

Applied Improv and the Law

Institute for Law Teaching and Learning, June 2, 2023

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Description:

Attendees will participate in improv exercises and demonstrations as part of this session, which will introduce the use of applied improv as a tool for teaching fundamental lawyering skills—including listening, empathy, adaptability, speaking with confidence and authenticity, collaborating with others, and resiliency. Examples of settings in which lawyers employ these skills include client interviewing, negotiation, and oral argument. Applied improv can be the focus of a course, or selected applied improv exercises can be employed by any professor within an existing course. Applied improv can also be a helpful tool in seeking to satisfy ABA Standards 301 and 302 (required program of legal education), 303(b)(3) (professional identity), and 303(c) (cross-cultural competency).

Bio:

Professor Ben Bratman teaches the first-year courses Legal Analysis & Writing and Legislation & Regulation at the University of Pittsburgh School of Law. Having studied and performed improvisational theater, he is creating and, in fall 2023, will teach a new course, Applied Improv for Lawyers. Professor Bratman also coordinates Pitt Law's first-year legal writing program. In that capacity, he launched a "standardized client" program providing every first-year student the experience of interviewing a mock client played by a trained standardized patient from Pitt's School of Medicine. Professor Bratman has published articles and presented on legal writing teaching and on bar exams, bar exam reform, and the intersection between bar exams and legal education.

The Essence of Improv

When I was starting out in Chicago, doing improvisational theatre with Second City and other places, there was really only one rule I was taught about improv. That was, 'yes-and.' In this case, 'yes-and' is a verb. To 'yes-and.' I yes-and, you yes-and, he, she or it yes-and. And yes-anding means that when you go onstage to improvise a scene with no script, you have no idea what's going to happen, maybe with someone you've never met before. To build a scene, you have to accept. To build anything onstage, you have to accept what the other improviser initiates on stage. They say you're doctors-- you're doctors. And then, you add to that: We're doctors and we're trapped in an ice cave. That's the '-and.' And then hopefully they 'yes-and' you back. You have to keep your eyes open when you do this. You have to be aware of what the other performer is offering you, so that you can agree and add to it. And through these agreements, you can improvise a scene or a one-act play. And because, by following each other's lead, neither of you are

really in control. It's more of a mutual discovery than a solo adventure. What happens in a scene is often as much a surprise to you as it is to the audience.

Well, you are about to start the greatest improvisation of all. With no script. No idea what's going to happen, often with people and places you have never seen before. And you are not in control. So say 'yes.' And if you're lucky, you'll find people who will say 'yes' back.

Stephen Colbert, graduation speech at Knox College in 2006 (quoted in Leonard Riskin, *Beginning with Yes: A Review Essay on Michael Wheeler's The Art of Negotiation: How to Improvise Agreement in a Chaotic World*, 16 *Cardozo J. Conflict Resol.* 605 (2015)).

Perspective on Applied Improv from a Practicing Lawyer

You essentially fail almost every time you do an improv scene in one way or another. You can't think of what to say, you don't listen to your partner, or you make a joke that lands flat. But the more you fail in improv, the better you get. And when you catch your fail[ure] on stage while performing and call it out, it turns into a joke. Everyone laughs. You feel great. And you are ready to fail again! *I failed so much that I can honestly say I am not afraid to fail in other areas of life.*

Zarina Hora, *Learning Improv Can Help Lawyers*, Held2gether: improv for life (Jan. 19, 2021), <https://www.held2gether.com/learning-improv-can-help-lawyers-by-zarina-hora/> (emphasis added).

Implicated ABA Standards

- Program of Legal Education/Learning Outcomes (301/302): oral communication and multiple skill sets in Interp. 302-1: interviewing, counseling, negotiations, trial practice.
- Development of Professional Identity (303(b)(3)/Interp. 303-5): “well-being practices considered foundational to successful legal practice.”
- Cross Cultural Competency (303(c)): potentially when population working collaboratively on improv exercises is meaningfully diverse.

Selected Bibliography

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