When I was in law school (I won’t say which), a law professor (I won’t say who) added an interesting wrinkle to the time-honored Socratic give-and-take in the law school classroom: my professor answered her own questions. Every time. All the time.

“Mr. Smith!” she would exclaim.

“What was Cardozo’s main point in Palsgraf?”

“Mr. Smith?”

In short order and after an exasperated sigh, she told us Cardozo’s point herself. To our credit, we truly wanted to participate . . . at least in the beginning. We understood the rules—if not the point—of the case method and wanted desperately to learn “to think like lawyers.” We just needed a bit more time to think about our professor’s question. As the days passed, we fell into an easy but quiet pattern. Like Pavlov’s dogs, we learned to wait quietly for our reward. In time, she stopped asking us questions altogether.

A few years after law school, I found myself back in the classroom. Preparing for my very first law school class as a teacher, I decided to open with an easy Socratic-type question. My plan was to start out with the basics, get students used to the idea of rigorous class discussion, and then seamlessly move into deep higher-order discussion about stuff. I forget the exact language of my first question, but it was something like “can someone tell me the holding of the whatchamacallit case?” Silence. I panned the room. Nothing. I tapped my foot. Nada. I scowled. I panned again. I waited for what seemed like an eternity. Silence! I doubt I waited more than 10 seconds before I caved and answered the question myself. “At least I kept things moving!” I thought. “If I have to wait for them, we’ll never get through the material!” We spent the next 50 minutes with me asking questions and immediately answering myself.

After class, I complained to my fellow untenured colleagues that my students were lazy and failed to prepare for class. My friends congratulated me on my high standards and my ability to adjust on-the-fly to a difficult situation. Still stinging, I told the story to an experienced and well-respected colleague. He listened. He nodded. He put his hand on my shoulder. “Patience, David. Wait. Give them a chance,” he said. “They want to answer your — continued on page 3
Reducing Student Anxiety Through Assessment Transparency

By H. Beau Baez III

One of my institution’s mission pillars is student centeredness. To help our students with their final exams, faculty are required to provide a midterm essay examination during the first and second semesters of the first-year curriculum (and practice-ready assessments in each second- and third-year course during midterm week). A colleague recently shared that his students are excessively nervous about the midterm exam—no surprise there—and that, in the second week of classes, they began asking him what to expect on the midterm. What I would like to share are some thoughts for reducing student anxiety and providing students with meaningful information on what they should expect on an exam, which should result in fewer students asking “Is that going to be on the exam?”

First and foremost, be as transparent as possible before the midterm. When I first began teaching, I was concerned that sharing information about an exam would make the exam too easy. Over time, I discovered that being transparent about the exam and the exam process did not change the grade distribution very much, and there was an overall improvement in the exam quality. I also noticed that students asked me fewer questions because I was doing a better job in managing their expectations. I now tell students exactly how much material they are responsible for on the midterm. For example, when I teach Torts, the midterm falls right after we have completed intentional torts and are into the third week of negligence. I tell them that I am limiting the midterm exam to intentional torts. This disclosure eases their anxiety, helps them to focus on the tested topic, results in stronger essays, and realistically is the only way I would design a one-hour essay exam at that time of year.

On the first day of class, I also post on the Internet all of my prior exams, student answers (I provide an A, B, C, D, and F answer for one prior essay), examiner’s reports, my grading rubrics, a podcast describing my grading methodology, and a document that goes into detail explaining my grading methodology. I want students—novices to the law—to write like lawyers, so I have a duty to share with them my expectations. Keep in mind that they have no idea what it means to write like a lawyer. Under the old paradigm—the one many of us navigated successfully—the goal was to sort students. There were those students that succeeded regardless of the poor instruction, assessment, or delivery and those that failed because they were not provided with the tools to succeed. Today the paradigm has shifted and the expectation is that we will help our students become competent practitioners.

After the midterm, I also attempt to follow complete transparency. First, I create a spreadsheet that is directly tied to my grading rubric. The spreadsheet has each student’s anonymous exam ID, along with each issue and the number of points each student received for each component. After I submit my grades, I post the entire spreadsheet online for students to view. This allows them to see how they did relative to each other. I also post the exam, the best student answer, and an examiner’s report. For students I am currently teaching, I only post the best student answer that year—a student would be dejected if I posted the D answer online that year (I wait a few years before posting anything other than the A answer online).

Providing an examiner’s report is important because students are generally not able to discern why the best student answer received the top grade. Invariably, a best student answer has some errors, spends too much time discussing some point, and not enough...
The next class, I again asked my students to tell me the holding of some case. I waited. Nothing. I looked up. Silence. I remembered my promise. Nada. I steeled my reserve. Nothing. I tapped my foot. Nichts. I panned the room . . . once . . . twice . . . “professor, the court held that the defendant was not liable.”

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H. Beau Baez III is associate dean for academic innovation and effectiveness and associate professor at Charlotte School of Law.
Four Simple Lessons About the Needs of First-Year Law Students

By Carol Andrews

In my 18 years teaching Civil Procedure to first-year law students, I have experimented with different forms of instruction to help students learn not only the law of procedure but also the skills necessary to succeed in law school and in practice. I have used written essays, group exercises, pleading drafting, individual conferences, practice motion oral arguments and mock exams. I have worked individually with first-year students in academic trouble. I formed a summer academic support program in which I teach both the law and legal study skills to a small group of incoming law students. I have discovered a great deal about the needs of beginning law students. I share four of those simple lessons here.

Students Need Specific Suggestions and Examples of How to Study.

Many law students cannot translate general advice to the concrete application of their study. They need specific advice, and they need examples. I will demonstrate this point by using a specific example.

Take the general advice that law students need to “work hard.” Many law students do not know what this instruction means. They may think that merely reading all of the assigned material before class is working hard. The amount of work necessary for the first semester of law school is beyond the grasp of many incoming law students. Specific advice better conveys this essential point.

I tell my new law students that they should spend on average, during the regular semester, three hours outside class for every hour in class. I translate that instruction. It means that with a 16-hour course load, the students must spend an average of 48 hours per week on outside study, in addition to the time spent in the classroom. This means an average of 64 hours every week dedicated solely to law school.

Specificity can go too far. Students need flexibility to adapt study advice to their own learning styles and practical needs. For example, in my “work hard” discussion, I do not tell the students how to allocate their 48 hours. Some students are better learners at night or in the early morning. Others have unique family needs. It is enough, for most students, to have a specific goal of total hours to work into their weekly calendar.

Students Need to Master the Law, Not Merely Understand the Law.

Most law students need to know the law better than they do. It is not sufficient for them merely to understand the law. The students must know the law well enough to enable them, under time pressure, to read and accurately assess the exam itself, to identify the issues, and to apply the law to new factual settings. They must be nimble manipulators of the law. They must master the law.

This distinction is lost on most law students for good reason: they know the course material as well as, if not better than, they knew a subject in college. Law students learn a great deal in their first semester. When they begin, they know almost nothing about law, but by final exams, they know vast amounts of legal information. In Civil Procedure, for example, the idea of “personal jurisdiction” is completely foreign to beginning law students. By the end of the semester, they know the meaning of the concept, they know the key cases, and they probably know the tests and standards for personal jurisdiction. This knowledge is essential, but it often is not enough.

After a disappointing grade, most law students still do not understand that they were not sufficiently prepared on the law. Even if they look at their exams and read the professor’s substantive summary, students usually do not grasp what they were lacking. Most students can read and fully understand my post-exam discussion of a personal jurisdiction essay, for example. Because this discussion is accessible to them, they tend to blame their exam performance on something that occurred in the four hours of the exam. They pick any number of reasons: they had anxiety; they did not correctly prioritize their time in the exam; they do not write well; they do not take standardized tests well; they mistakenly read the facts or exam question; or they missed an issue. They look for the (relatively) easy answers.

I too fell into this trap. I tried to avoid student exam mistakes by offering practice exams and giving detailed feedback during the semester. On the back end, I reviewed exams with students and tried to pinpoint precise errors and suggestions for future exams. More recently, I have realized that most disappointing grades are due, not to errors made in the four hours of the actual exam, but instead mistakes made in the four days or four weeks or four months before the exam. To be sure, students make exam mistakes, especially if they have never had any opportunity for practice exams, but the bigger problem usually is that the students never got to the mastery level of learning the underlying law.

This is a significant problem in several respects. First, it goes beyond exam-taking in law school. The students must master the law to succeed in law practice. Second, it is a problem that — continued on page 5
Four Simple Lessons About the Needs of First-Year Law Students

Students Need to Learn How to Self-Assess Their Study Skills and Progress.

Law students must learn how to self-assess both their own study habits and the level of their knowledge, eventually learning to assess whether they are at the mastery level. Beginning law students are not trained or experienced in academic self-assessment. Their previous teachers usually told them what to read, which problems to work and when to do it. Teachers regularly assessed their work, through quizzes, homework problems, midterms and papers. The gap between the assigned work and the end result was not wide. Fulfilling the teacher’s assignments usually was sufficient for success, at least for those students who gain admission to law school.

By contrast, there is a wide gap between merely doing the assignment and success in law school. Formal law school assignments in doctrinal course often consist only of the readings for the next class. Law professors usually do not assign outlines, for instance. The only feedback that many law professors give is the questioning in class and the final exam. They typically do not give interim quizzes or assign papers. Law students must fill the gap and self-assess their study steps and substantive progress.

Students Need More, Incremental Retroactive Study.

Most new students appreciate that law school requires a different approach to study. They, however, tend to focus their adjustment too narrowly on forward-looking study, preparing for the next day’s class. Law schools promote this bias. The most immediate and often only form of feedback is that which occurs in the class room. Even if professors do not scold students on the perils of being unprepared, their random call system sends this message. Much of the early advice and instruction centers on reading cases and preparing case briefs for class.

Class preparation is only one aspect of law school learning. Preparing for class every day is essential but not sufficient. It will not get students to the mastery level. They must learn to retroactively review and synthesize the law throughout the semester at incremental levels.

I do not mean to suggest that the concepts of retroactive review and synthesis are foreign to beginning law students. Many law students know that they must prepare outlines and review during the exam periods. Both book publishers and upperclassmen push their outlines on new law students. Missing from this vague understanding is an appreciation for how and when to outline and review. In another article, I offer a specific plan to show beginning law students how to incorporate more effective retroactive review on a daily, weekly, bi-weekly basis and semester basis.

Conclusion.

These four simple lessons inform my teaching. The observations may seem obvious, but law schools often do not adequately address these needs. Law professors can address these needs in a variety of ways. A midterm practice exam is a particularly good means to serve these needs. Another, simple way is to instruct the students that they have the needs. For example, awareness by students that they must master rather than merely understand the law is an important first step in achieving mastery. Law students and their professors first must recognize the need before they can address the need.

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Use High-Profile Cases to Illustrate the Federal Rules of Evidence

By Ann Murphy

I admit that I am a bit biased (I teach Evidence), but I find the law of evidence to be just plain fun. Both in law school and when I practiced law, I saw the rules as parts of a puzzle, and one simply navigated through that puzzle to reach the desired result. Did I actually say “simply?” As we all know, the law of evidence is actually rather deceptive. For every rule there is an exception, and there is often an exception to the exception. Evidence law is intricately layered as well. A piece of evidence may pass the relevance rules, only to be inadmissible under the rules of hearsay. Even if that piece of evidence actually passes both the relevancy and hearsay rules, there may be no way to authenticate it. Additionally, it is one thing to know the rules of evidence, and it is quite another to actually be able to use the rules of evidence. The traditional case law method of learning is woefully inadequate for this particular area of law. I find that using real evidence from actual cases is enormously helpful. The more outrageous or memorable the case or evidence, the better it illustrates a concept. We see this evidence every day in all forms of media, and as Shakespeare wrote, “why, then the world’s mine oyster.” The following are just a few of the many high-profile cases I use in class.

Students often express confusion with Rule 103 Rulings on Evidence, in particular the parts of the Rule that allows a party to claim error “only if the error affects a substantial right of the party,” and, if the ruling in question admitted evidence, only if the party timely objected. The Judd v. Rodman, 105 F. 3d 1339 (11th Cir. 1997) case comes in handy here. Ms. Judd sued former Hall of Fame basketball star (and perennial “bad boy”) Dennis Rodman for wrongfully giving her genital herpes. The District Court admitted evidence of Ms. Judd’s breast augmentation surgery (objection made under Rule 402, but not 412), her prior sexual history (an in limine ruling that it was admissible, and no objection made at trial – and in fact, Ms. Judd then presented the evidence offensively), and her employment as a nude dancer (objection made under 412). This case presents an opportunity to illustrate an attorney’s waiver of an objection, and an appellate court finding that the trial judge did not abuse her discretion, and that, even if she had, no substantial right of Ms. Judd was affected.

In class and in actual trial practice, Rule 403 Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons is often raised. The People of the State of California v. Conrad R. Murray case is a treasure trove for the California version of this rule (California Evidence Code Section 352). As an added bonus, many of the Court pleadings and documents are available through the Los Angeles Superior Court “News and Media” website at: http://www.lasuperiorcourt.org/courtnews/ui/hpCaselist.aspx. You will see many other high-profile cases on the site, including documents concerning celebrity defendants such as Robert Blake, Phillip Spector, and Roman Polanski. The recent involuntary manslaughter criminal case against Michael Jackson’s doctor (he was sentenced on November 29, 2011) contains many 403 issues. Judge Pastor ruled the following inadmissible: any mention of Mr. Jackson’s 2005 child molestation trial; outtakes of the Michael Jackson film “This is It!,” the amount of money Dr. Murray spent at a strip club where he met two of the witnesses; and certain prior instances of Mr. Jackson’s drug use.

Privileges are governed by common law according to Rule 501, and one privilege the students enjoy discussing is that of clergy-penitents. During the People of the State of California v. Orenthal James Simpson case, the prosecution sought to admit an alleged confession made by O.J. Simpson to his friend, Rosey Grier. Grier was a former NFL defensive lineman and ordained minister. Prison deputy Jeff Stuart testified in a closed hearing that he heard O.J. say to Grier “I did not mean to do it! I’m sorry!” On December 19, 1994, Judge Ito ruled that O.J. had waived any clergy privilege, as he yelled the alleged confession, but, inexplicitly, Judge Ito also ruled that the evidence was inadmissible because O.J. held a false sense of security at the time of the statement.

Many of us discuss the Frye test (used in some states) in addition to the Daubert test (the federal test and used in some states) for Expert Witness testimony. In People of the State of Florida v. Casey Marie Anthony, Judge Perry ruled that the method used to collect chloroform through the carpeting in the trunk of her car was reliable, and that the decomposition odor analysis (DOA) was also admissible under the Frye test.

The Confrontation Clause is, of course, an area of enormous interest and litigation. People of the State of Illinois v. Drew Walter Peterson is perfect for a lively discussion in class. Peterson, a former police officer, has been charged in a two-count indictment for the murder of his third wife, Kathleen Savio. His fourth wife, Stacy Peterson, has been missing since 2007. Savio told friends that, if she were ever found dead, Drew would be the person who had killed her. Stacy Peterson told her pastor that Drew killed Savio and made it look like an accident. Although Authentication may be a bit of a dry subject at times, the Barry Bonds case presents an entertaining example of the chain of custody authentication of a urine sample. Bonds was found guilty of felony obstruction of justice in April 2011 for lying to a grand jury. He has been sentenced to probation and is currently appealing his conviction. His — continued on page 7
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to a state of complete boredom (if reports are any indication),
he did not succeed in showing a break in the chain or a problem with the handling of the evidence.

Interestingly, Greg Anderson (Bonds’ former athletic trainer) was the individual the government hoped would testify about Bonds’ alleged steroid use. Mr. Anderson refused to testify and was held in contempt of court and incarcerated. The government was forced to indict Bonds with only four counts of perjury and one count of obstruction of justice. One perjury count was dropped and the judge declared a mistrial on the other three counts of perjury.

To add some humor to the classroom, and there was laughter, then “38,” more laughter, then “920!” and one old guy laughed so hard he fell off of his chair. “Was that a particularly funny joke?” asked the newcomer. “Not really,” said his friend. “But that guy had never heard it before!”

This story recalls a professor I had in law school that a classmate described as follows: “His lectures are like a train, and, if you fall off at any point, you can’t get back on for the rest of the hour.” That is, his ideas used sleek and smooth logic that connected, thinly, elegantly and abstractly, to the idea preceding it and to little else. If you were still working on the idea preceding, you may miss the connection to this new point and, with another idea promptly on the way, you lacked handholds to grasp it. Soon, you found you could no more capture the professor’s smooth and sleek concepts than the old comedian really could laugh at the joke-reduced-to-abstraction number 920. You were off the train.

So, there are ways to be clear and, contrariwise, totally unclear. This essay advocates clarity, although I am aware that being unclear has its uses, for instance if you are posing koans or if you want to intimidate fellow academics. Listening to erudite and grammatically correct English that is, notwithstanding, incomprehensible makes people feel small and insignificant.

It is difficult to give an example of the sleek, ungraspable argument in print because my readers can go back and reread the previous sentences to grasp, if slowly, the following sentences. Reading, of course, is unavailable in a lecture. Some students attempt to take verbatim notes as a way to stay on the train, but this effort transforms the lecture from a meeting of minds to an uneducational meeting of voice and fingers. I think it is better pedagogy for professors to strive to be understood and eschew the tempting appearance of intellectual mystery.

Some train-talk advocates might interject here that lecturing in a smooth, spare argumentative style develops an important skill as students connect each sentence to the next by exercising their faculties of logical reasoning. I think that assertion is analogous to reciting the 17 times table where, for most of us, each number is connected to the next by
the exercise of a faculty of logic, that is, arithmetic. If you are train-talking faster than you can recite the 17 times table, you are speaking way too fast. When you want your ideas to be grasped, it is worth the bother to develop additional ways to make them easier to assimilate. To that end, it is easiest for listeners to grasp ideas that have an affinity to ideas they already hold. This is a tried and true pedagogical technique that goes back at least to the 19th century Herbartian educators and, no doubt, earlier than that. Herbart described the theory with a metaphor of ideas hooking onto an “apperceptive mass.” The image of new ideas covered in Velcro looking for matching Velcro in the mind of the listener works for me, and I will be using that as an underlying image below.

Pared-down concepts work well enough when the audience is sophisticated and has a conceptual framework that easily captures the ideas proffered. When your listening audience lacks enough experience to quickly grasp the pared-down idea, try to fill it out with more content. This technique requires the speaker to perform a balance— not boring the sophisticated audience members with too much detail while bringing along those less familiar with the subject. When reading papers to other academics, the custom is to err on the side of the former. When teaching, it is probably better to err on the side of more detail. Even students who grasped the concepts the first time can profit from additional perspective.

Striking the right balance can be tricky. In the case of the train-talk professor of earlier mention, careful reading of the assigned text the night before gave his lecture more texture and us listeners a better purchase on his discussion as far as it went. Once this professor left the case and launched into his own theories, the train picked up speed and the ideas became slicker and chromium plated. Later in life I came to appreciate his insights by reading several of his articles. Law students don’t really have time for that.

One can “Velcro” ideas fuzzier with more content – some narrative, some familiar instances, some repetition, some emotional content, some history, some artistic exposition – some way to connect with concepts and images already nestled in your listener’s mind. This is why soda pop jingles, slogans, urban legends or the political rhetoric of Ronald Reagan can burrow into your mind like a tick. Such burrowing can bypass logical evaluation, so you would not want to go that far.

Thinking of Reagan, I am reminded of when his director of OMB, David Stockman, called the Reagan tax cuts “a Trojan horse for the wealthy” and Stockman found himself swamped in controversy. He defended by saying “it was only a metaphor,” and a columnist responded that that was the problem with metaphors – people tended to understand them. Which is to say metaphors can advance explication; this essay is more or less built on a Velcro metaphor.

Using richer terms for description helps. Don’t use “plaintiff,” “defendant,” or worse “appellant” or “respondent” to describe actors unless procedure is important. The party names, randomly assigned in the scheme of things, are seldom better. Buyer, seller, killer, surgeon, hunter, manufacturer, innkeeper, bus driver, etc. all say more and say it better for developing generalizable legal principles. It is one of the ironies of explication that grounding your exemplar firmly in detail will make it easier to develop an argument for a generalized common law principle. Pull in the crush of feeling to enhance interest. Any decent legal conundrum stirs up some sense of justice for both sides. Make your listeners feel the conflicting senses of right until they are unsure which party to root for. This, of course, can be confusing for the students who have retreated into stenographic mode and want their notes to indicate clearly who is “right.”

However it is especially these students that you want to tempt back into the life of the class, to help them reboard the train by the clarity of your presentation. In sum, clarity is not just simplicity of expression; it is to use enough dimensions of explication, detail and color that your examples are living and your ideas accessible from several approaches. Good teachers are windows to the world and clarity is their virtue.

Sharon Keller is visiting professor of law at Wayne State University.
Opening Students’ Eyes to New Approaches to Seemingly Familiar Problems: Challenging Their Existing Assumptions in Legal Writing Courses

By Susan Sockwell Bendlin

At the beginning of the first class session in my Legal Research & Writing course, I hand out copies of this maze (see page 44.) I say to the students, “While you’re waiting for class to start, work on this maze. Follow the instructions carefully. Put it aside after you finish.” Once everyone has had a chance to look at the handout, I begin class by asking who solved the maze. Several eager students usually raise their hands, holding their papers in the air to show the curved, convoluted, penciled-in lines that they have drawn to work through the maze. Then I tell them the solution – along with the point of the exercise – in a speech that goes as follows:

“The solution to this exercise is simpler than you might think. All you have to do is put your pencil on the bottle and draw a straight line to the recycling bin. You do not have to navigate the maze. The instructions merely stated, ‘Put the bottle into the recycling bin.’ Most of you assumed that you were supposed to follow the maze, but the instructions did not actually say so.

The point of this exercise is that we all make assumptions about what to do. Sometimes we are right. Sometimes we are wrong. In law school, some of your assumptions will be tested. You may be challenged to analyze situations in a new way. In Orientation, we talked about ‘learning to think like a lawyer.’ For some people, the change is gradual, gentle, almost imperceptible. For others, it is a rough, rude process of being broken down before you build yourself back up again. The purpose of doing this maze was just to show that there are different ways, even very obvious ones, to approach a problem -- quite apart from how we have previously been trained to approach things.

If I hand you this plastic water bottle and ask you to put it on the desk, how would you place it? Most of us would place it on its base, straight up like a typical drinking glass. We would probably not turn it upside down. We would not put it too close to the very edge of the desk. If, however, I handed the same water bottle to a toddler and said, “Put this bottle on the table,” he or she might lay it on its side. It might even roll off the edge. Toddlers have not formed a lot of expectations about how things are to be done. They do not make the same assumptions that we make when we think we already understand what to do.

Previously, in most academic settings, you have all been successful. You would not be here otherwise. The techniques that made you successful in your past, studying, writing, outlining, analyzing, and exam-taking, might work effectively in law school. They might not. Some of it depends on what your previous experience was, and whether the methods were similar to those used in law school. Do not worry. Even if law school seems to be a struggle, you can succeed. Be open to suggestions; be receptive to constructive criticism. Expect to be confronted and challenged, and try to embrace those moments frustrating and painful though they may be) as part of the process of learning to think like a lawyer. In Legal Research & Writing, my goal as your professor is to give you the tools you need to succeed, and my hope is that you will be receptive.”

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Book Review: *Techniques for Teaching Law 2* Blends Best of Old and New

By Olympia Duhart

Consider it a “cookbook” of sorts for innovative law school teaching. Techniques for Teaching Law 2, a new edition of the cult-favorite for new law teachers, has a wide range of teaching ideas, lesson plans, writing prompts, techniques, and assessment tools packed nicely into an easy-to-read format. The law teacher interested in trying something new in his or her classroom need only flip through the pages of the book to find some creative teaching ideas, concrete steps to carry them out and invaluable “insiders’ tips.”

The book, written by Professors Gerald F. Hess (Gonzaga University School of Law), Steven I. Friedland (Elon University School of Law), Michael Hunter Schwartz (Washburn University School of Law) and Sophie Sparrow (University of New Hampshire School of Law), offers the reader the best of both theory and practice. In its opening chapter, the text offers a primer on learning theory, student perspectives and teaching principles. Because most law school professors are not trained as teachers, this chapter was a useful foundation for the fundamentals of teaching and learning. It briefly introduced cognitive learning theory, constructivist learning theory and self-regulated learning theory. Next, it quickly moved to students’ perspectives. Hearing the voices of students weighing in on what makes a successful learning environment is a unique element of the text. Students respond to the Socratic method. They share their honest opinions on collaborative projects. They reveal their struggles with the competitive law school environment. While most of their comments were surprising, some were more helpful than others. What was especially appealing, however, was the ability to consider student feedback outside the loaded world of personal student evaluations. There are also detailed bibliographies of teaching resources throughout the text.

But the real draw of Techniques 2 is the collection of 150-plus ideas and exercises contributed by law teachers from around the country. More than 100 experienced and creative law professors share their best practices for making the law school classroom work. And don’t worry; these exercises have already been used successfully in “test kitchens” across the country. These are methods employed by veteran teachers.

Materials are organized by subject area, and span most classroom considerations. Chapters covered in the text include: materials, teaching with technology, classroom dynamics and learning culture, questioning and discussion techniques, collaborative learning, experiential and service education, writing across the curriculum, professional skills across the curriculum, professional values and identity, formative assessment, summative assessment and teacher development and inspiration.

The new edition includes a chapter dedicated to professional values and identity, which will empower law teachers to help their students understand their role in the context of public responsibility. This chapter responds in part to the Carnegie Report on professionalism and encourages both teachers and students to fully embrace professional and ethical goals. Some ideas are simple – award professionalism points to students for performance. Other ideas include teaching restorative justice practices and getting students to invest in professional oaths.

Throughout the text, the authors have worked hard to capture input from a wide range of instructors. In addition to their own multiple submissions, the authors have culled submissions from law teachers spanning a wide range of interests, backgrounds and specialties. The book includes submissions from professors working at “elite” law schools, and those working at schools dedicated to access. It features input from bread-and-butter doctrinal professors, those who teach specialty seminar courses, clinicians, legal writing professors, and academic support instructors. The topics that are covered are as diverse as the contributors. A quick sample of the contents makes the point. Some of the topics covered in the text include: “Creating More Intimacy in Large Classes” (Professor Charles Calleros); “Teaching the Same Course in a Different Way” (Professor Angela Gilmore); “Using TWEN to Reach Evening Students” (Professor Larry Cunningham); “Sometimes, We Really Do Suck” (Professor Stewart Harris); “Learning by Magic – It’s Not a Trick” (Professor Stephen A. Gerst) and “Ninety Second Oral Argument Game” (Professor Sarah Ricks).

One of the greatest strengths of this book is its last chapter on teacher development and inspiration; this chapter reminds me of advice I once received as a new teacher. A mentor encouraged me to keep a file of the “good days” -- the kind words, productive classes, and positive experiences I shared with students. This file didn’t have to be fancy, but it had to be accessible. I soon started a little collection of e-mails, thank you cards and notes from successful classes and student interactions. I kept the manila folder at the very front of my desk filing system. As my mentor had explained, that folder became invaluable to me on my “bad days.” After a grueling class, a disappointing lesson or a difficult encounter with a student, I could always count on my “good days” file to get me back on track. The corollary in — continued on page 11
Using Formative Writing Assignments to Assess Student Learning Outcomes Across the Curriculum

By Andrea Susnir Funk and Kelley Mauerman

If legal writing professors ruled the world, every law school course would require at least one -- if not more -- formative writing assignment to assess student learning outcomes during the semester in both doctrinal and skills courses.1 In light of the Carnegie Report, Best Practices, and the increased focus by the ABA on student learning outcomes and their assessment, this “world vision” may one day soon become a reality.

Professors who resist using formative writing assignments in their courses typically offer one or more of the following rationales for why they cannot use them: (1) class size (too many students); (2) course coverage (too much to cover); and/or (3) burdensome grading (too much work). Below are suggestions to encourage all professors to use formative writing assignments in their courses even when faced with these three concerns.

Our suggestions stem from our own experience with an upper-level skills course we teach. Each year, our second-year law students are required to take an advanced legal writing course entitled Professional Skills I. Students can choose to take either the litigation or transactional track of the course, each of which use a semester-long simulation involving either a legal dispute or a business transaction. Each student

... by using formative writing assignments in our course, we can better assess whether students are actually learning the material...

Students enrolled in the litigation course draft a representation agreement, complaint, answer, interrogatories, summary judgment motion, and settlement agreement, while students in the transactional course draft a representation agreement, letter of intent, asset purchase agreement, licensing agreement, employment agreement, and non-compete agreement.

The variety of legal writing assignments that students complete in this course allows for multiple formative assessments throughout the semester, aimed at improving students’ competence at writing legal documents. Students receive feedback on all of their written work, and, for certain larger assignments (e.g., the motion for summary judgment), they revise the assignment to incorporate the suggestions made, and then turn in a second draft for additional feedback.

We know that student writing improves over time with repeated practice that incorporates specific feedback. Our second-year legal writing course is designed with exactly that teaching goal

Book Review

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Techniques 2 is a section filled with 12 inspiring reflections on the subject “Why I Teach.” In these essays, well-placed at the end of the text, law professors share personal stories that are both accessible and inspiring. Professor Tony Arnold writes about the decision to invite former students to attend and participate in his wedding. Professor Suzanne Darrow-Kleinhaus shares a precious letter from her father. Professor Angela Mae Kupenda writes about important life lessons she learned from her own motivational fifth-grade school teacher at a still-segregated school post-Brown. These narratives are truly remarkable and humanize this teaching text in a way that most books do not even consider, much less achieve.

Because of the compelling narratives, the expanded coverage, the new emphasis on professionalism and the effort to include all of the wonderful and challenging aspects of teaching, Techniques for Teaching Law 2 successfully blends the best of the first edition with meaningful improvements in the second edition. The book also offers teaching methods, lesson plans, learning theory and inspiration to continue the hard work in the classroom. In short, it is a recipe for success.

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Using Formative Writing Assignments

— continued from page 12

in mind. The more exposure students have to the kinds of tasks they will be asked to perform in the real world, the more prepared our students will be for the practice of law upon graduation from law school. In short, by using formative writing assignments in our course, we can better assess whether students are actually learning the material, i.e., we can assess student learning outcomes.

There are many ways to incorporate aspects of this kind of teaching and assessment into doctrinal and skills courses across the curriculum, even when classes are large, coverage is great, and grading is time-consuming. Professors can incorporate law practice drafting exercises into a wide variety of law school courses. By doing so, they greatly increase student exposure to real-world lawyering skills and can better assess if students are learning what they are teaching.

For example, in a professional responsibility course, students could draft a fee agreement, a representation agreement, or an objective memorandum analyzing a referral fee or a conflict of interest issue. In a wills and trusts course, students could draft a portion of a larger document, such as a short provision of a will. In a business associations course, students could draft all or part of the articles of incorporation or a partnership agreement. Every law school course -- both doctrinal and skills -- has a corresponding real-world component to it. By utilizing formative writing assignments, professors can access that real-world component and better assess student learning outcomes.

The $64,000 question, of course, is how to offer such assignments in a manageable way across the curriculum. First, class size should not deter the professor from creating these assignments. The assignments need not be graded to be effective learning tools for students. While, in an ideal world, professors would review individual assignments and provide feedback, in large classes that goal often is not attainable. Students could be given a rubric to use in evaluating their own or their peers’ papers. Alternatively, a teaching assistant could review the assignments and report to the professor on overall strengths and weaknesses.

Second, course coverage should not deter the professor either. The assignment need not take any time away from class. It could be given as a homework assignment and, if there is no time to discuss it as a group in class after the assignment is completed, the professor could again provide a rubric or a sample for students to use for self-assessment.

Third, and finally, grading the assignment should not stand in the way of the professor offering the assignment as a teaching tool. Because there are so many alternatives to grading assignments and providing individual feedback, a few of which were discussed above, professors should not shy away from using every tool possible to help students learn. For example, in lieu of -- or in addition to -- a final bluebook exam, a professor could design, administer, and assess several shorter assignments throughout the semester, thereby spreading out the assessment.

Put simply, there are ways to provide the benefit without the burden, especially without the dreaded grading burden. The use of these types of formative writing assignments across the curriculum -- in both doctrinal and skills courses -- will help our students be better prepared to enter the legal profession with an understanding of the tasks associated with the practice of law and increased competence in completing those tasks upon graduation from law school. We should all want that.

1 A formative writing assignment -- or assessment -- is one that takes place during the semester, providing both students and professor with feedback on how well students are learning. Greg Sergienko, New Modes of Assessment, 38 SAN DIEGO L. REV. 463, 465. In contrast, a traditional end-of-the semester exam is a summative assignment -- or assessment -- that evaluates how well students ultimately have achieved course goals. Id.


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No trumpets, no hosannas – just a very modest suggestion that should help your classroom function more smoothly and more humanely. It is an idea I stole – literally – from the Aspen Institute in Aspen, Colorado. Attending the Institute’s Justice and Society Seminar one summer over a decade ago, I came away with some wonderful new insights into law, justice, and society; I also came away with a new tool to organize classroom discussions, a method I have used very successfully in my seminar courses ever since. (I limit the use of this method to seminar courses in which the class actually sits around a seminar table or a simulacrum thereof; use in larger classrooms or fixed-seating classrooms would be far less effective.)

At the first class session of the semester, each student is given a name card. The name card is a piece of heavy paper about 16 inches in length and 6 inches in width, folded in half the long way. The student’s name, as listed with the Registrar, is printed in large letters along the long edge of the paper. (If the student prefers to be known by a nickname or by a surname that is the product of a change in marital status, the student may request the issuance of a new card reflecting that preference.) Most of the time, the name card simply sits in front of the student, identifying him or her. I tell students that, when they wish to speak, instead of raising their hands or just shouting out during the class, they should simply take the name card and stand it up on its side (see Photo). I will then know they wish to speak. After they are called on, they should return the name card to its original position (to avoid any confusion as to whether they wish to speak again).

The benefits of this procedure are obvious. Students need not hold their arms up for minutes at a time for fear of missing their turn to speak. Nor will they be distracted from the intellectual substance of the conversation by worrying constantly when it is appropriate to keep one’s hand up and when they should put it down because the professor’s attention is fixed elsewhere or it appears that the current speaker is nowhere near the end of her point. Instead, all the student has to do is set the name card on its side and wait to be called on – no stress, no worry, no anxiety.

From the teacher’s point of view, there are substantial advantages as well. She does not have to worry about the physical endurance of the student who has had her arm extended for the last several minutes and is beginning to show facial signs of imminent collapse. The conversation in the closely-packed environment of the seminar table is not disrupted by the constant and enduring presence of several three-foot-long arms, elephant trunk-like protuberances seemingly poised to block any shot at the basket. Even the student sitting right next to the teacher at the seminar table is free to signal – for an indefinite period of time – her desire to speak, without sticking an intrusive arm and hand in the professor’s face. In this sense, the classroom that uses the upended name card as a signal of the student’s desire to speak, as opposed to the raised arm and hand, is a far more comfortable and civilized place.

An added benefit for teachers who, like me, suffer from an inability to instantly memorize the names of their students is that there is no stumbling over names; the names are right there in front of each student. Furthermore, because the names are there all the time, the teacher is able to learn the names of her students much more quickly than usual.

I always put the students’ names on both sides of the name card; that way, in the cold and impersonal world of law school, students see the names of their classmates and learn each other’s names almost immediately. Many students have observed that it may be the only class in law school in which they learn the names of most of their classmates.

My utterly subjective impression is that this system of management of classroom discussion has increased the quantity and quality of class participation and made the students more thoughtful. Moreover, it is simply more civilized.

Lately, I have been thinking about serving tea.
Across

1. Do violence to a contract.
7. One who guarantees the contractual obligations of another.
14. One who assumes a limited duty of care pursuant to contract.
16. Subject matter of a youngster’s earliest contractual obligation (Plural).
18. Tax deferred fund available to most wage earners.
19. Truck (Abbr).

21. Medical abbreviation for bedtime.
22. Commissioner (Abbr).
23. Proceed.
24. When issued (Abbr).
25. Decay.
26. Periodically enters into labor contracts (Abbr).
28. Contract to pay a fixed sum upon the happening of an uncertain event.
THE BIND THAT TIES

Across continued

29. Tax Schedule for guessers.
30. Not applicable (Abbr).
32. The tie that binds.
36. Trial balance (Abbr).
37. Part of the deal.
38. Agreements and understandings of the parties, as intended by an integrated contract.
40. Signed (Abbr).
41. Certificate of Deposit (abbreviation).
42. The 12th letter of the Greek alphabet.
43. Graduation dress.
45. Warehouse receipt (Abbr).
46. Viable (Slang).
47. City of angels or licensing agreements, take your pick (Abbr).
49. Member of southeastern Nigerian culture.
50. Technical contractual provisions normally found in an addendum (Slang).
52. Container.
53. Pertaining to leaves.
55. The most important single factor for interpreting an ambiguous contract.
57. Offer.
58. Statute requiring certain types of contracts to be written.

Down

1. Evidence rule that requires the original writing for proof of its contents.
2. Shifts pursuant to contract.
3. And so on.
4. Sigh.
5. Unit.
6. Housing and Rent Act (Abbr).
10. Former president of Harvard University.
17. Favorite hypothetical subject matter for every law school contracts course.
22. Normally subtracted from gross when the contract refers to net.
24. Complete a prenuptial contract.
25. Type of property.
27. Free on board (Abbr).
28. A contract's purpose.
30. Disjunctive contractual term denoting multiple exclusions.
31. Conjunctive contract term indicating multiple obligations.
33. Execute.
34. Retail liquor dealer (Abbr).
35. Very informal memorandum signifying a debt.
36. Enlarged (Archaic).
40. Member of Parliament (Abbr).
42. Transfer lacking 32 Across.
43. Transfer lacking 32 Across.
44. Woodwind.
45. Work Plan Revision Request (Environmental law acronym).
46. United States Naval Reserve (Abbr).
47. Always falls within the scope of 58 Across.
48. Humanities.
50. Self-addressed envelope (Abbr).
51. Initials used by a seller to indicate that the price quoted includes the cost of the merchandise, packing, freight to a specified destination, and insurance charges.
52. French game.
54. Inchoate dower (Abbr).
56. Tariff Act (Abbr).

Crossword solution is on page 23.
In preparing to speak to you today, at the end of our students’ first semester as law students, I began thinking about the commonalities between being first-year teachers and being first-year law students. At first, we might think that these commonalities are few and far between – after all, as new teachers, you’ve undoubtedly had a friend or colleague assuage your fears by telling you that you know way more than the students do – but I’m here to say that we’re much more like them than we’re not.

We’re excited. We’re interested. We’re achieving a long-term goal by entering the hallowed law school halls. We’re nervous. We’re unsure what will happen if we get asked a question to which we have no answer. We’re wondering whether our outfit is cool enough, nice enough, and appropriate to our new station in life.

We want to make a difference in the world.

Over the years, I’ve come to understand a bit more about what students expect from law school, as well as what we expect from teaching law students. And how, sometimes, those expectations, all entirely reasonable, come to diverge.

Some examples -

Students come to law school wanting to do justice. It is our job to teach them how equal justice functions within the law, why strict application of the law sometimes may seem unjust, and why strict adherence to the law may be inherently just.

Students come to law school wanting to argue. It is our job to teach them that argument with structure may be more effective than argument with unbridled passion, that argument has its basis in reason, and that objective examination is a prerequisite to persuasive argument.

Students come to law school wanting to be creative. It is our job to teach them that the best creativity may derive from formulas. The best creativity may be reframing what others have already said. The best creativity may come from synthesis, from putting together old pieces to add up to a new picture, a new way of looking things that no one has thought of before.

Similarly, we come to teaching wanting our students to be passionate about serving clients. We are sometimes surprised when they’re more passionate about getting good grades, when they care more deeply about using their laptops in class rather than taking notes by hand, when they prioritize the World Series over careful legal research.

We come to teaching wanting our students to pay attention to detail. We are sometimes alarmed by the fact that no one has previously emphasized comma placement, encouraged professional e-mail use, constructively criticized paragraph structure.

We come to teaching wanting our students to see these three years of law school as worthy in and of themselves, rather than as a means to an end. We are sometimes disheartened when they choose bar courses over writing courses, when they pass up the chance to hear a powerful speaker in order to hit happy hour, when they avoid the library and choose Wikipedia instead.

And that is why understanding the philosophical concept of ontology is relevant.

My favorite writer growing up was Madeleine L’Engle. OK, I’ll confess it. Madeleine L’Engle still is my favorite writer, pretty much, anyway, up there with Justice Cardozo and Armistead Maupin and Philip Larkin. When I was nine, I read all the books I’d expect you probably read when you were nine – A Wrinkle in Time, A Swiftly Tilting Planet, and Are You There, God? It’s Me, Margaret. (OK, that last one is Judy Blume, actually).

So it was pretty exciting to grow into an adult, to become a teacher, and to discover that, later in life, Madeleine L’Engle had written a series of journals aimed at her adult audience. And they were about figuring out marriage, figuring out human relationships, and figuring out the existential. And I figured - boy, if she’s got it figured out, then I want in on that. Even though I’ve read the journals several times, there’s one passage that I come back to whenever I’m down, or confused, or (let’s just say it) frustrated with students. Here’s what Madeleine L’Engle had to say about ontology:

I first became aware of myself as self, as Pascal’s reed (“Man is only a reed, the feeblest reed in nature; but he is a thinking reed”), when I was seven or eight years old. We lived in an apartment on East 82nd Street in New York. My bedroom window looked out on the court, and I could see into the apartments across the way. One evening when I was looking out I saw a woman undressing by her open window. She took off her dress, stretched, stood there in her slip, not moving, not doing anything, just standing there, being.

And that was my moment of awareness (of ontology?): that woman across the court who did not know me, and whom I did not know, was a person. She had thoughts of her own. She was. Our lives would never touch. I would never know her name. And yet it was she who revealed to me my first glimpse of personhood.

When I woke up in the morning the wonder of that revelation was still with me. There was a woman across the court, and she had dreams and inner conversations which were just as real as mine and which did not include me. But she was there, she was real, and so, therefore, was everybody else in the world. And so, therefore, was I.

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I got out of bed and stood in front of the mirror and for the first time looked at myself consciously. I, too, was real, standing there thin and gawky in a white nightgown. I did more than exist. I was.

That afternoon when I went to the park I looked at everybody I passed on the street, full of wonder of their realness.

So, why do I think that ontology is an important concept for new teachers, for new law students, for those experienced ones of us in the room, too? Well, I’ll give you my two cents, and I’d like to hear yours, too. My feeling is that ontology, at least as L’Engle explains it, is all about remembering that others have different lives, different experiences, and resulting different points of view. They are being—just in a different way than I am. And that’s important for teachers and students alike. It’s important for teachers because there will be days when you can’t figure out how to reach the students, when you can’t understand why they don’t understand what you’re saying, when you can’t imagine why a concept isn’t crystal clear.

That’s when you have to step back and remember: There’s a reason why you didn’t go to art school, why you went to law school instead. And if I’m right that no one in this room did go to art school, I’m betting that this is why (at least it is for me): If a painting teacher told you to paint a still life of apples and a pear, focusing on light and shape and texture, those instructions wouldn’t be enough. But how do I do that? You might ask. How do I paint the light? How do I paint the texture? Do I use different colors, or different paints, or different brushstrokes? And why don’t my apples look like the apples on the table, even though I’ve been struggling with painting them for days? And I know you’ve explained it to me nine or ten times, but could we just go through that brushstroke part again, one more time?

And here might be the hardest part, for you, the struggling art student: There is an art student across the way, and she has dreams and inner conversations which are just as real as yours and which do not include you. But she is there, she is real, and her apples look like apples, and her pears look like pears. And boy, is that frustrating. Because you feel like you don’t have vision, you don’t have technique, and you’re better at making muddy messes than majestic masterpieces. Even though you love art. And you’ve wanted to go to art school for a really, really long time.

So, to me, ontology means looking at, relating to, teaching to the student’s being, the student’s reality, the part of the student who loves the law and not the part that’s making a muddy mess of a memo. If you build it, they will come. It will just be at their own pace. The important part is the passion, not the innate skill. And our job is to model, explain, demonstrate the brushstrokes. Even though we’ve explained them already until we’re blue in the face.

How about for students? Why is ontology important for them? Well, it’s got to be because we are training our students to serve clients. It’s tough to do, because the first year of law school, in large part, is about cases, mostly appellate cases, mostly involving people they don’t know and have never heard of and never will meet (remind me to tell you a funny story about that last part later).

But I think we’d all agree that, to motivate themselves to get the hang of the brushstrokes, they need to understand that they will be using their newfound skills to help real people with real problems. Those clients will exist in their own realities, in their own sets of circumstances, and they will have dreams and inner conversations which are just as real as the students’ and which will not include them. And even though some particular problem might seem minor to the attorney, it will probably seem huge to the client.

Here’s an example I like to use with students, early on in the first semester. I like to tell them (it’s true, and yes, I know there’s a lot of debate about how much teachers should reveal about themselves, but it seems to me that ontology dictates that we have to get at least a little down and dirty and get to know each other) that, when I can’t sleep, I like to lie on my couch with my dachshunds and watch weird stuff on the Discovery Channel. There’s usually something good on there about conjoined twins or women who didn’t know they were pregnant until they went into labor or women who didn’t know they were pregnant until they went into labor and then gave birth to conjoined twins. One particular night, I watched a documentary about cataract surgery. And, as the Discovery Channel tends to be, it was up close and personal, gory and graphic. We saw the patient’s eye, and we saw the surgeon’s mask, and we saw the gloved hand holding the scalpel. And we saw the cut. Bye bye, cataract. Hello, clear vision.

So then I ask the students: What is the physician thinking about when he cuts into that patient’s eye? Well, they might say, he’s thinking about cutting into the eye. Really? I ask. Do you think that most eye surgeons are really thinking actively about that eye? Well, they respond, maybe he’s thinking about what he’s having for dinner in a couple of hours, or whether he should send his girlfriend flowers, or whether that big check he wrote will clear. Why? I ask? Well, they say, because cataract surgery is totally routine. He probably does about ten of these a day—and that’s a slow day.

OK, then. So, I ask, what is the patient thinking?

Well, hmmm. The patient is thinking about whether he might cut right through her eye. Will she be able to see when the surgery is done? Will she be blind? Will she be able to get her driver’s
How to get students to realize that they will be required to give legal advice to clients

When I began teaching, I was puzzled by the responses I got from my students when I asked them how they would counsel a client. Invariably, they gave me an answer, if you can call it that, which was a catalogue of possibilities. They described things they could say and how those things might affect their clients and referenced model codes of professional responsibility. But they steadfastly refused to commit themselves to saying anything specific. They were missing the point. I wasn’t asking what they could potentially say; I was asking what they would actually say.

At first, I thought their attempts to avoid saying anything concrete were born out of fear. Clearly, they were hedging because they were afraid to get the answer wrong, a fear no doubt reinforced by the enhanced interrogation techniques used by a dogmatically Socratic torts professor during their first year of law school. But, as time passed, and the refusal to commit to answering my questions seemed endemic, I wondered if there wasn’t something else at work. I eventually realized that my students were laboring under the assumption that the practice of law is as theoretical as the study of law. They assumed they would not be required to give an opinion to a client or personally decide what argument they should make in court on a client’s behalf. Sometimes, they would defer to the whims of their theoretical client and say that they would simply do whatever they were told. What became clear to me was that all the time they spent reading appellate decisions and isolating what the court had held in a particular case left them with the impression that the practice of law was a very passive pursuit. They seemed convinced that the bulk of what they would be expected to do in practice was to make legal arguments based on the positions of their clients, positions which they, themselves, would not be influencing.

My own “moment of clarity” came during a plea colloquy. A student attorney under my supervision was representing a client in criminal court who was charged with a misdemeanor. The student had negotiated a plea bargain with the Assistant District Attorney handling the case and had discussed the terms of the plea bargain in great detail with his client. The client would be pleading guilty to a non-criminal offense and would have to do some community service to satisfy the charges. This particular student was one of the most outspoken and opinionated members of the class and had already made several court appearances earlier in the semester. We stood up before the judge; the student attorney informed the court of the prosecution’s offer and the client’s willingness to accept that offer. The court asked a few perfunctory questions and then asked the student attorney to formally enter the plea, which he did.

Then the judge turned to the client and began the formal allocution. The Court asked the client directly: “How do you plead to the reduced charge?” The client turned to the student attorney with a look of mild panic on his face, clearly not knowing what to say. The student attorney smiled meekly back at the client. Time stood still. The client’s eyes were searching the student attorney’s face for some suggestion as to what he should say. “Is it OK to plead guilty?” I detected the slightest of nods accompanied by a widening of the student attorneys eyes, an almost imperceptible suggestion that this was indeed the moment where the client should admit his guilt to the judge. Finally, the word “guilty” tumbled out of the client’s mouth. As we were leaving the courtroom, I asked my student why he didn’t tell the client it was alright to plead guilty and he looked surprised by my question. “I can’t tell someone how to plead; that is a purely personal choice.”

At the end of the exercise we agree as a class that we will respect one another while discussing and understanding our similarities and differences, not by ignoring them or pretending that they do not exist.
The First Thing You Need to Tell Students in Clinics
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advice, fear does become a factor. They fear that clients will actually listen to their advice and that their advice will turn out to be bad; they fear being somehow responsible for something bad happening. I can offer them sympathy but not absolution. As a lawyer, you need to figure out how to bear that burden. But the sooner they realize that the practice of law is “full contact philosophy,” as the student attorney described above said to me later in the semester, the better.

With that in mind, I now make sure at the start of the semester that my students understand what is expected of them as practicing student attorneys. I used the following anecdote to make my point:

I assume you have all seen a National Geographic documentary. Typically, a British actor provides a voice-over describing the tactics used by a pride of lions hunting wildebeest. I distinctly remember watching one such film that focused on sea turtles. The part I remember quite clearly was the hatching of the sea turtle eggs. When the eggs hatch on a sandy beach, the baby turtles need to make it to the water as quickly as possible before the tide rolls out and they are left stranded on the shore at the mercy of any number of predators. After showing close-ups of the turtles forcing their way out of their eggshells, the film showed the turtles pulling themselves across the sand toward the open water. As the camera pulled back, you could see some of the stragglers. The voice commented that “sadly, some of the hatchlings won’t successfully complete the journey”, or some other euphemism meant to obscure the reality that baby turtles were going to be eaten by other animals. The final images were of one little turtle lying motionless, exhausted, as the tide rolled back out to sea, and of happy turtles swimming out into the Pacific Ocean. The thing that you are supposed to forget is that there is someone with a video camera filming all of this probably less than fifty feet away. Because the film is a documentary, the filmmaker wasn’t supposed to interact with whatever he or she was filming. Filmmakers see themselves as neutral observers; they simply record the events as they unfold without affecting their outcome. Of course, the filmmaker in this instance could just walk over and move the turtle another few feet and save its life, but it would violate a code of ethics in the filmmaking field. The practice of law is not like making a documentary. I expect all of you to move the turtle.

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Keynote address: LWI One-Day Workshop for New Law Teachers
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license back? Will she be able to look after her grandchildren? Can she read her favorite book before bed from now on?

Two people, both in the same room. But in totally different realities. To the surgeon, it is a totally routine day. To the patient, it’s one of the more important days of her decade.

Asking the students to consider this situation encourages them to think about how serious the role they are taking on will be. They will be responsible for clients in a pretty profound way. If they do a good job, they can help the client achieve financial stability, or freedom, or justice. If they mess it up, they will be responsible for the client losing any or even all of these things. They are holding the scalpel. It’s up to them how carefully they want to use it.

Think they want to focus on the brushstrokes now? Well, having a human reason to do so may motivate them just a little bit more. They may be more likely to consider their clients’ dreams and inner conversations.

Let’s bring it back around to us as new teachers. Most of us will no longer represent clients when we enter the academy – there’s that tricky little thing called malpractice insurance that we no longer carry, and we’re just a tad busy, what with committees and faculty meetings and grading and conferences. So our students become our clients. And we’re holding the scalpel. And what an enormous responsibility that is. What a responsibility, and what a privilege.

And today’s conference is about sitting back, thinking about how to embrace that responsibility, how to be worthy of that privilege. Thinking about being – what kinds of teachers do we want to be? What kinds of lawyers do we want our students to become? And what do we need to do to make that reality happen?

To close, let’s go back to Madeleine L’Engle’s way of thinking about being:

A self is always becoming. Being does mean becoming, but we run so fast that it is only when we seem to stop—as sitting on the rock at the brook—that we are aware of our own isness, of being. But certainly this is not static, for this awareness of being is always a way of moving from the selfish self—the self-image—and towards the real.

Who am I then? Who are you?

Lisa T. McElroy is associate professor of Law at Earle Mack School of Law at Drexel University.
Using Visuals to Enhance Student Learning

By Karin Mika

It is no secret that we are a visual society. That’s not to say that we have become a visual society. We have always been one. That’s why movies have always been popular, why television easily replaced radio as the entertainment medium of choice, and why we prefer to attend the symphony as opposed to merely listening to a recording. Despite the fact that we are so visually focused, almost every legal textbook in existence has no pictures in it, and, to the extent that there are pictures, those pictures might be of a judge, a party, or a line drawing of how an accident might have taken place. I can’t think of any pictures I have ever seen in a doctrinal coursebook that weren’t in black and white.

Many Legal Research texts have been better about including pictures, but these pictures are just informational and typically depict no more than a screen shot of a particular source – appropriate and effective given the task to be learned, but not very interesting reading.

I think that most law professors have been told that they need to incorporate more visuals and multimedia in their presentations for purposes of engaging their students, but, for many, that goal means they put notes on a document camera, or write on a smart board, or put key points into a PowerPoint presentation. These efforts may help to keep the attention of the students better than a lecture with chalkboard accompaniment, but they really add little to the depth of learning that is possible.

One of the things that we tend to take for granted as law professors is that students have a base of universal knowledge similar to our own. It is the unavoidable generation gap that becomes greater the longer we teach and the younger our students get. What we may have thought was a relevant and clever allusion at the starts of our careers is archaic in the minds of those we are teaching.

Moreover, to understand basic concepts included in most legal textbooks, students must read cases about, among other historical features, crankshafts, horse drawn buggies, train platforms, and cow catchers. Frankly, the law is often developed through a world that current students do not recognize – a world where women were not entitled to play sports in high school, where trains, rather than airplanes, were the most prevalent form of travel, where we regarded the employer/employee relationship as Master and Servant, and where there was no global economy or internet. Thus, almost all of the cases that are studied in our textbooks are somewhat foreign to our students, and many of the cases that students must invariably find in research involve mystical references to concepts that no longer have any application in our day-to-day lives. Despite this limitation, students are expected to not only understand the concepts, but to understand how the cases apply to modern factual situations.

Thus, to better educate our students, it is not just important to use visuals to engage our students in the classroom experience, but to educate them about relevant context. This mandate is especially critical for many of our non-American students, who are unfamiliar not only with all of American History, but also with various contemporary cultural references and American idioms.

Ralph Brill of Chicago-Kent is a master at incorporating visuals into classroom presentations and exams. As a Torts Professor, Brill provides a visual context for the cases he teaches. Rather than explain what a railroad turntable is, Brill provides a video demonstrating how it is used. He also uses pictures of the places where torts occurred and even uses Google Earth to show the exact layout of the geographic area so that students can better connect to the scenario they are reading about.

His use of visuals is not limited to explaining concepts that are no longer common. He also uses visuals to give context and to enable students to visualize certain situations. This effort is especially important on an exam, and Ralph uses pictures to demonstrate concepts and to bring his hypotheticals to life.

I have also employed visuals for many years in teaching Legal Writing and Legal Research. I attempt to engage the students in the classroom experience by incorporating videos and PowerPoint slides. For supplemental study, I have made great use of video tutorials already available and have filmed a few of my own. But I also incorporate visuals so that the students are able to connect better to the cases. I have also used visuals and other video clips to replace the “canned” fact situation that is typical in setting out hypotheticals. On various occasions, I have used video news clips and have used an episode of House for the basis of an informed consent factual scenario. Last year, I assigned a trademark infringement issue as the basis for a motion and used visuals to demonstrate just what the marks at issue looked like. The students also used visuals in their motions and actually made arguments that incorporated pictures of disputed trademarks.

This year, in an effort to stay away from — continued on page 21
Using Visuals to Enhance Student Learning

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giving students a canned fact scenario, I strung together a couple of videos of ski mishaps and asked the students to pull from those videos the essential information leading to the cause of action. Without a doubt, the students have been paying closer attention to what happened, and they are even studying the videos to ensure that they are including all necessary facts.

Anyone who has ever watched a major trial on television understands the importance of the visuals that go along with the presentation. A trial attorney’s job is to have the jury both see and feel what happened. Difficult concepts must be simplified, and, quite often, a simple picture is worth so much more than a complicated verbal explanation.

There is no reason that law schools should be any different. Visuals not only explain concepts that some of us assume our students already understand, but they immerse the student in the entirety of what otherwise might seem like a distant and non-relevant experience. In all, the use of visuals has made the legal learning experience more enjoyable and more relevant for my students.

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Carol Tyler Fox is visiting associate professor at Case Western Reserve University School of Law.
Why Skills Ain’t Easy: 
The Deceptive Demeanor and the Truth of Taxonomies

By Hillary Burgess

When looking at many courses that are dubbed “skills” courses, many law professors have the initial reaction that they are “easier” than doctrinal courses. In my forthcoming article, The Taxonomy of Legal Learning Objectives and Outcome Measurements, I demonstrate that skills are both more difficult to teach and more difficult to learn than concepts. Concepts include doctrine, policy, theory, and facts. Many law professors might be reticent to accept this hierarchy. However, there is general consensus across the most widely-accepted educational taxonomies that skills are harder to learn and harder to teach than concepts. So, the question becomes, why do law school “skill” courses appear easier to teach and learn than courses that teach doctrine and theory?

Skills within Traditional Casebook Courses

Of course, no course teaches strictly doctrine and theory. Even the most traditional casebook courses will often set learning objectives relating to the skills of analyzing cases, synthesizing rules, and applying rules. With few exceptions, the black letter rules are not too hard to learn. However, the skills required to learn the material, as it is presented, are quite challenging. An oft heard cry of law professors is, “the concepts aren’t hard; students just aren’t doing the careful case reading they need to do to be able to identify and synthesize the rules.”

To illustrate, consider a common first-year concept: the Rule of Capture. For most students, this rule is relatively concrete and familiar. Yet, many students struggle with this concept because, in the first few weeks of law school, students fail to deeply analyze the cases that allow them to understand and synthesize the rules.

Even students who have adequately synthesized the rule will often fail to analyze a novel fact pattern well because they don’t understand how to apply the rules. Thus, even within the most traditional casebook courses, the most difficult learning objectives tend to be the underlying skills, not knowledge of the doctrine or policy.

Learning objectives such as being able to analyze cases, synthesize rules, and apply rules are all high-order skills that can be difficult both to teach and to learn. However, because most law school courses test these areas so frequently in the first year, students should have a relatively advanced mastery level over these skill objectives. In their second or third year of law school, students are merely transferring these familiar skills to a new doctrine or learning more advanced levels of these familiar skills.

Skills within “Skill” Courses

In contrast, in “skills” courses, professors introduce new skills. Students encounter the learning objectives in their skills course for the first time in the course. Thus, after their first semester of law school or so, many students are able to perform at an advanced level in their casebook courses but perform at a novice level in their skills courses. The comparison these upper level courses is not particularly apt. Consider, by analogy, a student who is trying to learn multiple languages. After taking a year of Spanish, the student wants to learn French. The student would likely enroll in advanced Spanish and entry-level French courses. Comparing the learning objectives between the advanced French and entry-level Spanish courses would suggest that “Spanish is harder (or more rigorous) than French,” when, in reality, advanced level language courses tend to be more rigorous than entry-level language courses. Similarly, advanced courses that teach legal skills are harder than entry-level courses that teach skills. Thus, advanced case analysis will often be harder than entry-level contract drafting. Similarly, advanced contract drafting will often be harder than entry-level case analysis.

Many professors who teach skills inherently understand the difficulty in teaching them. Thus, instinctually, professors will tend to gravitate toward easier underlying doctrine. By focusing on easy doctrine, the professor has removed unnecessary obstacles to learning that do not relate to the learning objective of the courses: the skills. Thus, it might appear that students are simply rehashing a relatively simple concept doctrine that they learned in earlier courses. However, the objective of the course is to learn the pedagogically harder skill.

Some skills courses teach skills that are more universal skills, like negotiation. Sometimes, the universal nature of these skills makes these skills appear easier. While law professors often teach negotiations in the context of a legal setting, the underlying skill set remains quite constant across contract negotiations, employment negotiations, even marital negotiations. Despite that students practices these skills in multiple areas of their lives, the courses are justified because experience is quite different from mastery. As my colleague, Dan Piar, will often say, “twenty years of experience can sometimes be one year of experience repeated twenty times.” Few law students have engaged in reflective learning sufficient to allow them to move from being experienced negotiators to being good negotiators. Law professors must create learning opportunities that allow students to become good negotiators.

Generally, learning skills requires multiple opportunities for students to
Why Skills Ain't Easy

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engage in the stages of learning: practice, feedback, and reflection. Each of these stages takes a significant amount of preparation. Professors can spend days or even weeks creating good practice problems. Additionally, to provide meaningful feedback, professors must spend a significant amount of time. Thus, many professors are forced to reduce the learning objectives for skills courses to make the practice problems and feedback meaningful and manageable.

Each of these stages of learning takes time for the student as well. For example, the reflection phase often requires students to engage in personal growth to even begin to understand the feedback they have received. However, skills courses are often crammed into a four-month semester in a three-credit course. Following traditional class/study time estimates, that fact means that the student will likely spend between 125 and 150 hours attempting to master the learning objectives for the skills course. In that short time frame, it is unlikely that students can learn many skills with any significant level of mastery. Thus, professors must choose between broad exposure or narrow mastery. Because law students take so few skill courses, many professors choose to focus on broad exposure to skills. This broad exposure sets the foundations for lifelong learning, but often does not allow for significant mastery of the skill. Because these skills courses begin at a novice level and the students make only modest progress, the courses can appear to be “easier” courses. However, if more credits were allotted to courses that taught skills, professors would be able to set higher levels of mastery for the skill learning objectives.

This breadth versus depth problem can be compounded when schools put skills courses into a compacted format like a four-week summer course or a one-week intensive course. Although the courses might expose students to a number of skills and experiences, the time frame does not allow students to absorb all of the lessons offered to them, which is reflected in their mastery level at the end of the course. Thus, because mastery over skills takes time, practice, feedback, and repetition, the most realistic learning objective professors can set for such a short course is exposure and the foundation for lifelong learning.

Skills also tend to be harder to learn because students are not just trying to learn the skill, but also trying to implement their learning. In casebook courses, students are trying to master concepts and apply them in a very familiar and often-taught framework of spotting issues and writing objective analyses. For example, in most contracts courses, students must learn to spot issues in a contracts hypothetical and analyze how a court might decide the case; very few contracts professors expect their students to learn contract negotiations or contract drafting. However, in skills courses, students not only have to understand the concepts of the skills, they also have to put those skills into action. For example, in a typical negotiations course, students not only have to learn the negotiation principles, they also have to perform negotiations. It is fairly easy to explain what a concept such as “focus on interests, not on problems” means. It is slightly harder to identify, while witnessing a negotiation, if the parties are following this rule. It is harder still to identify a strategy for ensuring that an upcoming negotiation focuses on interests, not on problems. However, it is incredibly challenging to participate in a negotiation in a way that focuses on interests. Skills courses often require students to perform the skills at the much higher level of actually implementing the new skills to produce a product or result.

With all of these inherent obstacles to teaching skills, skills courses can appear easier. These courses might appear less rigorous, but, in fact, skills professors teach new, unfamiliar, difficult material that requires practice, feedback, and reflection.

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(Contracts)

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I teach a number of skills courses, including Client Interviewing and Counseling, Fact Investigation, Negotiations and Trial Practice. My goal for each class is to assist the students on their journey to becoming competent attorneys. A first step on that voyage is helping the students become conscious of who they are and how others perceive them. One of the most challenging barriers in this process is what I call the “conspiracy of silence” that is pervasive in my law school and I suspect is equally present in many others. My students have internalized the belief that it is inappropriate to acknowledge and discuss differences in race, gender, age, class or ethnicity. There is a pretense that they exist in a color-blind, androgynous society in which everyone is the same. Acknowledgment of differences in these areas is considered unseemly, offensive, or simply rude.

Skills classes are designed to prepare students to deal with clients, jurors, colleagues, judges, witnesses and adversaries. Often, these individuals are different from the new attorney in terms of age, race, gender, ethnicity, native language, economic or class background, sexual orientation or other demographics.

I want the students to understand that these differences may have a very dramatic impact on their representation of clients. I have designed a simple exercise to overcome my students’ reluctance to acknowledge differences within the law school community and to begin the conversation about how such differences affect the skills they will be learning in my classes. I want them to understand how their increased awareness and expertise will benefit them throughout their legal careers. I call it the “Mirror Exercise.”

I start by giving these directions: “Take out a piece of paper. Now, I want you to imagine that there is a mirror in front of you. I would like you to write down five things that you see when you look into the mirror. When you have finished, look up so that I will be able to tell that you are done.” Once everyone has stopped writing, I continue: “Now, I’d like you to turn the paper over. On the back side, I’d like you to write down five things about yourself that no one could tell simply by looking at you. Again, look up when you have finished.”


Almost never does any student “notice” or predict that a stranger will perceive attributes of race, gender, ethnicity or age. I ask if they really don’t “see” any of these things when they look in the mirror or think people who meet them don’t notice whether they are black or white or whether they are a man or woman. I am confronted with embarrassed smiles, crossed arms and averted eyes. I then call on one student and ask, “Did you notice whether you were sitting next to a man or woman?” Always the answer is “yes.” Most of the students in our
school are Caucasian. I ask one of the black or Latino students if they count the number of minority students in the class on the first day. Invariably they indicate that they do. I then ask one of the older students in the class if he or she pays attention to whether there are other “non-traditional” students in the class. Again, there is always an affirmative answer.

At this point I very explicitly discuss my views on the “conspiracy of silence” that I believe pervades our school and ask if the students agree with my assessment. Most concur and the students begin to discuss why they think it exists. Interestingly, in every class, one or more of the men admit that they are nervous about commenting on any gender differences for fear that they will be accused of being “sexist.” White students offer that they do not want to be thought of as “racist.” Within minutes, a black student will complain that he is sick and tired of being the one who always has to bring up the topic of race. Another will share that she has been told by a faculty member who he “doesn’t even notice the color of his students’ skin” and knows that the comment is obviously not true.

By this time, we are able to come to an agreement that all of us notice similarities and differences between ourselves and those around us. We also acknowledge that some of our perceptions and feelings about those differences may impact on issues of trust, stereotypes and belief systems.

We explicitly discuss that others we come in contact with as attorneys are not participants in the law school “conspiracy of silence” and that they will notice and act on the differences they perceive between themselves and us. I give examples from my own years of practice. The students roar with laughter when I tell them that I thought my name was “white bitch mother $*^*&” when I was a public defender (as in “I don’t want no white bitch mother $*^*& representing me; I want a real lawyer”). I tell the students that, when I started to practice, there were very few female criminal defense attorneys and that the first few times clients called me such names I was offended and angry. It took time for me to learn that the expletives were not a personal affront but rather a reflection of my client’s fear and distrust of someone who was “different.” It was my job, as the attorney, to understand the genesis of the comment and to work to gain the confidence of my client.

At this point, I ask the students to turn their paper over and share with me the traits they listed that could not be discerned by looking at them. “I have a baby.” “I am a really hard worker.” “I am a cancer survivor.” “I have traveled all over the world.” “I speak Chinese.” “I have four sisters.” “I am the first person in my family to graduate from college.” “I love helping clients in the Clinic.” We discuss how these attributes affect them as people and as the lawyers they will become. We talk about whether these factors are more or less important than the ones on the other side of the paper and how “something that can’t be seen” can be used to make a connection when the more obvious traits point to differences, e.g. two mothers might have a stronger bond than two women of the same age.

At the end of the exercise we agree as a class that we will respect one another while discussing and understanding our similarities and differences, not by ignoring them or pretending that they do not exist.

Utilizing the mirror exercise in the first or second class period allows for a quick and easy reference for later conversations in every skills class. Whether we are discussing an opposing attorney in Negotiations, a potential juror or witness in Trial Advocacy, or a client in Client Counseling, the students are quick to discuss how they will perceive and react to the other person and how that person may view, perceive and respond to them.

At the end of the exercise we agree as a class that we will respect one another while discussing and understanding our similarities and differences, not by ignoring them or pretending that they do not exist.

Laurie Shanks is a clinical professor of law at Albany Law School in Albany, New York.
The practice of law is complex. Lawyers must master subject matter, professionalism, and ethics. In the assignment outlined below, I attempted to incorporate each of these traits and reveal their importance to students approaching graduation.

The assignment -- to develop an activity that warranted a class pass- was designed to highlight, through the students’ own observations, the importance of subject- matter mastery and professionalism -- or lack thereof. I also designed the exercise to engage students in their lives, their communities, and with their classmates.

A. The pass
The granting of a “pass,” that is, freedom from being called on for one class period, is offered by some professors throughout law school. In my Contracts classes, I allow students to pass -- and the accompanying peace of not being called upon for one class period -- once a term. All a student must do is request the pass before class begins. In my Sales classes, consisting mostly of 3Ls, students are organized into firms and do not get passes.

B. The assignment -- create a pass activity
I assigned Sales students the job of creating an activity which could earn each firm in Sales a pass. The activities would be presented to the class for a vote and the activity that received the most votes would be the activity which, when completed by the members of each firm, would earn that firm a pass for one Sales class.

To start, students were asked to pick a 501(c)(3) charity and create an activity to benefit the charity. The charity need not be local or law related, but, to keep the exercise focused and drama free, it could not be politically or religiously affiliated. Student firms, consisting of three students each, were combined to create six groups, each of which was responsible for creating one proposed activity.

At the start of the second class, student groups were given two minutes each to advocate for their activity. Students were instructed that votes would be based on (1) the beneficial impact of the activity on the charity, and (2) the likelihood of class participation. This approach prevented a group from advocating that each firm give $5.00 to a designated charity -- an activity that would have a high rate of class participation rate because of its ease but would not produce a significant benefit for the charity. Requiring students to consider both the benefit to the charity and the likelihood of class participation also prevented an unduly laborious activity from being chosen. Volunteering all day with Habitat for Humanity may greatly benefit the charity, but, because of the time and labor required, the likelihood of student participation would decrease.

At the start of the second class, students made their presentations. Each group member was required to stand with her group during the presentation. The presentations ranged from slightly prepared to stunning.

A class vote determined that Kids Food Basket, an organization that fights childhood hunger, by serving sack suppers to 3,700 kids daily, won. To achieve a class pass, firm members had to either volunteer for an hour or bring in a case of 100% juice boxes for Kids Food Basket and “like” Kids Food Basket on Facebook. This group’s oral presentation was organized, presented creatively, included childhood hunger statistics, and concluded with a letter from a sack-supper recipient. In short, the presentation exhibited subject-matter mastery.

C. The results
The importance of professionalism, ethics, and engagement were the unarticulated goals of this assignment. I hoped students would realize these goals in creating and presenting the pass activity and throughout our discussions over the term.

1. Professionalism
Our first discussion was held directly after the vote when I asked students why they chose Kids Food Basket. An overwhelming number of students identified the winning presentation as clear, professional, and interesting. It met the voting criteria and was coherent and compelling. Professionalism produces results. Here, it resulted in this group’s chosen charity benefiting from donations.

I also asked the students to reflect on the members of each group that presented. How did people stand while in front of the room? How did people present themselves? Were students engaged even if they were not talking during the presentations or did they look bored? Now -- based on their answers to these questions -- who would they hire? This was not an esoteric question. These students will soon graduate, so we discussed the likelihood of business referrals. Would they refer a client to the student who stood unengaged towards the end of the group, in a rumpled shirt, and looked bored? Professionalism transcends courtroom conduct. It includes conversations with neighbors and behavior on a zoning board.

Finally, I asked students to consider how they behaved in their groups. Did they assist their groups in identifying potential charities or simply go along with what the others decided? Did they put any effort into researching ways to benefit the charity or leave the work for others and then nevertheless

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stand in front of the class claiming the idea as their own? We discussed how their participation demonstrated their professionalism to their peers. Professionalism among peers is critical to success. The practice of law is a practice between peers and impressions made are not soon forgotten. Being an active and helpful peer cultivates a professional reputation that will extend far beyond the memory of a law school assignment.

2. Ethics
At the end of the term – when students either had or had not done the pass activity – Professional Responsibility Professor, Victoria Vuletich, joined our class to discuss another unarticulated goal of the assignment. Prof. Vuletich reminded the students, now many terms past their Professional Responsibility Class, that the ABA Model Rules state lawyers have a duty to contribute to their communities and suggest lawyers provide 50 hours of legal services without fee per year. Thinking about the assignment, she asked how many students found it cumbersome or did not participate due to time constraints. That led to a discussion of work life balance. We also discussed the increased time constraints that come with a legal career. If students could not find the time now to step beyond themselves, how could they after entering the profession? Prof. Vuletich then taught by example, informing us that she had matched the students’ donations to Kids Food Basket up to 50%. Her conduct is an example students will apply to more than their mandated pro bono hours. We wrapped up class by emphasizing that the habit of doing for others is easier to keep doing than to start doing. As much as creating good study habits will carry over into practice, creating good habits of giving back will also stay with students after graduation.

3. Engaging
Attached are some thank you letters the class received throughout the term from the Kids Food Basket. The letters helped the students engage with the charity and demonstrated the impact of their donations. The assignments also helped students engage with one another. In creating the pass activity, students discussed their special interests. In presenting the activities, we learned about each other: where some spent summer camp, how others were impacted by tragedy and the generosity of strangers. Engaging in each other’s lives was a reminder that we are – regardless of title: professor/student, plaintiff/defendant, attorney/client – all individuals with individual stories, and we should treat each other accordingly.

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Heather Garretson is an associate professor at Thomas M. Cooley Law School.
Engaging Millennials: Using Twitter in the Classroom

By Danielle Bifulci Kocal

There is much talk these days about the vast differences between the millennial students in our classrooms, and the professors who teach them. Of course, students must be able to adapt to learning in all types of environments, and a professor should not have to completely change his or her teaching style to accommodate this generation of students. However, there are often small changes professors can make that can go a long way in connecting with their students, while encouraging the engagement and participation that is often absent from a “traditional” law school classroom.

As the Director of Academic Success at Pace, one of my responsibilities involves presenting a series of workshops to the first-year students in the Fall semester. I have recently created a Twitter account for my department as a means of getting information to the students quickly and efficiently (along with our department Facebook page). In this age of “instant information,” I have found that even e-mail can be considered an old-fashioned way of communicating with students!

But I’m not only using my Twitter account for notifications. I’m also using it as a way to engage the 1L’s above and beyond the face-time that I have with them. One of the means I use to accomplish this goal is to use Twitter for contests. I am a proponent of using games in the classroom. Jeopardy, Family Feud, Who Wants to Be a Millionaire – many game shows lend themselves perfectly to livening up a law school class, while being educational at the same time. Twitter can create a “virtual game show” for the 21st century – all of your followers can compete with each other without having to be in the same room, or even on campus, at the same time.

For example, each year I host an outlining workshop for the 1L’s, and, during this workshop, I stress the importance of brevity in summarizing the facts of cases in an outline. I know that many students don’t grasp this concept from the workshop alone – when they bring their outlines to me for critique, many still contain long paragraphs full of irrelevant facts for each case. But what if the students could translate what they’ve learned about this foreign concept of outlining into something familiar, such as Twitter? To help the students make this connection, I run a contest after the workshop where I ask students to tweet me a summary of the facts of a specific case (one that I know all the classes have read). Tweets are limited to 140 characters. So, the student who would otherwise be prone to being very verbose in his outline, including every little detail regardless of its importance, is now forced to pick out only what actually matters – the key facts of the case that make a difference in answering the legal question at issue.

One case I use for this purpose is Lucy v. Zehmer. This case is typically read in first year contracts classes, and involves the question of whether a contract is valid when one party claims to have intended something other than what he actually said when entering into the contract in question. The facts play out like a bad talk show, and it’s enticing to the students to want to include it all – there’s lots of drinking, talk of money, and assertions by the parties. Students tend to get stuck on these small but juicy details and include long-winded fact summaries of their briefs in their actual outlines. In reality, all of the facts that are really important can be summed up in a tweet, or 140 characters (including spaces!) or less:
@PaceLawAsp: 2 men (L&Z) drinking in a bar, Z agrees to sell L his land & they sign K on napkin. Z later says he was joking.

It doesn’t matter that the contract was for $50,000. It doesn’t matter that this happened in December 1952. It also doesn’t really matter that Zehmer claimed to have a legitimate reason for making such an offer in jest. The issue concerns whether or not a person’s subjective intent is relevant in holding a contract enforceable, and everything we need to know about the background of the case can be summarized in this short and succinct statement. For a student who has trouble condensing the fact-heavy brief she created for class into a short and simple statement of facts for an outline, this exercise can help put the task into terms she understands.

Case summaries are only the tip of the iceberg when it comes to ways you can use Twitter in the classroom. From encouraging class participation (possibly tweeting questions to the professor before, or even during, class) to facilitating discussion amongst students (students can be encouraged to tweet their thoughts about cases, or ask the class a question, using hashtags unique to the class so the students can easily identify their classmates’ tweets), Twitter use is really only limited by the professor’s imagination. Whether it is the forum for a contest or just a mechanism for discussion, Twitter is likely to get students motivated, participating, and, hopefully, learning in a way that works for them.

Danielle Bifulci Kocal is director of academic success at Pace Law School.
Book Review: *A Teacher’s Reflection Book* by Jean Koh Peters and Mark Weisberg

By Kimberly Kirkland

I was asked to write a book review but I find that, instead, I want to write a thank you note thanking Jean Koh Peters and Mark Weisberg for the gift of their book, *A Teacher’s Reflection Book*.

Dear Jean and Mark,

I picked up *A Teacher’s Reflection Book* after a long, difficult semester. I had taught an overload and was exhausted. In addition, I was embarking on my first non-teaching semester and was concerned that I might not be able to manage the lack of structure the next seven months would provide. The book review struck me as a wonderful opportunity—it was a perfect moment for reflection—and gave rise to some trepidation. I welcomed my semester off as an opportunity to breathe, to rethink my teaching and writing, and to recalibrate my work as a teacher and a scholar to my deepest passions. A book aimed at facilitating reflection was a wonderful way to begin. At the same time, I worried that I wasn’t up to the task of reflecting. I worried that I’d be disappointed either because I would ‘come up empty’ when I tried to reflect or, worse, that I would reflect and be disappointed in what I found when I considered my recent teaching and research.

What I encountered in *A Teacher’s Reflection Book* was a gentle invitation to connect who I am and what I do. From the opening pages, you offer nonjudgmental encouragement. Your affection for teachers, for who we are and for our struggles and aspirations, allowed me to dare to look at who I am as a teacher, who my students are, and how I might bring my heart further into my professional life. As I read, I found myself listening—listening to your unguarded stories about your own experiences, to the stories of other teachers and of students, and listening to myself as those stories resonated with my own experiences. I was drawn to do some of the exercises and not others and listening to myself about which to do and which to skip was easy and natural. As I did the exercises I chose to do, I found myself reviewing my experiences with compassion and an openness to insight and learning. I found myself getting deeply excited about teaching and writing.

Your beginning exercises and examples provided me with opportunities to look at particular teaching challenges. I jumped into the exercise that encouraged me to reflect about a class that had not gone well. At your suggestion I went back through that day in detail, remembering where I’d been before class and what had been running through my mind. Like an observer perched on the windowsill at the back of the classroom, I watched myself teaching the class and the students responding, noticing who was doing what, the rhythm, and ebb and flow of energy in the room. I observed my own reactions. I noticed the times during class when I leaped to conclusions about why students were not responding as I had hoped they would and how that affected my energy and enthusiasm. I then worked through the “parallel universe” exercise. I articulated the conclusions I had drawn about why students didn’t seem to be engaged and then came up with ten other possible or “parallel” reasons why students might not have been engaged at various times during the class. As you predicted, although I will never know all of what really happened during that class, letting myself entertain lots of possibilities (some attributable to my mistakes and some having nothing to do with me) allowed me to explore my own decisions and reactions with a curiosity and willingness to play with changes to my approach.

I also experimented with the exercise that encouraged me to notice the myriad ways in which I listen to students, colleagues, friends, family and acquaintances during any given day and to experiment with different modes of listening. I discovered that a faculty meeting can be an entirely different experience when I listen as a “believer” rather than as a “doubter.” The reflections, examples and exercises you offer in the book make reflecting about both challenging and positive moments in my life as a teacher feel like something I can do easily and regularly.

Perhaps most surprisingly, you invited me to consider what it might mean to embrace teaching as my vocation and not just as my career. You offered a guided meditation where I imagined meeting my future self, the teacher, in her office, noticing all the details of the space she had created and the lines on her face. You invited me to ask my future self what was most meaningful to me as I thought about my life as a teacher, what I valued most about my days over the last 20 years. In this last series of exercises, you dared me to ask big questions—might being a teacher be the place where my “deep gladness meets the world’s deep hunger”—and I found joy and hope and more and more of what is most dear and powerfully moving for me as I walked through those questions.

In this book, you have found a way to model, encourage and help create a compassionate space where teachers can make the deepest connection between who they are and what they do. You give us permission to find our truth in and the courage to bring our hearts to our teaching and writing. You have made a home for reflection. Having read *A Teacher’s Reflection Book* all the way through once, I know I will revisit this home again and again, sometimes just a room, sometimes the whole wonderful space from start to finish.

Thank you,

Kimberly Kirkland

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Five Practical Steps To Ensure Your Students Listen – You Can Catch More Flies With Honey!

By Mireille Butler

Sarah is a young professor. She has clerked for a federal judge, worked at a large law firm, and has just accepted a position as an Associate Professor. Sarah has high standards and expects her students to act professionally. When she notices that one of her students has missed a make-up class during which Sarah was giving specific guidelines about an assignment in her Litigation Drafting class, Sarah gets upset. She worries that, as a young professor, she might not command respect. So she sends a stern message to the student who missed the class. She finds out the student was confused about the date of the make-up class, but, when the student, in tears, begs Sarah to go over the assignment guidelines with her, Sarah refuses. She has no patience for the student’s behavior. At the end of the semester, Sarah’s student evaluations are low.

More importantly, Sarah’s students are not engaged, do not seem to work very hard in class, and generally lack motivation.

Tony has taught International Mergers and Acquisitions for a while. There are often no more than twenty students enrolled. Tony is secure in the classroom, and he is always impeccably prepared. Over the course of the years, however, Tony has developed strict guidelines for his students, in part to teach them professionalism, but in part because he feels he needs a break before he starts grading. When Tony schedules mandatory appointments, and some students miss their appointments, Tony never checks to find out who these students are and why they did not make the appointment—he considers it the students’ problem. Tony’s student evaluations are fine, but not extraordinary. More importantly, many students end up disliking the course and consider him a little less hard-working than other professors.

Neither Sarah nor Tony’s behaviors are unusual – yet, their students’ dislike of the curriculum and their lack of respect (or attention) in class is directly linked to the professor’s behavior. This article attempts to provide 5 easy-to-follow steps that will remedy students’ negative attitude towards a professor and a class, but more importantly, will end up making a professor feel more engaged as she creates meaningful and long-lasting relationships with her students, during and after the academic year.

1. Your Students Will Listen To You Only If They Respect You.

Appropriate each class with a marketing mind-set. Make sure your students know your credentials and your experience, and how they relate to the class you are teaching. Also make sure to explain why and how the class you are teaching will be important to students in practice. Enlist the help of practitioners, and if possible, of former students now alumni practicing in the area of law you are teaching. Explain that while the class assignments can be a lot of work, the subject matter’s concepts can only be learned through background reading or drafting exercises. And if your former students are willing to add that you are an excellent professor, let them!

2. Your Students Will Listen To You Only If They Know You Respect Them.

Just as you expect your students to respect you, so you must let your students know that you respect them. You know more than they do. It is natural for them not to understand something that seems basic to you. Your students will notice if you are bored, impatient, easily annoyed, or condescending. They will see it on your face. It will make them feel small, upset, and angry. And they will resent you for making them feel that way. And they will start ignoring you.

3. Your Students Will Listen To You Only If They Know You Care About Them As Persons.

Make sure that you ask them how they are doing. Attending law school can be a trying experience, yet your students’ lives do not stop simply because they are in school. Show a personal interest in your students, rather than narrowly focusing on how they are doing in your class or whether they are able to complete an assignment. And always assume the best, not the worst. It is easy to conclude that a student does not care when she does not seem engaged in class, asks a question the answer to
which you have just given, or misses an appointment with you. Do not let that student get away with this behavior, but do so in a gentle way. The student might be distracted not because she does not care, or because she is a slacker, but because of a serious personal issue (e.g., a relative has just been diagnosed with a life-threatening disease). Speak to her at the end of class. Send her gentle reminders, rather than adopt a scolding tone. Ask her how she is doing – she might reveal at that point some personal issues with which she needs help. Use a carrot rather than a stick. Remind the student that discretionary points for attendance or professionalism are hers to lose, and that you do not want to see her lose those points because she deserves better than that. Your students will not respect you less for being understanding. They will appreciate that you care about their well-being while also realizing you are holding them accountable.

4. Your Students Will Listen To You Only If They Know You Have Their Professional Interest At Heart.
One of the most difficult tasks for a professor is giving feedback. Because most students feel that they are their class performances, often, there is a danger that they will take feedback and constructive criticism in a very personal way. Even though they might seek your comments, they might feel offended by them and stop paying attention. This problem will not arise if your students know you want the best for them. All professors, of course, want the best for their students – otherwise, they would not be teaching! However, our students (some of whom can be very young) do not always understand that the feedback we provide or the professionalism expectations we have for them are meant to make them better equipped for practice. So be kind. Do not simply focus on what must be fixed – also be generous with compliments regarding what need not be fixed. And explain to them that your remarks only have one goal – to make sure your students improve.

5. Your Students Will Only Listen To You If They Know You Work As Hard As They Do.
Teaching is a lot of work, but your students may not see it. They do not realize that you might have been up until midnight four nights in a row grading papers. They may not understand that the hour you have spent with one of them going over misunderstood concepts could translate into 30 extra-hours a week for you because you might be spending an equal amount of time with the other 29 students in your class. As a result, a student may wonder how committed you are when you refuse to answer questions via e-mail, or decline to comment generally on a practice exam she took. It is your job to explain to your students why you have certain rules, so that they do not feel those rules are arbitrary. It is also your job to help, so be flexible – is it really impossible for you to answer a few e-mails the weekend before a deadline? Or review (quickly) a few issues on the practice exam? Your students are your clients. They pay good money for their education, and their messages to you seeking clarification mean they care. In practice, we have all worked with clients who ask questions we have already answered, or who seek immediate help on a weekend evening. While it is perfectly acceptable to explain to a student that you cannot give detailed comments on a ten-pages-long practice essay, it also does not cost much to make a few general remarks and add “in addition, I will also be happy to answer any specific questions you might have.” Your students’ reaching out to you is a good thing. If you are prompt, responsive, and helpful, they will not only be more open to hearing you in class and outside of class, but they will also end up being more respectful of your time because they understand how busy you are.

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Five Practical Steps To Ensure Your Students Listen
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Learning theorists encourage educators to provide frequent opportunities for students to apply abstract principles in concrete application exercises as an effective means of aiding and enhancing students’ comprehension, learning, and retention. While working as the Legal Writing Program Director at Florida A&M University College of Law, I implemented Legal Writing Program Writing Workshops to reinforce the key skills taught in the first-year legal research and writing (LRW) course by providing hands-on exercises for students to complete in a professor-guided learning environment. Our first-year LRW curriculum was uniform; therefore, all professors used the same syllabi, assignments, and textbook. I and my team of legal writing faculty created workshops on legal research, writing, and analysis topics as well as on basic mechanical writing topics. These workshops provided additional opportunities for our first-year students to apply the legal research, writing, and analysis skills learned in the LRW classes. This article describes the (1) scope; (2) content; (3) method; and 4) scheduling of the workshops.

Overall, students who engaged in the learning process during the workshops, especially those who read and/or completed the exercises prior to attending the workshops, reported that they gained a better understanding of LRW class lectures and of how to further apply the skills taught in the LRW classes.
Destination Application: Using Hands-On Writing Workshops

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delivery. Without much deliberation, the professors and I decided that the default method of delivery would be to devote no more than approximately one-third of the workshop time to lecture on the subject matters. This abbreviated lecture served the purposes of reviewing materials for students before working with them on the exercises and allowing students in Professor X’s required LRW class to benefit from hearing Professor Y explain the same concepts. Given that individuals have different learning styles, and professors, even those who vary their teaching styles to reach all types of learners, still tend to adopt teaching styles that are shaped largely by the professors’ own learning styles, we decided to afford students the opportunity to learn from professors different from their regular professors.

In addition to allocating a maximum of one-third of the workshop time to the lecture, we decided to use the remaining two-thirds of the workshop to walk students through at least one hands-on exercise. In some instances, students worked on a problem with the professor's help and then used a portion of the workshop to apply what they had learned to complete other exercises and to discuss their responses with their classmates. Professors often asked students to work on the hands-on exercises in groups of two to five students, depending on the nature of the exercise. After carefully considering the students’ and professors’ feedback on their writing workshop experiences, we revised the required LRW curriculum and syllabi to facilitate the professors’ efforts to lecture a smaller portion of the class period, i.e., approximately twenty to thirty percent of the time, and to administer and discuss application exercises for the greater portion of the class period, i.e., roughly seventy to eighty percent of the time.

Regarding the method of delivery, the LRW Program director and the LRW professors utilized TWEN or Web Course to electronically disseminate the workshop handouts to all first-year students prior to the actual workshop. Professors encouraged students to download the handouts and read and complete the assigned exercises before attending the workshop. Students typically downloaded the handouts beforehand, but some students did not read or complete the exercises beforehand.

Another facet of delivery we considered is the use of visual aids. We decided that professors would never merely lecture and write on the board to deliver the material to student attendees. Professors used a combination of visual aids, such as PowerPoint slides, charts, diagrams, internet sites, and handouts to supplement their lectures and notes on the board.

The fourth planning consideration was scheduling. Because we offered identical workshops to day program students and evening program students, we scheduled two workshops per week and made the workshops reasonably accessible for both sets of students. Initially, we scheduled ten different workshops per semester, holding each workshop twice to accommodate day and evening students. Ultimately, we scheduled five distinct workshops each semester, offering each workshop twice to accommodate day and evening students. Further, we experimented with scheduling workshops for fifty and seventy-five minute spans. Fifty minute workshops challenged the professors to provide ample time for lectures, in-class work, in-class discussion of students’ answers and thought processes, and professor and peer feedback. Seventy-five minute lectures addressed some of those issues but created other issues: we had trouble finding time in the law school course schedule to accommodate the lengthy class period, holding evening program students’ attention when they had worked all day and sat through hours of class prior to attending the workshop, and convincing students that they were not sacrificing time better spent completing assignments for their required courses. Of course, this last issue also pertained to the fifty-minute workshops.

The scheduling lessons we learned were that evening students are less inclined to attend and struggle to focus in workshops scheduled after 8:30 p.m., day students are more likely to opt out of workshops even if planned when classes do not meet if they do not have a lunch hour between workshops and classes, and second and third year students would also attend if the workshops did not conflict with their classes and their professors encouraged them to come. Students who participated fully in the writing workshops reported that they generally learned more by doing the hands-on exercises with their peers and the professor.

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Teaching Students How to Use Form Contracts

By Stephen L. Sepinuck

Lawyers frequently use forms when drafting written agreements. Such forms may come from a published form book or simply from a prior deal that the attorney or the attorney’s law firm handled. Regardless of the source, competent attorneys must be very careful in how they use a form. Is the language clear? Are there latent ambiguities? Is it premised on a correct understanding of applicable law? Has the law changed since the form was created? Does the form favor one side? A lawyer should never include in an agreement a term that the lawyer does not understand, and the mere fact that the form exists does not absolve the lawyer from thinking carefully about these questions.

To make an informed decision about whether to retain, modify, or jettison any particular term, the lawyer needs to know what the term is intended to do and whether and how the law has changed since the term was drafted. Unfortunately, forms rarely come with annotations explaining their purpose. So, the attorney is typically grasping in the dark. Junior attorneys and law students, perhaps because they lack confidence in their own judgment or knowledge of the law, tend to retain language and terms unless they have good reason to revise or remove them. This is so despite the advice of some “to think clearly and act bravely.”

Howard Darmstader, Hereof, Thereof, and Everywhereof: A Contrarian Guide to Legal Drafting 140 41 (2d ed. 2008). See also id at 197 200 (describing the possible origin of a now common but unnecessary term in a guaranty).

To combat this tendency, and to train my students on how to use forms properly, I have them annotate a sample contract. For example, this year, my students had to identify the purpose of each of the six highlighted phrases or sentences in the sample promissory note reproduced below and explain why the language is or is not necessary. My own annotations are also reproduced. Despite what I thought were clear instructions, most students initially tried to intuit the answer and did little or no actual research. I then commented on their efforts and gave them the opportunity to revise their responses in return for a higher grade.

On the whole, the assignment was a huge success. It opened the students’ eyes as to what they need to do in practice.

Promissory Note

For value received the undersigned (hereinafter “Maker”) promises to pay to the order of First National Bank of Spokane (hereinafter “Lender”), the principal sum of ________ Dollars ($______), together with interest from the date hereof until paid on all sums which are and which may become owing hereon from time to time, upon the following terms and conditions:

Interest. Unless there shall be a default, interest shall accrue from the date hereof and be paid at the rate of ___ percent per annum, computed on a 365/360 basis;² provided, however, that in the event of any default, as hereinafter defined, all sums then and thereafter owing hereon, at the option of the Lender, shall bear interest at the rate of percent (___%) per annum, computed on a 365/360 basis (the “Default Rate”).

Payments. Maker shall pay this note in ________ equal installments on or before the ___ day of each month until it has been paid in full. Each payment made on this note shall be applied first to interest accrued to date of payment and then to principal.³

Late Payment Charge. If any installment is not paid within ________ (__) days after it becomes due, then the Maker agrees to pay a late charge equal to ___ percent (___ %) of the delinquent installment to cover the extra expense involved in handling delinquent payments. This is in addition to and not in lieu of any other rights or remedies the Lender may have by virtue of any breach or default.

Default; Attorney’s Fees and Other Costs and Expenses. In the event of any default, all sums owing and to become owing hereon, at the option of the Lender, shall become immediately due and payable and shall bear interest thereafter at the Default Rate per annum. The Maker agrees to pay all costs and expenses which the Lender may incur by reason of any default, including without limitation reasonable attorney’s fees with respect to legal services relating to any default or to a determination of any rights or remedies of the Lender under this Note and reasonable attorney’s fees relating to any actions or proceedings which the Lender may institute or in which the Lender may appear or participate and in any appeals therefrom.

Liability. The Maker hereby waives demand, presentment for payment, protest, and notice of protest and of nonpayment.⁵

Maximum Interest. Notwithstanding any other provision of this Note, interest, fees and charges payable by reason of the indebtedness evidenced hereby shall not exceed the maximum, if any, permitted by any governing law.⁶

Applicable Law. This Note shall be construed according to the laws of the State of Alaska.

Annotations

1 (pay “to the order of”). This language is required to make the note negotiable. See U.C.C. § 3 104(a)(1). Negotiability allows for a transferee to qualify as a “holder in due course,” see § 3 302, and thereby cut off most defenses to payment and claims to the note. See § 3 305(b). Because of these rules, a negotiable note is more marketable than a nonnegotiable note. Hence, the language is something the lender should insist upon including.

2 (interest computed on a 365/360 basis). This is a method of calculating interest

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that divides the stated interest rate by 360 to calculate the rate of daily interest. As a result, the actual interest rate will be 1.01389 times the stated rate in a non leap year. See Kreisler & Kreisler, LLC v. National City Bank, 657 F.3d 729 (8th Cir. 2011). Some courts treat the clause as creating an ambiguity because the stated interest rate will, in fact, not be the actual rate if the formula is used. See JNT Properties, LLC v. Keybank, 2011 WL 2566510 (Ohio Ct. App.), review accepted, 957 N.E.2d 1167 (Ohio 2011). However, others do not. See LDJ Investments, Inc., 2012 WL 86537 (S.D. Ill. 2012) (suggesting ways to rephrase the clause); Hubbard Street Lofts, LLC v. Inland Bank, 2011 WL 6344377 (Ill. Ct. App. 2011). In any event, without this language, it is doubtful that a lender could use this method to calculate the interest due because doing so would result in an actual rate higher than the interest rate stated in the note.

3 (payments applied first to interest, then to principal). This would seem to be a desirable term (for the lender) if interest accrued on principal but not on interest. By having the interest paid first, that would leave a larger balance on which interest would accrue. However, the first paragraph provides for “interest . . . on all sums which are and which may become owing hereon,” and thus calls for interest on interest. Thus, this clause would appear to have no purpose. The one exception to that conclusion would be if the lender could treat a payment in excess of a required installment as prepayment of interest (i.e., payment of unaccrued interest) instead of a prepayment of principal. If it were a payment of principal, then interest would not accrue on that amount. If it were a prepayment of interest, interest would still accrue on the underlying principal amount. However, it is not clear from the language of the clause that it applies to unaccrued interest, which is really not a debt.

4 (acceleration clause). Unless the note has an acceleration clause, if the maker misses a payment, the creditor could seek to collect only the one missed payment because the rest is simply not yet due. That result would make litigation very cumbersome; the lender would either have to wait for a default on all payments or bring multiple lawsuits. Similarly, if the debt is secured, then, without an acceleration clause, the secured party may seek to extract value from the collateral only to the extent of the missed payment.

5 (waiver of demand, presentment, protest & notice of protest or nonpayment). Demand is a request for payment. If the note is a demand note, then a waiver of demand will presumably not obviate the need for the holder to ask for payment. If the note is payable at a specified time, and not through a bank, demand is not required. See U.C.C. § 3 502(a)(3). Thus, at least in the domestic setting, waiving demand would seem to be unnecessary (at least if presentment is waived, see below).

Presentment is a demand for payment that allows the payor to demand that the presenter exhibit the note. See U.C.C. § 3 501(b)(2). This is often impractical and hence this clause waives the requirement. A waiver of presentment is also a waiver of notice of dishonor. See U.C.C. § 3 504(b).

Protest is a certificate of dishonor made by a consul, vice consul or notary public. See U.C.C. § 3 505 & cmt. Protest and notice of protest are not needed in domestic transactions but may be required under foreign law or pursuant to treaty.

Notice of Protest (see above).

Notice of Nonpayment (referred to as “notice of dishonor”) is generally required before a note can be enforced against an indorser. See § 3 503(a).

Thus, perhaps the only one of these waivers that is still needed in a domestic transaction is the waiver of presentment. That waiver doubles as a waiver of notice of dishonor, and all the others are arguably archaic.

6 (limitation on interest). The purpose of this clause is to prevent the note from being deemed usurious. In some states, the penalties for usury are substantial, often a forfeiture of all interest. In Alaska, whose law governs the form promissory note, the penalty is double the amount of interest collected. See Alaska Stat. § 45.45.030. This clause, assuming it is given effect, prevents that result from occurring by reducing the interest rate to an allowable rate. However, several states treat a usury savings clause as ineffective to prevent the loan from being usurious. See, e.g, Dupree v. Virgil R. Coss Mortgage Co., 267 S.W. 586 (Ark. 1925); In re Global Outreach, S.A., 2010 WL 3957501 (Bankr. D.N.J. 2010), aff’d in part, rev’d in part, 2011 WL 2294168 (D.N.J. 2011) (holding that the proper remedy for usury was forfeiture of only the excessive interest, making it unnecessary to consider the efficacy of the savings clause); Simbury Fund, Inc. v. New St. Louis Associates, 611 N.Y.S.2d 557 (N.Y. App. Div. 1994); Swindell v. Federal National Mortgage Association, 409 S.E.2d 892 (N.C. 1991). Other states allow the clauses to avoid defeat a usury violation, at least in some cases. See, e.g. Jersey PalmBGross, Inc. v. Paper, 639 So. 2d 664 (Fla. Ct. App. 1994); Woodcrest Associates., LTC v. Commonwealth Mortgage Corp., 775 S.W.2d 434 (Tex. Ct. App. 1989).

How Alaska would treat this clause is uncertain. The clause may help and probably cannot hurt.

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Making IRAC Visible

By Suzanne Darrow-Kleinhaus and Nancy Ellen Chanin, Esq.

Every year, it is one of our tasks to introduce first-year students to the structure of legal analysis. And, every year, we try to think of a more effective way to do so. It is easy enough to tell students that an effective essay follows some form of the IRAC structure so that, for every issue, the student’s analysis is organized around an “issue,” a “rule,” an “application,” and a “conclusion” for every issue. What’s not so easy is to give that formula meaning so that students don’t end up labeling each paragraph with the words “Issue” and “Rule” or, equally troubling, writing pages of rule statements followed by pages of fact narration. Unfortunately, we have all seen these IRAC abuses.

The difficulty is getting students to fully understand how to use IRAC as an organizing tool. Talking about it doesn’t seem to help. Even when we are as explicit as possible and include helping words for framing the issue, writing rule statements, and turning statements into analysis, far too many students don’t seem to grasp what we are saying. This deficiency seems especially likely when there are multiple issues and sub-issues. There seems to be a gap between understanding IRAC and implementing it.

Our goal in introducing IRAC this year was to make it visible — to show what it looks like in a written answer, especially how one issue links to another. We hesitated to do this in previous workshops for a couple of reasons. For one thing, it meant that we had to state a rule, a whole rule and not just snippets and buzz words. We have been reluctant to commit to writing a rule because even with a basic problem dealing with assault and battery, rule statements vary by professor. Although we have always been careful to tell students to use the rules that they learn from their professor, not all students do so. They simply copy whatever is given to them. Previously, we allowed this to influence our choice of teaching materials. This time we decided not to let this concern influence our teaching choices. If we were going to make IRAC “visible,” we could not avoid writing the “R” words. Nor could we avoid writing portions of the analysis, knowing that whatever we wrote would be subject to scrutiny.

We tried to resolve the potential problems created by our new approach using the following techniques. First, we made sure to identify where there could be variations in the rule statements by noting differences between the Restatement and judicial opinions. Second, we asked for volunteers to state the rule according to what their professors had said in class. Since there were students from four different Torts sections in the room, it soon became clear that there were slight differences in what they had learned from their individual professors. As we worked our way through crafting rule statements, students began to see how specific and precise their language had to be when writing the rule; they also began to realize how important it was to take good class notes so that they would learn this language. Finally, when we worked on the analysis section, we made it very clear that it is possible to write a solid analysis in so many ways that a single “sample” answer can be misleading. We urged students to consider what we wrote together as only one example and to use what they learned in class from their professor to guide their own analyses.

We had to choose our problem carefully since we would be taking students through the processes of reading, outlining, and writing an IRAC-based analysis in a short period of time. It had to be short, but it had to contain at least two issues to allow us to demonstrate how to use IRAC to transition from one issue to the next. We decided to use a hypothetical that has been circulating for years in law schools in one form or another. After changing it quite a bit, it read as follows:

At 2:00 am one morning, Ben began singing under Jessica’s balcony on the 5th floor of the Beverly Hills Hotel. Jessica was not in the mood after a long day on the movie set. She began shouting at Ben to keep quiet, but he refused to stop singing. Jessica then yelled that she would kill Ben if he didn’t stop. Ben just continued to serenade her. In an effort to scare Ben away and get some beauty sleep, Jessica began throwing her fuzzy, high-heeled bedroom slippers out the window, first one and then the other. Ben was unafraid. One of the slippers hit Ben on the head. Ben, who had thin skin, died instantly.

What is the result in a suit brought by Ben’s estate against Jessica?

As we worked our way through the problem, we wrote out each part of the answer on a whiteboard, careful to label each sentence with its appropriate IRAC identifier. The only place where we had to cut corners was in writing the analysis. There simply wasn’t time or room on the board to write everything out. Instead, we identified the relevant facts and verbally articulated the arguments. We were careful to keep students focused on articulating one point of view at a time, first the argument and then the counter-argument.

After the workshop, we heard from many students that the process of working through the problem, articulating the precise language, and then labeling the pieces as we “built” the answer together was incredibly helpful. We like to think so but only time will tell. For now, we are happy to see the students writing out answers to the problem in their small, teaching-assistant led study groups, using what we discussed in the workshop as their outline.

Except for the additions of bold-face and italicized text used for the purposes of this discussion, what we wrote on the
Making IRAC Visible

— continued from page 36

whiteboard looked like this when we were done:

Overall Issue
The question is whether Jessica committed a wrongful act(s) when she threw her slippers at Ben and he died. This depends on analysis of the following:

Sub-issue 1:

I The first issue is whether Jessica committed a battery when she threw the slippers out the window and hit Ben.

R A battery occurs when a party intends to inflict a harmful or offensive bodily contact and such contact results.

Sub-elements of rule: intent and act

R Intent:

! D acts with purpose1 to cause a harmful or offensive bodily contact or

! D acts with knowledge to a “substantial certainty” that a harmful or offensive contact will occur.

A Here, the facts indicate that Jessica did not intend harm but only to “scare Ben away and get some beauty sleep.”

! Purpose: It is only necessary that Jessica intended to cause either a harmful or offensive contact; it is not necessary that she desire to cause harm. Jessica may have had the requisite intent because:

[Facts: she threw two slippers at him — one at a time shows deliberate act; intent to scare; nothing in facts indicate intent to make contact; bedroom slippers; high heels]

! Knowledge: Alternatively, it is possible that if she knew with substantial certainty that throwing her slippers out the window would result in hitting Ben, she could be liable. Whether Jessica knew with substantial certainty that her slippers would hit Ben is questionable because:

[Facts: 2 a.m. so may not be able to see; 5th floor is a remote distance; slippers not hard object, no aim for throw indicated]

R Act/conduct:

! Contact may be direct or indirect

! Contact is harmful or offensive

A Here, we have an indirect contact between Jessica and Ben because Jessica threw a slipper out the window which hit Ben. The contact was harmful since Ben is dead.

C It is likely there was no battery because intent was lacking; she did not act with purpose or knowledge that she would hit him with the slipper.

Overall Conclusion
Therefore, Jessica would be liable for assault and battery.

Sub-issue 2:

I The next question is whether Jessica committed an assault when she threw the slippers.

R An assault occurs when a party desires or is substantially certain that her action will cause the victim’s apprehension2 of imminent harmful or offensive contact.

Sub-elements of rule: intent and act

R Intent: D acts with purpose or is substantially certain that her action will cause apprehension of an imminent harmful or offensive contact.

A Here, Jessica’s intent was for Ben to stop singing by scaring him away. She shouted that she was going to kill him and she threw her slippers out the window to scare him away. While words alone would not be sufficient, here they were accompanied by the physical act of throwing the slippers so the intent required to commit an assault is satisfied.

R Act/conduct: D’s act actually causes apprehension of imminent harmful or offensive contact.

A Here, the facts indicate that Ben was “unafraid” which would mean that he saw the slippers coming at him but was not afraid of them. However, one need not feel fear to perceive that a harmful or offensive contact is about to happen. Because Ben was unaware of the slippers, it is likely he saw the slippers and therefore would feel apprehension of the contact.

C Therefore, Jessica committed an assault.

Sub-issue 3:

I Can the doctrine of transferred intent be used to establish liability for a battery?

R Under transferred intent,3 if the defendant intends to commit any of the intentional torts but her acts instead or in addition result in any of the other five intentional torts, the defendant is liable even if she did not intend the other tort.

A Since Jessica had the requisite intent to commit an assault, that intent can be transferred to satisfy intent for the battery. Here, Jessica intended an assault and then caused a harmful touching as well.

Overall Conclusion
Therefore, Jessica would be liable for assault and battery.

Suzanne Darrow-Kleinhaus is a professor and director of academic development at Touro Law Center. Contact her at suzanned@tourolaw.edu. Nancy Ellen Chanin is assistant director of academic development at Touro Law Center and can be reached at nchanin@tourolaw.edu.
INSTITUTE FOR LAW TEACHING & LEARNING SUMMER CONFERENCE: JUNE 25-26, 2012
GONZAGA UNIVERSITY SCHOOL OF LAW, SPOKANE, WASHINGTON

The Institute for Law Teaching & Learning will present its summer conference on June 25-26, 2012, at Gonzaga University School of Law in Spokane, Washington. The theme for June 25 is the Value of Variety. June 26 is a day for Reflecting on Our Teaching. Participants can register for either or both days.

Structure of the Conference

June 25 – Value of Variety

The first day of the conference will include a plenary session and four workshop sessions. During each workshop session, four workshops will run simultaneously. Participants will be able to tailor the conference to fit their individual interests by choosing which workshop to attend during each session. The workshops will address innovative materials, alternative teaching methods, new technology, and ways to enhance student learning in all types of courses. Each workshop will include materials that participants can use during the workshop and when they return to their campuses. The workshops will model effective teaching methods by actively engaging the participants.

June 26 – Reflecting on Our Teaching

This one day teaching retreat will offer participants an opportunity to step back and reflect on their lives as teachers. How does who we are affect how we teach, and how does teaching affect who we are? What does it mean to lead a professional life as a teacher of law? What aspects of ourselves are the most supported and engaged by the work we do? This conference will be held at Gonzaga’s Bozarth Retreat Center, a historic building located in the pines above the Little Spokane River.

Benefits to Participants

During the first day of the conference, participants can expect to encounter many new ideas about teaching and learning. In addition, the conference, which includes long scheduled breaks, is intended to facilitate informal interaction among creative teachers who love their work with students. Participants should leave the conference inspired and informed about increasing the variety of their teaching techniques, materials, and assessments.

The retreat during the second day of the conference will be co-facilitated by Jean Koh Peters and Mark Weisberg, who have led widely successful retreats in the US and Canada. The retreat will offer space, exercises, innovative teaching methods, nontraditional learning experiences, and good company in the rewarding, humor-filled and enjoyable practice of reflection. Each participant will receive a journal and A Teacher’s Reflection Book (Carolina Academic Press 2011), which provides extensive resources for reflecting. And each participant will leave with reflection processes that work, ideas for future reflection, and a concrete plan for reflecting back home.

Summer is a wonderful time of year in the Inland Northwest and we encourage you to combine some vacationing with your work at the conference. The website www.experiencespokane.com can help you plan. Spokane offers shopping, fine dining, art and sporting events, public golf courses and nearby rivers, lakes, and national parks.

Registration and Deadlines

Attendance at the June 25 conference will be limited to 100 participants to facilitate small-group experiences. The June 26 retreat will be limited to 40 participants. The roster will be filled in the order that the Institute receives the registration form and conference fee by Visa/MasterCard, or by check payable to Gonzaga University.

Conference fees

- Value of Variety. $250 for participants, which includes materials, breakfast, and lunch. $125 for presenters.
- Reflecting on Our Teaching. $250 for everyone which includes materials, breakfast, and lunch.
- Both conferences. $450 for participants and $350 for presenters.

Refunds: Attendees must notify the Institute to receive refunds. If notice is received on or before June 8, 2012, a full refund will be provided. No fees will be refunded if notice is received after June 8, 2012.

Meals and Wine Tasting (optional)

Light breakfast and lunch on June 25 and light breakfast and lunch on June 26 are included in the registration fees.

In the evening on June 25, an optional wine tasting event will take place at Barrister Winery (cost $10 per person to be paid at the Winery).
Lodging

Participants are responsible for their own travel arrangements. The hotels below all offer a Gonzaga corporate rate. For any of these properties, please place your reservation by phone at the numbers below and be sure to request the Gonzaga University Corporate rate:

The Davenport Hotel
10 South Post Street
Spokane, WA 99201
Tel: (509) 455-8888
Standard rooms starting at $135

Oxford Suites
115 W. North River Drive
Spokane, WA 99201
Tel: (509) 353-9000
Standard rooms starting at $99

Red Lion Hotel at the Park
303 W. North River Drive
Spokane, WA 99201
Tel: (509) 326-8000
Standard rooms starting at $99

Red Lion River Inn
700 N. Division
Spokane, WA 99202
Tel: (509) 326-5577
Standard rooms starting at $93

Transportation

June 25. There are three options for transportation between hotels and the Law School. First, it is a very pleasant one mile walk along the Spokane River on the paved Centennial Trail. Second, for those with cars there is free parking at each of the hotels and at the Law School. Third, free shuttle service will be available at the beginning and the end of the day.

June 26. There are two options for transportation between hotels and the Bozarth Retreat Center. First, for those with cars there is free parking at each of the hotels and at Bozarth. Second, free shuttle service will be available at the beginning and end of the day.

Pre-Registration

We invite participants to pre-register and begin getting acquainted at the Law School during a meet and greet between 4:00 and 6:00 p.m. on Sunday, June 24. Afterwards, please feel free to explore Spokane and its great dining options (a list of recommended restaurants will be provided).

Welcome and Plenary
(8:30-9:30 a.m.)
Monday June 25

Value of Variety in Action
Gerry Hess and Sandra Simpson, Gonzaga
Tonya Kowalski and Michael Hunter Schwartz, Washburn

In this session, presenters and participants will generate a variety of approaches to address teaching and learning challenges.

Workshop Session 1
(10:00 a.m.-11:00 a.m.)
Monday June 25

(Hillary Burgess, Charlotte School of Law; Jamie Kleppetsch and Mary Nagel, The John Marshall Law School)

Our program concentrates on teaching students to critically read cases in terms of support and hierarchy. Beginning with quizzes on the skill set and ultimately ending with extensive and thorough discussions of the applicable support, we will exhibit these skills with a demonstration of a class. It explores the uses of “real world” tactics into a doctrinal class. It underscores these skills by demonstrating how to incorporate these goals into a final examination for doctrinal classes.

We will provide examples of our quizzes, pleadings, examinations, and other documents used in our respective programs.

Expanding the Professor’s Props: Using Toys, Novels and Advertisements in Teaching Legal Practice
(Chaumtoli Huq and Cynara Hermes, New York Law School)

This workshop will show how non-legal props such as toys, excerpts from novels, and commercials can be used in a first year lawyering class to introduce students to key lawyering skills such as drafting the Statement of Facts and communicating persuasively orally and in writing.

Collaborating with Students as Co-Authors
(Wendy Davis, University of Mass, Dartmouth)

We will discuss methods of collaborating with students to produce a publishable work. Many professors have used research assistants to the extent that the student’s contribution merited a co-author credit. This workshop will expand on this concept, where the students in a seminar class collaborate with the professor to produce a published casebook or other co-authored work. The relationship becomes one of collaborators rather than teacher/student. I have published two casebooks using this method, and my former students have benefited from the enhancement to their resume as well as the process.

How to Develop and then to Teach an Online Law Course
(Kathryn J. Kennedy, The John Marshall Law School)

Having the experience of delivering the Center’s LL.M. in Employee Benefits degree online, Professor Kennedy is very familiar with the differences between in-class versus online delivery. Professor Kennedy will discuss the pedagogy of online teaching with explicit learning objectives, multiple assessment tools, and ways to engage online students; the variety of teaching methods (audio power points, video tapes, virtual webcasts, Skype); use of blended instruction (online and in class teaching); the technology requirements for online teaching; and the administrative backup tools that are essential for students’ learning. She hopes to provide an online demonstration of her courses for the attendees.
The Role of the Curriculum Committee in Promoting the Value of Variety [C]

(Andrea McArdle and Deborah Zalesne, CUNY School of Law)

The Carnegie Report makes clear that the key dimensions of learning in law school should be integrated, not developed in isolation. Integration, in turn, contributes to the value of variety by reimagining “appropriate” course content and form. Recognizing the realistic limits on what individual courses can incorporate, our presentation identifies an important role for the curriculum committee in promoting curriculum-wide integration, innovation, and variety in learning objectives and methods. In a workshop component, participants will consider criteria that a curriculum committee can use, working with faculty and students, to shape a three-year curriculum that seeks to achieve these interrelated goals.

Teaching the “Hardest Questions” [D]

(Maya Grosz, Seton Hall University School of Law and Kris Franklin, New York Law School)

We believe that our most successful teaching moments occur when we are able to get our students to wrestle with the hardest question at the core of whatever we are teaching. These “authentic” questions can be explored within sophisticated doctrinal contexts, but also within the seemingly most routine legal tasks. When they arise, students must struggle with competing interpretations, policies, and ethical and strategic considerations in their work. In this workshop session we will use experiential learning exercises from our own teaching as a jumping off point to discuss the implications of getting to some of these vexing questions.

Ideas for Teaching Transactional Skills [E]

(Stephen Sepinuck, Gonzaga)

Most lawyers use forms when drafting agreements for clients. This presentation will focus on teaching students how to use forms properly, something that requires knowing what terms and phrases must be retained and which can safely be modified or jettisoned. The presentation will demonstrate one technique for showing students the importance of this knowledge: annotating a form. Participants will review a brief form and identify what they would change. They will then be tasked with annotating the form, using materials provided for that purpose. Participants will then reconsider what in the form they would change.

Law Students Are Just Big Babies: What First-time Parenting Has Taught Me About Teaching [B]

(Nancy Soonpaa, Texas Tech University)

This interactive presentation is grounded in both parenting and teaching/learning theory. It examines the similarities between parenting a newborn and teaching a 1L law student. Each is new to its world, and the parent/teacher has the humbling responsibility of guiding its development. My goal is to encourage teachers to find analogies in their life experience to enrich their understanding of and approach to their students. Over the years, my analogies have shifted; I want to encourage others to share and perhaps revisit their analogies of “what law students are like” and use that explicit recognition to shape and improve their teaching.
The Idea SwapMeet [C]
(Heather Garretson, Tonya Krause-Phelan, Jane Siegel, and Kara Zech Thelen, Thomas Cooley Law School)
Four professors met weekly to create and implement new teaching ideas. The results? Over 80 ideas (from index cards to game shows!), collaboration among colleagues, and inspiration. Workshop participants will hear how we did it; then they’ll do it themselves in groups. Each participant must bring one idea in writing. Each participant must bring plus the list the four of us created. Everyone will get a variety of teaching ideas--and guidance from peers on how to implement them. It will be collaborative--and it will be fun.

The Classroom as Shop Floor [D]
(John Cicero, City University of New York School of Law)
This workshop involves an experiential approach to teaching labor law which analogizes the classroom to the industrial shop floor and draws upon some of the natural parallels that exist between workers and their employer and students and their school.

A teaching demonstration (involving an employer’s anti-union “captive audience” speech) will place participants in role as employees. Following the speech, the workshop participants will be asked to interview one another in an effort to recall and reconstruct the content of the what was said. The facts, as determined by the participants, will then be applied to the controlling legal doctrine.

The Pedagogy of Iterative Experience in the Law School Curriculum [A]
(Patricia Voorhies and Luke Bierman, Northeastern University, School of Law)
Lawyers practice law. Through repetitive practice lawyers gain experience that builds skills and a nuanced understanding of the law and its role in society. To best prepare new lawyers, law schools should incorporate a series of practice-based experiences involving complex and diverse tasks in varied settings. This workshop will examine a pedagogy of iterative experience with progressive practice-based experiences integrated into the legal curriculum to identify best practices for experiential opportunities for law students capable of replication. Specific reference to the experiential education program at Northeastern University School of Law will serve as an example of this approach.

(Jason C. Meek, UC Hastings College of the Law and Robin Wellford Slocum, Chapman University School of Law)
The Carnegie Report calls for new methods of instruction that integrate “serious, comprehensive reflection” of background assumptions, beliefs, and habits of thinking so that law students develop the judgment and perspective essential for them to resolve complex real world problems as lawyers. In this highly interactive presentation, we will conduct a mock class demonstrating some of the exercises we have used to foster critical self-reflection, including students’ awareness of their emotions and the links between their underlying needs, thoughts, and emotions. We will also model concrete ways we help students appreciate the subjective “filters” through which they see the world.

There’s More Than One Way to Bake a Cake: Teaching Rule Synthesis and Proof with Multiple Approaches and Sources [C]
(Mark DeForrest, Gonzaga)
This presentation will cover an approach to teaching rule synthesis in the law school classroom that uses multiple pathways to present the process and art of synthesizing and explaining rules from a variety of sources of legal authority. Teaching rule synthesis based primarily on case law, statutory law, legislative history, administrative law sources, and local ordinances will be covered. In addition, the presentation will focus on helping students understand the different tactics for composing rule syntheses and proofs from a variety of legal sources and for a variety of purposes – objective, persuasive and evaluative.

Show Your Answers: Using Flash Cards and eClicker to Engage Students Through Friendly Competition [D]
(Eric Voigt, Faulkner University, Jones School of Law)
Are your students actually learning what you are teaching? You can find out and provide feedback to students by using audience response methods during class, such as clickers. This workshop will address two economical — and engaging — alternatives to clickers: flash cards and eClicker. In the workshop, participants will use flash cards and eClicker like students do in my class. We will then discuss their advantages and disadvantages. Last, participants will collaborate in groups and brainstorm creative ways to integrate these methods in the classroom. You will leave the workshop with multiple-choice and true-false questions.
### OPTION 1
**Value of Variety**

**INSTITUTE FOR LAW TEACHING & LEARNING SUMMER CONFERENCE: JUNE 25, 2012**

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Check the boxes for the workshops you wish to attend (only one per session):

- Workshop Session 1: [ ] A [ ] B [ ] C [ ] D
- Workshop Session 2: [ ] A [ ] B [ ] C [ ] D [ ] E
- Workshop Session 3: [ ] A [ ] B [ ] C [ ] D
- Workshop Session 4: [ ] A [ ] B [ ] C [ ] D

Return this form with the payment form below and your check to:

Institute for Law Teaching & Learning, Gonzaga University School of Law, Attn: Barb Anderson, P.O. Box 3528, Spokane, WA 99220-3528.

For information, contact Barb Anderson (banderson2@lawschool.gonzaga.edu); (509) 313-3740; FAX (509) 313-5842

### PAYMENT FORM

- Enclosed is a check payable to Gonzaga University for $250 (Presenters $125) for Value of Variety.
- Enclosed is a check payable to Gonzaga University for $250 for Reflecting on Our Teaching.
- Enclosed is a check payable to Gonzaga University for $450 (Presenters $350) for BOTH sessions.

If paying by credit card, please visit our website at https://commerce.cashnet.com/ILTL.

Return this form with your check and the above registration form to:

Institute for Law Teaching & Learning, Gonzaga University School of Law, Attn: Barb Anderson, P.O. Box 3528, Spokane, WA 99220-3528.

For information, contact Barb Anderson (banderson2@lawschool.gonzaga.edu); (509) 313-3740; FAX (509) 313-5842
**Monday, June 25, 2012 – Value of Variety**

<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
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<tbody>
<tr>
<td>8:00 a.m.</td>
<td>Registration &amp; Continental Breakfast</td>
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<tr>
<td>8:30 a.m.</td>
<td>Welcome and Plenary</td>
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<tr>
<td>9:30 a.m.</td>
<td>Break</td>
</tr>
<tr>
<td>10:0 a.m.</td>
<td><strong>Workshops Session 1</strong></td>
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<tr>
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<td>[A] “It Just Makes Sense”</td>
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<td>[B] Expanding the Professor’s Props…</td>
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<td></td>
<td>[C] Collaborating with Students as Co-Authors</td>
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<td>[D] “How to Develop and then to Teach an Online Law Course”</td>
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<tr>
<td>11:00 a.m.</td>
<td>Break</td>
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<tr>
<td>11:30 a.m.</td>
<td><strong>Workshops Session 2</strong></td>
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<td>[B] “So you think you’ve got it bad . . .”</td>
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<td>[C] The Role of the Curriculum Committee in Promoting the Value of Variety</td>
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<td>[D] Teaching the “Hardest Questions”</td>
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<td>[E] Ideas for Teaching Transactional Skills</td>
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<tr>
<td>12:30 p.m.</td>
<td>Lunch</td>
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<td>1:30 p.m.</td>
<td><strong>Workshops Session 3</strong></td>
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<td>[A] Achieving Variety Through a Spiral Curriculum</td>
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<td>[B] Law Students Are Just Big Babies…</td>
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<td></td>
<td>[C] The Idea Swap Meet</td>
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<td></td>
<td>[D] The Classroom as Shop Floor</td>
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<tr>
<td>2:30 p.m.</td>
<td>Break</td>
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<tr>
<td>3:00 – 4:00 p.m.</td>
<td><strong>Workshops Session 4</strong></td>
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<tr>
<td></td>
<td>[A] The Pedagogy of Iterative Experience in the Law School Curriculum</td>
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<td>[C] There’s More Than One Way to Bake a Cake….</td>
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<td>[D] Show Your Answers: Engaging Students Through Friendly Competition</td>
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<tr>
<td>4:10 p.m.</td>
<td>Closing</td>
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<td>4:30 p.m.</td>
<td>Adjourn</td>
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<tr>
<td>6:00 p.m.</td>
<td>Wine Tasting (Optional, $10 to be paid at Winery)</td>
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**Tuesday, June 26, 2012 – Reflecting on Our Teaching**

<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
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<tr>
<td>8:00 a.m.</td>
<td>Meet at Gonzaga for shuttles to Bozarth Retreat Center</td>
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<td>8:30 a.m.</td>
<td>Breakfast</td>
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<td>9:00</td>
<td>Retreat</td>
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<tr>
<td>12:30 p.m.</td>
<td>Lunch</td>
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<td>1:30</td>
<td>Retreat</td>
</tr>
<tr>
<td>5:00 p.m.</td>
<td>Adjourn</td>
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</table>
Supplement to page 9 article "Opening Students’ Eyes to New Approaches to Seemingly Familiar Problems: Challenging Their Existing Assumptions in Legal Writing Courses"

Put the bottle into the recycling bin.