Appendix 5-1: Role Plays

Civil Procedure I Oral Argument Role Play

The arguments will be based on the problem on the next page.

With a partner, prepare a short oral argument. You and your partner will have a total of 10 minutes for your arguments (5 minutes each). Limit your argument to specific jurisdiction. One partner should argue the contacts analysis and the other partner should argue the convenience/fairness analysis. Your arguments should focus on the applicable U.S. Supreme Court cases/analysis/policy. You may address the Fifth Circuit’s opinion in Revell if you think it is appropriate.

You and your partner will be opposed by two other students. Defendant’s lawyers argue first. Neither side gets rebuttal time.

Do not spend your time doing any research for this argument. All the law you will need is contained in the cases we covered in Unit 2B. To prepare for your argument, I recommend the following:

- Review the handout “Playing to the Bench” at pages 33–36 of the Fall, Civil Procedure I Hess Supplement.
- Review the oral argument rubric (see page three).
- Take notes and ask questions on my short lecture on oral argument.
- Observe the demonstration arguments in class on September 18 and 19.
- Outline, but don’t memorize, your argument.

Four students will argue in class on September 18 and four more on September 19. If you (or you and a partner) would like to volunteer for the in-class arguments, please email me. All other arguments will take place outside of class from September 20–23. The signup sheets for the arguments are posted on the glass case outside of classroom 143 beginning Tuesday, September 16. Be sure to sign up on the sheet for your section (2 or 3).

After you complete your argument, fill out a self-assessment on the rubric. The rubric is posted in the Handouts section of our TWEN site. Address each of the four major categories (Structure/Substance, Communication, Responding to Questions, and Overall Reflections). You do not need to address every sub-point in each category. Your assessment/reflections must not exceed the one page rubric form. Your response is due in class on Tuesday, September 30. Put your midterm exam number at the top of the rubric.

This assignment is worth ten points. You will receive ten points if you complete the argument and the rubric, including your correct midterm exam number.

Good luck!
Oral Argument Problem

Defendant, Timothy Dent, is a resident of Syracuse, New York, who does business as "mrlister." Dent operates a warehouse in Syracuse, New York. Dent sells items through internet auctions on the website www.ebay.com ("eBay"). Dent uses the Syracuse warehouse as part of the online business and lists the warehouse address as the location of his store.

Plaintiff, Maria Paz, is a resident of Portland, Oregon. Paz is an art collector, who specializes in 19th century Spanish sculpture. Paz successfully bid for sculptures in two auctions that Dent conducted through eBay. These two auctions involved the sculptures "Suzanne" and "Iguana" by artist Pedro Menna. Paz alleges that she believed she was bidding on the original artwork because the online auctions identified the sculptures as "Menna sculptures" and included close-up photographs of what appears to be the artist's signature. The auctions in question took place over several weeks, and during the auctions, Paz regularly received updates via email regarding the bidding. Paz regularly logged onto the website to monitor the progress of the auctions, and regularly participated in the auction by raising her bid. After winning both auctions, Paz and Dent exchanged several emails, to verify payment terms and shipping arrangements. Paz's emails to Dent contained her Portland, Oregon address and she arranged for Dent to ship the sculptures to that address. Paz sent a check for $7,000 to Dent's listed address in Syracuse, New York. Dent accepted this payment and cashed Paz's check.

Dent informed Paz via email that the sculptures were copies authorized by Menna, not Menna originals. Dent never shipped the sculptures, but offered, via email, Paz an apology for the misunderstanding and a full refund. Paz refused this refund and demanded the original sculptures or the fair market value of the originals, which Paz alleged to be $40,000. Paz filed this action in state court in Portland, Oregon on June 10[year] alleging Breach of Contract and Fraud. Paz requested compensatory damages of $40,000 and punitive damages of $500,000.

Paz provided printed copies of the computer screen displays from the two auctions in question. The auction screen displays information about the item up for bid, the status and progress of the auction, other bidders, the seller, the seller's rating on eBay, and the seller's shipping terms. Under the heading "Seller Information," these screen printouts identify the seller as "mrlister" and display a "Feedback Score" showing "Positive Feedback" of 99.5%, and indicating that "mrlister" has been a "Member since Sep-10-00 in United States." In addition, "mrlister" is identified as an eBay "Power Seller." This information appears to come from eBay. The "Seller Information" includes a promotion to "Visit this seller's eBay Store!" and provides a link to an "eBay store" identified as "MrLister." The "eBay store" for "MrLister" provides headings and links for "Antiques & Collectibles," "Jewelry & Watches," "Clothing Other & SPECIALS," "Computers & Electronics," and "Other." Just below this listing, the site prominently displays a "Mr. Lister" logo that includes the phrase "100% Satisfaction Guaranteed."

Dent provided an affidavit regarding his business. Over the past eight years, he has auctioned over $4,000,000 worth of merchandise on eBay via thousands of auctions. He has made "modest" profits. He has two employees; both work at the warehouse in Syracuse, NY. Dent does not advertise his business. Successful bidders have come from over 40 states, including Oregon. Dent has never been to Oregon for business or pleasure.

Dent responded to the complaint with a motion to dismiss for lack of personal jurisdiction. Neither side is arguing about subject matter jurisdiction, venue, the long-arm statute, or service of process, so do not address those issues in your oral argument.
<table>
<thead>
<tr>
<th>Civil Procedure Oral Argument Rubric</th>
<th>Midterm Exam #________</th>
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<tbody>
<tr>
<td><strong>Structure and Substance</strong></td>
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<tr>
<td>Introduction - roadmap</td>
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<td><strong>Substance</strong></td>
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<td>Law - elements</td>
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<td>Policy</td>
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<td>Application of facts</td>
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<td>Conclusion - relief requested</td>
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<tr>
<td><strong>Communication</strong></td>
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<td>Verbal</td>
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<td>Clarity</td>
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<td>Pace</td>
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<td>Passion</td>
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<td>Respectful tone</td>
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<td>Nonverbal</td>
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<td>Eye contact</td>
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<td>Posture</td>
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<td>Gestures</td>
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<td><strong>Responding to Questions</strong></td>
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<td>Listen to question</td>
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<td>Answer directly</td>
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<td>Transition to argument</td>
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<td><strong>Overall Reflections</strong></td>
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<td>What you learned</td>
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<td>Assessment of performance</td>
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<td>Value of assignment</td>
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<td>Other</td>
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Client Counseling and
Insurance Policy Analysis Exercise

For the purposes of this assignment, assume you are an associate attorney with the
law firm of Smith & Smith. Attached to this instruction sheet is a memorandum from the
senior partner in the law firm asking you to write a letter to the firm’s biggest client.

Below, I describe the rules and standards applicable to this assignment. The purposes
of this assignment are twofold and reflect the course objectives: (1) to enhance your client
counseling and legal writing skills; and (2) to continue your development of the skill of
reading and analyzing insurance policies.

1. Points available on the assignment. The assignment is worth 25% of your course
grade. There will be 100 points available on this assignment.

2. Deadline. The assignment is due at 5:30 pm on the last regular day of class,
which is Wednesday, April 21.

3. Draft feedback. You may turn in a draft of your paper one time for feedback no
later than 5:30 pm on Wednesday, April 5. I will need one week to complete such
feedback. Please submit your draft electronically and in Microsoft WORD to my
secretary, Jessica Johnson at _____________.

4. Format of paper. The attached memorandum asks you to write a letter to a
client. I expect you to use a formal letter format for your paper. You therefore
must include the date, the name of the recipient, the name of the company client
and your law firm, the job title of the recipient and the business addresses of
both the law firm and the client. Also include a line indicating the subject of the
letter (i.e., “Re: ...”). Fully justify your letter left. Do not indent paragraphs but
do skip a line between paragraphs. You must type your paper, use one inch (1”)
margins, and use Times New Roman, 12 point size font. Your paper also must
be single-spaced and no more than six pages long. I will deduct points (up to a
maximum of 10) from your score for each failure to comply with any of these
instructions.

5. Use Your Exam Number, Not Your Name. Do not place your name anywhere
on your paper. Use your exam number. Sign your letter,
Associate # _______ (insert your exam number).

6. Standards to be applied in grading the assignment. I plan to assign the follow-
ing weights to what I regard as the three aspects of this assignment: Analysis of
the Policy — 50%, Client letter-writing skill — 20%, Grammar, usage, Word
Choice, Organization, etc. — 30%. I describe each of these categories in more de-
tail below.

Analysis of the policy. I will evaluate your analysis in terms of the sophistica-
tion of your reading and explanation of the policy and degree to which your
analysis reflects an understanding of the policy and the legal authorities we have
discussed in class. The letter from your client asks you to explain the policy and
to address three issues. I will assign points to each of these four tasks based on
each task’s difficulty.
Client letter-writing skill. I will evaluate your client letter-writing skills in terms of the standards set forth in the PowerPoint slideshow posted to the course webpage.

Grammar, usage, etc. I expect to find no errors in your papers that could be caught by using the grammar and spell check features on most word processing software. Students who fail to correct such errors will receive especially heavy point deductions from their scores. I also will deduct significant points for other grammar, usage, word choice and organization errors.

7. Work alone. **YOU CANNOT WORK WITH ANY OTHER PERSON ON THIS ASSIGNMENT IN ANY WAY.** Do not discuss this assignment or your paper with anyone, including, but not limited to, any student, tutor, law professor, proofreader, attorney, friend, relative, spouse, significant other or child.

8. Library for assignment. This assignment is a closed library assignment. You may rely only on cases actually reprinted in your casebook. This assignment takes place in the fictional state of Columbia. Columbia is a new state that has not yet decided any insurance law cases. Consequently, all of the cases in your casebook are, at most, persuasive authority.

9. Examples. Attached to this document you also will find examples of the various possible sections of a client letter to an attorney based on the *Atwater Creamery Company v. Western National Insurance Company* case on page 55 of the Abraham *Insurance Law and Regulation* text.

10. Questions about assignment. Please post all questions about this assignment to the course webpage forum designated for such questions. I will only answer questions that would be appropriate for a junior associate to ask a senior associate.
MEMORANDUM

Date: February 27, [year]
To: Associate Exam # ___________________
From: Senior Partner Samantha Leigh Smith
RE: Client Request for Advice Letter

I attach to this memorandum a copy of a letter from Kendra Lynn, vice president and in-house counsel to All Medical Testing Laboratories, Inc. ("AMTLI"), the largest medical testing laboratory in Columbia City, Columbia.

Ms. Lynn has asked us to evaluate the policy form AMTLI received from RA&MCO, the largest insurer doing business in the state of Columbia. Although Lynn is an attorney, she has served in a business role with AMTLI for the past fifteen (15) years, and she has no background whatsoever in insurance law. She also may show this letter to Stacey Hunter, the president of AMTLI. Consequently, while you can assume Ms. Lynn is a sophisticated reader, you need to be careful to respond to her queries in plain and, mostly, non-legal language.

Please prepare a detailed response to Lynn’s letter. Please keep in mind that AMTLI is a new client and already is the firm’s largest client. I trust you will make a good impression.
ALL MEDICAL TESTING LABORATORIES, INC.
11111 South State University Avenue, Columbia City, Columbia 11111-1111

February 27, [year]

Samantha Leigh Smith, Esq.
Smith & Smith, Attorneys at Law
22222 Peter, Paul & Mary Street, Suite 1000
Columbia City, Columbia 11111-1111

Re: RA&MCO’s Testing Laboratories Professional Liability Insurance Policy

Dear Ms. Smith:

I enclose a copy of the above-referenced insurance policy. As I mentioned to you last week, we are in the process of switching insurance companies. RA&MCO has submitted the lowest bid of all the insurers we contacted. The policy, however, seems very different from our prior policy from a different insurer. To assist our evaluation of the policy, please address the issues described below.

First, please explain the coverage provided by the policy. I am not particularly familiar with “claims” policies. What is the significance to us of this policy’s focus on “claims” as opposed to “occurrences” as a basis for insurance liability?

Second, detail what we should do if someone complains about our services. We have a regular business practice of redoing for free any test about which there is any question. Our referral sources (doctors, clinics and hospitals) appreciate this “customer is always right” policy.

Third, the first exclusion worries us. Our contracts with medical providers include indemnification clauses requiring us to indemnify the providers and hold them harmless for claims alleging negligent testing. Does this exclusion wipe out our coverage?

Thank you for your assistance. We look forward to your prompt reply.

Very truly yours,

Kendra Lynn, Esq., Vice President and General Counsel

encl.
Example Sections of a Client Letter

(Assuming client was the owner of the creamery warehouse in the Atwater case in our text and had asked outside counsel to evaluate its coverage claim and assuming the state had neither adopted nor rejected the reasonable expectations rule)

Introduction:
Thank you for referring this matter to us. I enjoyed our lunch last week and believe we will work well together.

You have asked us to assess Atwater Creamery Company’s chances of prevailing in a lawsuit against Western National Mutual Insurance Company seeking insurance coverage for the recent burglary of Atwater’s warehouse.

Issue:
To assess Atwater’s likelihood of success in a coverage suit, we have analyzed the following legal question, which is the key issue in your dispute with Western National and the only stated basis for its denial of your claim:

Under a policy providing coverage for burglary if the burglar leaves “evidence of forcible entry,” does the policy cover a burglary where the only evidence of the burglary was missing property, two open doors, both of which are usually locked, and two missing padlocks but where the police have concluded that the burglary was not an “inside job”?

Short Answer:
The question is a close one, but you are likely to prevail. On the one hand, the absence of damage to the doors or to the padlocks presents a potential barrier to coverage. The requirement of “evidence of forcible entry” seems to suggest that the policy does not cover situations, like Atwater’s, where the burglar did not damage the windows, doors or walls and the locks are simply missing, as opposed to being broken. On the other hand, most courts have found coverage under similar circumstances. Some courts have held that the “evidence of forcible entry” requirement is met in cases like this one because the problems the requirement was designed to address, “inside jobs” and failures to use due care to secure the premises, are not implicated; the police determined that Atwater’s loss was not an inside job and Atwater did secure the warehouse. Other courts have found evidence of forcible entry in the fact that locks are missing or opened. Still other courts have applied a fairly new concept of insurance law in which courts find coverage if a reasonable insured would have expected it. In this context, a court applying reasonable expectations law would find coverage by reasoning that a reasonable company would be shocked to discover that the burglary insurance it had purchased provided no coverage simply because the burglar broke in without damaging the building and successfully disposed of the locks. Accordingly, based on one or more of the above theories, a court probably would find coverage for Atwater’s loss in this case.

Statement of Facts:
Prior to April [year], Atwater had purchased $20,000 in burglary insurance from Western National. The policy defined burglaries to include only those burglaries in which the burglar leaves “evidence of forcible entry.” According to Western National, the purpose of this clause is to discourage Atwater from burglarizing itself just to get the insurance proceeds and to encourage Atwater adequately to secure the premises.
Sometime between April 9 and April 11, [year], one or more persons entered your warehouse without permission and stole chemicals worth $15,587.40. You discovered the theft on the 11th. You found two unlocked doors that you had left locked and discovered that the padlocks on those doors and the chemicals had disappeared. There was no other evidence other than the evidence described above. The police who investigated the crime determined that no one affiliated with Atwater was involved in any way.

Atwater filed a burglary claim with Western National. Western National denied the claim, citing the "evidence of forcible entry" clause as the basis for its decision.

Discussion:

[The discussion would use many of the ideas addressed in the case and in our class discussion of the case but would translate those ideas into simpler language, would delete citations and the long policy discussion and would be shorter.]

Conclusion:

Although the question is a close one and Atwater will lose its lawsuit if the court narrowly interprets Western National's policy, Atwater is likely to prevail in its claim. The fees and costs of bringing the lawsuit and pursuing it to final judgment, however, almost certainly will exceed the approximately $15,600 loss Atwater has have sustained. The trickiness of the policy language at issue means the losing party may even choose to appeal, thereby increasing the expense of pursuing a claim. We therefore suggest that Atwater communicate an analysis of the merits of this claim in a demand letter to Western National and work towards a compromise. We propose drafting such a letter. If Western National continues to deny coverage, we can discuss whether filing suit makes sense, but we suspect Western National can be made to recognize that it may lose if Atwater sues and, even if Western National were to win, it would spend more money defending the suit than Atwater is claiming.

I look forward to hearing from you regarding this letter and our suggested next steps.
Environmental Law Role Play —
Philosophical Perspectives

Read pages 8–18 and 53–57 in the text. Those pages describe a variety of perspectives on environmental law and provide a factual background for a current environmental dispute — whether to open the Arctic National Wildlife Refuge to oil exploration and drilling.

Assume that a Senate Committee is holding hearings on whether to open 1.5 million acres of ANWR for oil exploration and drilling. For one of the following groups, you will be assigned to create a single slide with an image and text (one to three points) to support 60 seconds of testimony the group would give to the Senate Committee regarding ANWR:

- Thoughtful Use of Tundra (human-centered)
- Tundra First! (Leopoldian ecologists)
- Dino Oil (sensible economic development)
- Catholic Church ("Peace with All Creation")
- Wilderness Society (preservationists)
- Alaska Governor's Office (state sovereignty)
- Arctic Village (environmental justice)
- Inupiat Eskimos (economic opportunity)
- Caribou Caretakers (animal rights)
Appendix 5-2: Experiential Professionalism
Instruction

Lucy Lockett Professionalism Problem

You are two years out of law school, practicing in a small law firm not far from where
we are now. The firm does general litigation.

It is now evening. You are at home, enjoying a relaxed dinner. The telephone rings. The
distraught voice on the other end belongs to your friend Carl Lockett.

Carl is calling about a disaster that has just befallen his 23-year-old daughter Lucy. Ac-
cording to Mr. Lockett, Lucy had been working part-time at Tropics North Inc., an ex-
otic pet store on Sherrill Avenue in Bethesda, Maryland. Last Saturday, she was bitten on
the wrist by a poisonous snake. The accident occurred as she was trying to remove the
snake from its case to sell it to a customer.

The store manager, Mr. McConnell, assured her that the snake was not poisonous; in-
deed, Lucy knew that the store did not carry any poisonous animals. The customer, a
Mr. Adams, wanted to buy the snake despite its having bitten her, and she completed the
sale. Her wrist hurt a little, but the pain diminished rapidly.

About an hour later, however, her arm began to hurt. After another hour, it had begun
to swell. Mr. McConnell drove her to the emergency room at Community Hospital.

The emergency room resident observed her for several hours. Her arm continued to
swell and to become more painful. Treatment of the arm with benadryl did not help. By
late Sunday morning, the arm had swelled to twice its normal diameter. Lucy was in ex-
cruciating pain. After X-raying the arm and discovering that the swelling was threaten-
ing to kill the muscle tissue, the doctors decided that the snake must have been poisonous
and that they needed to operate to save Lucy’s arm. They operated the same day, cutting
her arm open from wrist to elbow to drain fluids from it. They say that a further opera-
tion will be necessary in a day or two and that plastic surgery to reduce the scar will be
desirable in several months. They hope that there will be no long-term damage, but they
can’t be sure.

Just before he called you, Mr. Lockett spoke again with Mr. McConnell. McConnell
reported that he had just called Mr. Adams and told him what had happened to Lucy.
He’d offered Mr. Adams his money back, an offer Adams had accepted. Adams said that
he would call his local police department and ask them to take the snake away and kill it.

McConnell says that he doesn’t have any insurance but he feels terrible about what
happened and would like to pay half of Lucy’s hospital bill, which is expected to be about
$4,000.

*What questions do you have for Mr. McConnell?*

[This problem is adapted from an extensive set of simulation materials developed by
Professor Philip G. Schrag of Georgetown. Gerry uses this problem on the first day of
Civil Procedure for first semester, first year law students. He ends the class with a 10–15
minute discussion of this problem. As students volunteer questions, he writes them on]
the board and asks each volunteer to explain why the question is important. With two minutes
to go in class, he tells the students that they have generated an impressive list of “lawyer
questions.” However, they have omitted the first question that he would ask Mr. Mc
Connell. He then writes on the board in huge letters “HOW’S LUCY?”

Gerry uses this problem for on the first day of Civil procedure for several reasons.
First, it gets many students to participate on the first day of class, which begins a course-
long dynamic of active engagement in class. Second, it sends the message that students
will apply what they learn in this course to real-life problems. Most importantly, it al-
 lows Gerry to make a dramatic point about professionalism. After writing “HOW’S
LUCY?” on the board, he comments that when we are in our role as lawyers, lawsuits do
not walk into our offices. People do. It is easy for students to lose sight of that as they begin
law school. But our effectiveness as lawyers depends in large part on our humanity. That
ends day one in Civil Procedure.]
Handout for Small Group Public Service Experiential Learning Exercise

As you know, you have been placed in a small, six-person group led by an upper-division student.

You need to do the following to complete your small group public service experiential learning obligation:

1. On Friday, you will be attending a luncheon to welcome you to the law school. The guest speaker, Judge __________, will discuss your obligations, as a lawyer to your community. Afterwards, you will have the opportunity to hear from and talk to the various student organizations at this law school that have, as at least part of their mission, providing service to the community.

2. You will then have 30 minutes to begin to work in your small group to decide on a group public service project. Try to pick something that is personally meaningful to the members of your group.

3. Your project must be selected by September 15. In 200 words or less, describe your project and post it to the public service TWEN course webpage set up by Dean _____. To honor your choice, the law school will be publicizing all of the projects.

4. After you complete your group project, each member of the group must write at least a 250-word essay describing what he or she learned from this experience.
Professionalism/Values Exercise Arising Out of a Class Incident

Introduction to four stories. My goal: focus on professional values.

Cluster of three stories and then tell fourth story and connect it to an issue in this class.

First three stories.


Story 3: Client who said, “What should I say happened?” when asked what facts led to his lawsuit against a former partner.

Fourth Story.

When I was in law school, I never told anyone my grades. One day, a group of four people grilled my then-girlfriend for 30 minutes to try to get her to tell them my grades.

Relationship of stories to this class.

I have been told that a few students in this class have violated the privacy of other students by looking at how the students did on the midterm I handed back this week. Part of the problem was my mistake—I should have placed the exams in sealed envelopes. I am sorry. Those who looked let law school competitiveness overwhelm their sense of what they know is right—respecting others. They made a mistake. I believe those whose privacy rights were violated would appreciate an apology.

Exercise. Take out a blank sheet of paper. Write down what you want lawyers to say about you when you retire from law practice. Place it in the envelope I have given you. Seal the envelope. I will arrange for this envelope to be mailed to you when you graduate from this law school.

Questions?
Identifying Criteria for Successful and Positive Interactions with Classmates

Background and goals:

At the beginning of the semester, you were all clustered in diverse teams of 5–7 people. The goal was to have each of you learn from each other and develop the attributes and skills of working with others, skills and attributes essential to practicing law.

Each team identified the written criteria upon which you would evaluate each other's participation and contribution to the team's success. These criteria may overlap but are individual for each team and will be used to evaluate your classmates at the end of the course.

Many of you identified criteria that included points like the ones below:

Criteria for evaluating team contributions:

- Listening to team members
- Being receptive to and respectful of others' thoughts/input
- Being patient with others' process and learning
- Being prepared—good faith effort
- Contributing to discussions
- Communicating with teammates about absences and other team-related tasks
- Having a sense of humor
- Being on time

Now you have been working with your team for several weeks, including taking team quizzes, brainstorming problems in class, and completing a team assessment. The goal here is to honestly and professionally check in with your teammates and determine if there things you can do to enhance your team's effectiveness in contributing to each students' learning, and, if so, how you might accomplish them.

Please take the next 10 minutes to:

1. Review the initial criteria your team developed;
2. Discuss among your teammates whether you want to revise your criteria;
3. Check-in and discuss with your teammates how well the team is succeeding in meeting the criteria; and
4. Discuss any additional points about working together as a team. (One effective team-building technique is to have each person identify one positive thing about the team.)

[Before students engage in this exercise, Sophie spends a few minutes reminding students about the need to provide honest and respectful feedback, the difficulty of acting with civility under stress, the power of positive social emotional interactions, and the connection between effective interactions and professional performance.]
Appendix 5-3: Time Management/ Self-Monitoring Log

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<tr>
<th>Concept/Skill to Be Studied</th>
<th>Learning Goal(s)</th>
<th>Strategy(ies) for Learning</th>
<th>Time and Place for Studying and for Breaks</th>
<th>Ability to Focus</th>
<th>Steps Used to Study</th>
<th>Effectiveness of Studying</th>
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<tbody>
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<td>Plan</td>
<td>Actual</td>
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Appendix 5-4: Post-Assessment Reflection Exercises

General Post-Assessment Reflection Exercise

Select an exam, legal writing paper or exercise on which you have received feedback and then answer the following questions. Keep in mind that the key to learning in general and to learning from examinations in particular is being open to feedback and to change.

1. How well did you think you had learned the material before you took the test/quiz/exercise/paper? (check the item that best describes your perception of the degree to which you achieved mastery)
   Excellence       Mastery       Competence
   Approaching competence       Poor

2. How well did you do on the test/quiz/exercise/paper? (check the description that best describes your outcome)
   Excellence       Mastery       Competence
   Approaching Competence       Poor

3. Given your results on the test/quiz/exercise/paper, how accurately did you self-assess your learning? (check the description that best describes your outcome)
   Very accurately       OK       Poorly

If you did not check “very accurately” in response to the above question or if you “very accurately” predicted a poor outcome, discuss why your self-assessment was inaccurate or why you predicted a poor outcome.

4. Given your results, discuss how efficient and effective your learning strategies were.
5. If you did not perform as well as you would have liked to have performed or if you believe that your learning process, while effective, was inefficient, identify the cause of your performance issue. Below is a checklist of possible causes. Check all that apply.

Possible problems in the forethought phase

____ Failure to set appropriate goal (you set no goal or set an improper one)
____ Incorrect assessment of the learning task (you erroneously classified the task)
____ Failure to invoke self-efficacy (you failed to identify past success in similar learning enterprises)
____ Failure to develop intrinsic interest in the learning task (you did not determine why you needed to learn the material)
____ Poor motivational strategy choices (you could not stay motivated)
____ Poor environmental choices (you made bad location, timing, rest sequence choices)
____ Poor cognitive strategy choices (the strategy choices proved unsuited to the learning task or you also should have used additional strategies)

Possible problems in the performance phase

____ Incorrect implementation of strategy choices (you incorrectly used the strategies)
____ Failure to maintain focused attention (you were unable to focus during implementation)
____ Failure to self-monitor (you failed to recognize a breakdown in the learning process while it was ongoing)
____ Insufficient persistence (learning task simply requires multiple learning cycles)

Possible problem in the reflection phase

____ Failure to pursue opportunities for self-assessment (you did not take advantage of or create opportunities for practice and feedback)

6. How did you do on this test / quiz / exercise / paper in comparison to tests / quizzes / exercises / papers you took before law school?

How did you do on this test / quiz / exercise / paper in comparison to other tests / quizzes / exercises / papers you have taken in law school? Why did you do better or worse on this test / quiz / exercise / paper?
7. What were the most common comments your professor made on your answer to this test/quiz/exercise/paper (or on all my law school tests/quizzes/exercises/papers)?

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What did the professor(s) mean by these comments?

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8. Based on your outcome and your response to the above questions, how do you feel about yourself and your law studies and why do you feel that way?

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9. Based on your outcome and your response to the above questions, how will you change your approach to studying similar material in the future?

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Cognitive Protocol

At the end of this course, you will have completed at least 6 assignments in which you have read, analyzed, selected, and cited to authorities, applied facts to law, and organized complex material:

- Memo 1 — Is an advertisement an offer?
- Memo 2 — Was Rienzo a licensee or invitee? Who decides? What duty of care did Montshire Law owe her? (draft and final)
- Memo 3 — Was the Corrow/Michaud Prenuptial agreement enforceable? How could it be validated?
- Memo 4 — Does South Dakota have personal jurisdiction over PPR? (draft and final)

Altogether, this constitutes a significant body of work—between 25–30 pages of written legal analysis. Congratulations!

Take a few minutes to skim through Memo 1.

If you wish, skim over Memos 2 and 3.

Reviewing your portfolio, over this semester, what have you learned about researching, analyzing, and writing about legal issues?

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