate of the reasonably competent attorney.”

17. “Another thing that I learned that surprised me was the amount of time I spent writing the document as compared to doing research. Admittedly, I tried to streamline my research with Shepards and some great secondary sources, but the time differential was over two to one in favor of writing.”

18. “I learned how meticulous I am in the process of writing and how this consumes time. The first time I write something, I want it to be good. Basically, I do not want to have to go back and fix or rework a paragraph again and again. While writing like this, I also include detailed cites, which I later might have to change.”

19. “The biggest thing I learned about research is to keep a detailed and organized list of cases that tie to an issue chart. . . . Organization is the key.”

20. “I write too slowly. Often, I find myself stuck on a page, paragraph, sentence, word, or even punctuation. I find it nearly impossible to move on without feeling extremely uncomfortable.”

21. “I learned that dissecting and mapping statutes and federal regulations, while applying them to facts, can answer many questions and save research time. Just by reading the statutes carefully, I was able to pick out words and issues I should research.”

22. "I should have made my outline from my statutes and regs. Had I done this, I believe that I would have been able to more quickly identify the gaps that needed to be filled with case research. I researched things that I did not have to research."
23. "If I had been more diligent during research and spent 30 seconds more time to accurately note my cites, I would have been able to save 5 minutes later checking the same cite."
24. "I discovered that I'm really good at rule application, but not very adept with analogy and distinction. I just don't seem to be able to get it down effectively and this takes time!"
25. "Until this point in my life, I had considered myself a fine-tuned procrastinator, a master of a skill that is traditionally considered undesirable. I have always found that working with a deadline lurking in the back of my mind created somewhat of an adrenaline-type mindset that significantly increased my productivity. However, this assignment really set me back and delivered a message that there is a difference in procrastination and ignorant laziness. I didn't have enough time to finish. I didn't do a good job for the client."
26. "I discovered that I research best using a mixed electronic and book format. I prefer to read from books and get the big picture that then allows me to go for finer details electronically. I'll keep doing this."
27. "The Westlaw and Lexis trainers do not have an incentive to teach us to do efficient on-line research. I found websites about efficient online legal research while working on this memo. From them I learned about advanced online strategies like field searching, query stacking, and use of parenthesis. I saved time this way."
28. "I learned that I procrastinate, but not in the traditional manner. I don't necessarily put things off indefinitely; rather, I work hard for three or four hours and then I get this false sense of accomplishment which I use to rationalize not working for days."
29. "I've learned that I work more efficiently by NOT doing the outline. I'm better off just writing the document in its entirety quickly so that I can focus energy on revising and editing and maybe doing more research."

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