

GONZAGA UNIVERSITY

THE LAW TEACHER

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Using Macros to Improve Consistency, Quality & Efficiency in Commenting on Student Writing

by Sarah E. Ricks

Like all new legal writing teachers, I approached my first pile of student papers with excitement, eager to discover what lessons the students had absorbed. As I read through the pile, I hand wrote comments, often on identical mistakes. The process was slow. Excitement waned. Hands cramped. I became concerned that Student #26 was not getting the same quality of attention as Student #4, and that there was a corresponding drop-off in the quality of my interlinear handwritten comments.

I turned to my Rutgers-Camden colleagues for guidance. Deborah Shore gave me a three-page, typed list of comments responding to problems likely to recur in student writing. Carol Wallinger showed me how to use a WordPerfect word processing macro—a short “name” assigned to a particular, longer text which, when entered on the computer screen, pulls up the full text. (Word has a similar feature.) Together, Carol and I used Deborah’s core list as a starting point to come up with a more efficient grading system using macros. I now use that system for commenting on both final memos and final briefs.

Why this Grading System is Good for Students

Using the macro grading system, I can provide each student with two to four pages of single-spaced, typed comments that are individually tailored to that student’s final memo or brief. Yet, once I’ve finished reading each brief using WordPerfect macros, it only takes about twenty minutes to generate a comment sheet for each student—even though the comments are tailored to the strengths and weaknesses of each student’s final written product.

The individualized comments give each student specific reasons for the grade on the brief or memo. The comments include detailed, concrete ideas students can use to edit their drafts to turn them into writing samples for job searches. The typed comments reduce (but don’t eliminate) the need for handwritten comments directly on the student draft, so students spend less time deciphering my atrocious handwriting.

How I Use this Grading System

The utility of word processing macros for grading legal writing has been recognized elsewhere, without the step-by-

step logistics. See, for example, Anne Enquist *Critiquing and Evaluating Law Students’ Writing: Advice from Thirty-Five Experts*, 22 Seattle U.L. Rev. 1119, 1139 (1999); Suzanne Ehrenberg, *Legal Writing Unplugged: Evaluating the Role of Computer Technology in Legal Writing Pedagogy*, 4 Legal Writing: J. Legal Writing Inst. 1, 4 (1998); Lucia Ann Silecchia, *Of Painters, Sculptors, Quill Pens and Microchips: Teaching Legal Writers in the Electronic Age*, 75 Neb. L. Rev. 802, 830 n. 139 (1996). While I use this grading system for both final memos and briefs, I’ll limit the explanation here to briefs.

Before I grade the first brief, I anticipate the recurring comments I’m likely to make and type those up into a master list. For each comment—whether one line or a full paragraph—I create a separate WordPerfect macro, the three to four character “name” that, when entered, will recall the entire text of the comment. For each brief I grade, I generate a separate hard copy of the master list of comments. As I read each brief I keep a master list of the macro comments in front of me and use a pencil to check off applicable comments on the hard copy of the master list. That master list is comprehensive. For my spring 2004 appellate brief problem, the full text of likely recurring comments was twelve single-spaced pages, organized by section of the brief (e.g., Questions Presented, Rule Proof, Application/Analysis) and other categories (e.g., Introductory Comments, Professional Writing Style). Since the typed comments cover most recurring problems, I can limit the handwritten comments directly on the student’s paper to strengths and weaknesses unique to that brief.

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Using Macros to Improve Consistency

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Drafting the master list of comments does take time. However, the vast majority of comments in the master list remain the same year-to-year, regardless of the subject of the brief problem. These comments capture the themes of the advocacy course. They are familiar to my students from class, from their textbooks, from my e-mailed responses to their questions, and from the self-editing workshop we do in class just before students turn in the briefs. For example, each year I am likely to make the following comments when grading student appellate briefs; themes familiar to legal writing teachers:

Question Presented

The Question Presented needs to be persuasive; that is, the court should have no doubt which side you represent because both the phrasing of the legal test and the key facts selected clearly suggest that your client should win and why.

Statement of the Case

While the Statement of the Case should appear objective, it should tell the story from your client's perspective. Try to focus on facts that advance your client's theory and de-emphasize facts that don't.

Rule Proof

Be sure to state the legal rules in ways that are helpful to your client's position. Try to foreshadow your client's argument by the way you phrase the legal rules.

As I read each student brief, I also mark up the corresponding hard copy of the master list of comments, so that I am modifying the applicable comments as they ultimately will appear on the comment sheet received by the student. I may emphasize a particular comment as "key," or reference a particular page of the brief, or modify the comment by crossing out irrelevant text in the comment, or by adding text tailored to that brief. For example:

This is key: your credibility with the court is an important asset. Make sure not to lose credibility by making factual assertions unsupported by the appellate record before the court. *See pp. 6, 16.*

Some comments on the master list are relevant only to that year's appellate brief problem. I use these as a checklist, to see if a student has included specific legal or factual points, and edit the applicable comment for the brief accordingly. For example, a comment from one year's master list functioned as a checklist of key facts an aggressive Appellant would want in the Statement of the Case in order to argue that an off-duty police officer acted under color of

law in assaulting the Appellant. The checklist started with the phrase "Would the Statement of the Case be more

persuasive if it included [detailed checklist of a dozen key facts]?" As I read each brief, I checked if each key fact was mentioned and modified the comment sheet to reference only those key facts omitted by that student brief.

Other comments on the master list of likely recurring comments are a blend of basic themes from the advocacy course, which I can use each year, and specific examples relevant only to that year's brief problem. For example:

In your application, be sure to explicitly compare and contrast the facts of the cited cases with the facts of this case, rather than just reciting the facts of the case. Explain to the court why the presence or absence of a particular fact in your case makes your case more or less similar to a decided case. While you've clearly done the hard work necessary for this analytical step by not explicitly comparing and contrasting your client's facts to those of the decided cases by name (*e.g.* like the staggering drunk in *Smith*; unlike the unguarded doorway in *Jones*), the court may not fully grasp the analogies and distinctions you've drawn.

Once I've finished reading the briefs I use the WordPerfect macros to recall the text of the applicable comments from the master list. I then modify the comments to generate an individualized comment sheet for each student. Because I do not rely solely on the pre-fabricated list of comments, but instead integrate the pencil edits made to each hard copy of the master list as I read each brief, it takes about twenty minutes to generate the two to four pages of individualized comments for each student.

Why this Grading System is Helpful to Legal Writing Teachers

The benefits of this system are: consistency, efficiency and mobility. Drafting the master list of likely recurring comments on the student briefs and referring to it constantly as I read each brief helps me to consistently look for the same things in each brief. That helps me stay focused. The master list of comments also helps me be consistent in what I say to different students when I see the same problems in their briefs. Brief #26 gets the same quality of comments as brief #4. Whether I'm encountering a fresh mistake, or being worn down by encountering the same mistake in fifteen different briefs, my comments maintain an even, neutral tone, unaffected by frustration or fatigue. The master

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Using Macros to Improve Consistency

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list of comments also reminds me to say something nice when I can (e.g., “you’ve done a good job organizing the Rule Proof around legal principles, rather than cases”).

Using the master list of anticipated recurring comments, then using macros to draft individual comment sheets for each student, helps me move efficiently through a pile of student papers. It greatly reduces the need for slow, handwritten comments without sacrificing the quality of comments.

This grading system is mobile, an important attribute for those of us who like to grade in cafés while sipping lattes. The students get detailed, typed comments, and I don’t have to be tethered to my office. Those teachers lucky enough to have laptops would be even more mobile. And this grading system has a “CYA” benefit. While the prospect is unpleasant, having a detailed, multi-page list of reasons for a student’s grade on a brief or memo is a useful tool for a teacher whose assessment is challenged.

Conclusion

Using macros when grading helps ensure consistency and quality in commenting, but it is just the tip of the iceberg. Law teachers are increasingly making creative use of widely available technologies to improve the feedback process. We can use word processing programs to insert comments directly onto student papers, or to insert voice comments directly onto student drafts. I look forward to trying these and many other techniques as they emerge in the future.

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Teaching Antitrust: In Search of an Optimal Interdisciplinary Approach

by Kevin S. Marshall

The art of teaching antitrust law lies not only in the instructor’s ability to lead the student through a historical morass of evolving common law doctrine, but also in the instructor’s ability to relate the applicability of microeconomic theory. While the integration of law and economics is essential to the study of antitrust law, successfully accomplishing such a task is often problematic, especially given the breadth and depth of both fields, as well as the constraints imposed by limiting the course to two or three semester credit hours. The key to finding an optimal and rewarding balance in the classroom is to focus the accompanying economic instruction, through repetition and application, on the fundamental underlying assumptions of the model of perfect competition. A thorough understanding of these assumptions is achievable despite the semester’s time constraints. It also provides the student with critical insight regarding anticompetitive conduct as it is identified in the cases studied throughout the semester. More important, such an understanding provides the student with an efficient, analytical tool for identifying suspected anticompetitive conduct long after surviving the interdisciplinary semester experience.

The Sherman Act says that it is unlawful to engage in conduct that “restrains” or constitutes an “attempt to monopolize” or that “monopolizes” trade or commerce. The Federal Trade Commission Act further says that it is

unlawful to engage in conduct that constitutes “unfair methods of competition.” The typical antitrust classroom experience requires the student to traverse the common law landscape of jurisprudential analysis, providing the student with the classic case-by-case method of unraveling the meaning of these statutory texts. Through dissection of often complex commercial fact patterns and the accompanying judicial analysis, anticompetitive conduct is ultimately identified and revealed to the student. The many precedents illuminate and demonstrate the meaning and reach of such constructs. Although somewhat inefficient, statutory meaning is derived from the cumbersome effort of learning to recognize precedent and its relevant fact patterns.

Teaching the fundamental assumptions (or the requisite preconditions) underlying the model of perfect competition not only greatly simplifies the task of understanding antitrust precedent, it also prepares the student to identify anticompetitive conduct independent of such precedent. Once the student understands what conditions must exist for competition to thrive, the student is in a superior position to analyze anticompetitive conduct that may trigger statutory liability, without having to resort to his or her command of common law precedent. A working knowledge of these underlying economic assumptions (or requisite preconditions) of the model of perfect

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Teaching Antitrust

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competition is a powerful tool for students to take with them as they engage in what their law school professors hope is a successful practice of law.

The underlying assumptions of the model of perfect competition consist of:

1. the existence of numerous buyers and sellers, each acting independently and rationally;
2. each buyer and seller consuming or producing such a negligible amount of the total output that no one buyer or seller can influence price by the amount they either consume or produce;
3. there being no barriers to entering or exiting the consumer or producer markets;
4. all market participants, that is, all buyers and sellers, being fully informed;
5. all products being homogeneous, and constituting interchangeable substitutes for each other; and
6. the forces of supply and demand being free to determine the quantity of output in a relevant market, as well as determine a market-clearing, competitive price with respect to the same.

Microeconomic theory teaches that if the above conditions are met, the model of perfect competition will create efficiencies in consumption, production, and allocation. And it is through the creation of such efficiencies that a perfectly competitive market promises the greatest social opportunity for wealth creation. Or, in antitrust parlance, it promises greater output at lower prices.

If the above assumptions (or conditions) must be met in order for the perfectly competitive market to thrive, then clearly any market conduct or activity that impairs, threatens, suppresses, or jeopardizes any one or more of these assumptions (or conditions) must be proscribed as a matter of policy. Unreasonable restraints of trade and/or unfair methods of competition are proscribed by antitrust policy, and thus one of the primary goals of any antitrust course is to teach the student to be able to identify conduct that constitutes an unreasonable restraint of trade or an unfair method of competition. It is in this context that the referenced underlying assumptions provide a powerful analytical paradigm for identifying market conduct or activity that may likely constitute an unreasonable restraint of trade or an unfair method of competition.

For example, cartel behavior threatens assumptions one, two, and three, in that (1) sellers are no longer acting independently but rather interdependently, (2) such interdependence, to the extent it is successful, may result in a cartel powerful enough to influence price, and (3) thereby result in a cartel powerful enough to create barriers to entry by rival cartels. Price-fixing violates assumptions one and two, given that (1) it requires interdependent and collusive behavior to consummate an agreement, and (2) once consummated, the agreement by design influences market prices. Monopoly violates assumptions one, two, and three,

in that (1) there are no longer numerous sellers, but only one, (2) that one seller can set the price since it is the only supplier of the good or service, and (3) it may further have sufficient power to create absolute or relative barriers to entry. Willful acquisition and/or maintenance of monopoly power can be defined as that conduct specifically designed to jeopardize any one of the above assumptions. The false disparagement of a rival's product violates assumption four, as well as assumption one because such conduct creates information asymmetries which impair the ability of market participants to act rationally. Each assumption provides insight with respect to whether certain conduct may rise to the level of constituting an unreasonable restraint of trade or an unfair method of competition. Mastery of these underlying assumptions undoubtedly complements the analytical lessons filtered through the case law.

The study of antitrust law is an interdisciplinary endeavor. While the traditional case method approach provides a solid introductory foundation for the student interested in the regulation of competition, such an approach, absent any applied economic theory, will likely result in a stale, task-oriented classroom environment, primarily devoted to categorizing an evolving common law history. However, by teaching the student the operational foundations of price theory, i.e., the underlying assumptions (or requisite preconditions) of the perfect competition model, through repetition and application to the cases discussed throughout the term, one can expect inspired, innovative, and energetic classroom participation. Given the time constraints of the semester, one cannot expect to teach all the intricacies of microeconomics, but since an understanding of microeconomic fundamentals will result from an understanding of the underlying assumptions of the model of perfect competition, one can expect to achieve a certain level of competence in their application.

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Weekly Quizzes

by Thomas G. Field, Jr.

Administrative Process is a required course at Pierce Law and students often find the subject matter difficult. Because the material is cumulative, difficulty increases if they do not keep up. Seven years ago, hoping to encourage good, consistent preparation, I began to give frequent quizzes. I soon appreciated that these quizzes enabled me to know if the students were confused (and about what) as soon as possible, and I began using quizzes in my intellectual property course as well.

Format and Validity

Evaluation of a quiz must be either very brief, or it must be objective—particularly when enrollment is high. I favor the latter, because it permits a more comprehensive evaluation and avoids the need for anonymity. I have tried several format options, including fill-in-the-blank, true/false, and multiple-choice, but I find that matching takes the least amount of time in order to compose quizzes of minimal ambiguity.

I try not to hide the ball. My goal is for each student to match ten items correctly within ten minutes. Class averages are often above nine, but students may need coaching. For example: a student who got seven, eight and six, respectively, on her first three quizzes in September, consistently scored tens after a brief discussion. On the flip side, students with a string of tens sometimes get threes or fours, tending to confirm that my quizzes are not too easy.

Preparation, Administration and Grading

Beginning students are generally required to match case names with one-sentence descriptions that echo something stressed in class. Although quizzes ordinarily follow the cases as they are presented in the book, I may combine cases if there are more than ten. If there are fewer than ten, I use something like a statutory provision. Because the students are seated close to one another, I vary the order of the descriptions to prepare at least three versions of the quiz. Beginning the second week I give

thirteen weekly quizzes, which conveniently matches the approximately ten principal cases we consider each week.

I started off giving the quizzes during the first ten minutes of class, mostly to encourage prompt attendance. But I soon moved them to the end of the class and allowed students to leave early. However, I had a student complain about the distraction this caused, so I require students to stay for the first ten minutes of the quiz (or until it is clear that everyone is finished). Once the bustle of the departing students dies down, I allow an extra five minutes for those remaining. This accommodates students who need more time, ESL students for example; however, those students who are simply less prepared than they should be do not seem to benefit from the extra time.

I post the quiz scores immediately after class, and my secretary grades the quizzes, usually within an hour or two. After I've checked the papers I e-mail the average scores and my thoughts about common errors to the class list. The quizzes are weighted as 30% of the students' final grades. I minimize the risk of students unduly diverting attention from other courses by averaging the best ten scores for each student, giving frequent quizzes, and by dropping low scores.

Summary

Prompt, frequent feedback provides timely notice of misunderstandings and knowledge gaps. It also reduces anxiety about finals. Moreover, ignoring a few scores lessens the students' stress and accommodates varying demands on their time.

Syllabi at www.piercelaw.edu/tfield/aprosyl.htm, and at www.piercelaw.edu/tfield/fip/fipsyll.htm provide further information and links to sample quizzes. I am also happy to answer questions if you e-mail me at tfield@piercelaw.edu.

Submit articles to *The Law Teacher*

The *Law Teacher* encourages readers to submit brief articles explaining interesting and practical ideas to help law teachers become more effective teachers.

Articles should be 500 to 1,500 words long. Footnotes are neither necessary nor desired. The deadline for articles to be considered for the next issue is August 5, 2005. Send your article via e-mail, if possible. After

review, all accepted manuscripts will become the property of the Institute for Law School Teaching.

The Institute's address is: Institute for Law School Teaching, Gonzaga University School of Law, P.O. Box 3528, Spokane, WA 99220-3528; e-mail: ilst@lawschool.gonzaga.edu.

For more information, call (509) 323-3738.

The Use of TV Shows in the Classroom

by Julian Hermida

Most professors complain that student attention spans are short and that students are not eager to read articles and books. A repeated complaint is that students are alienated by the fast-changing visual images on television shows, commercials, music clips, video games, and web sites. But we all live in a visually oriented and technology driven society, and our classroom teaching, rather than clinging to outmoded teaching methodologies, should adapt to the new realities of a fast-paced culture.

In my criminal law classes, where enrollment consistently numbers between 100 – 120 students, I implemented a teaching method that makes extensive use of the learning styles students demand, without compromising the objective of achieving excellence in the discipline.

Although I constantly change the rhythm of the class and vary all classroom activities to avoid repeating the structure of my classes, they usually have a common pattern. I always start by posting on the blackboard, in a way that resembles interactive menus on cable TV, the objectives of the class, how this class fits with what we've done and what we will do, the topic of my talk, the class activities we will carry out, and what we will cover next class. My talk is usually short and goes straight to the points I want them to discuss. Then we all embark on the class activities. One of the most successful is an analysis of video scenes from popular TV shows and commercial motion pictures depicting criminal events. It's amazing how many crimes are committed on TV every day! For example, when we discuss the concept of *mens rea*, I show a series of video scenes carefully selected from popular TV shows such as *Friends*, *Seinfeld*, *The Simpsons*, *The Sopranos*, or even *Beavis and Butthead*. Students have to identify the *mens rea* of the characters as they are acted out in the show.

To illustrate: one of the clips shows the *Friends* character Rachel trying to move "Rosita," Joey's beloved chair. Joey makes it clear that Rosita can't be moved because she sits an exactly equal distance between the bathroom and the kitchen, and is at the perfect angle so there is no glare coming off "Stevie," the TV. When Joey heads into his room, Rachel tries pulling on the back of the chair until the hinge breaks and the back falls off. Students are asked to analyze whether Rachel acts with the required *mens rea* for mischief. This triggers a debate on *mens rea* itself and we relate to authors, such as Simmons and Fletcher, who propose alternative views on *mens rea*.

Another example is from a *Seinfeld* episode, during which Kramer sets fire to Susan's father's cabin. Students analyze whether the *mens rea* of arson is met. We examine what Kramer would have had to think in order to be guilty of reckless arson, as defined in the Canadian Criminal Code. We also analyze whether his conduct constitutes arson in other criminal jurisdictions, including common law, civil law, and even Islamic law.

Participation in crimes also lends itself to this kind of activity. For example, I show *Seinfeld's* "The Frogger" where

Elaine and Jerry discuss the theft of a cake, which, because it comes from the 1937 wedding of King Edward VIII, turns out to be worth \$29,000. *Seinfeld* did not know this fact. Students engage in a very lively discussion of what requirements must be met in order to be considered a counselor to an offense, and an accessory after the fact. We also discuss the doctrine of probable and natural consequences, and the differences between the requirements for an aider and an abettor.

Another scene I usually select is from the *Friends* episode "The One with All the Cheesecakes" where Chandler steals cheesecakes from his neighbor, and Rachel (despite knowing they're stolen) cannot resist eating the cheesecakes herself. This again fosters active student participation in an examination of the requisites for being an accessory after the fact. Moreover the discussions lead to other aspects of criminal law, such as whether there is *actus reus*, or whether or not Rachel has a defense. Again, we try to extrapolate the debate to other criminal justice systems, not just the Canadian one.

These practices serve several purposes: pedagogical, criminological, and philosophical. From a pedagogical point of view, they relate to the way students look at the world without diluting the quality of learning. They cater to learners who are immersed in a visually and technologically oriented culture. These activities also motivate students to read the articles, cases, and books necessary for the analysis of the video segments. Additionally, they act as attention mechanisms, i.e., devices that foster synchronization of the senses with the mind. Students are continually exposed to myriad external stimuli, which compete for their attention. The factors affecting the capability of stimuli to enter this inner world are internal and external: some depend on prior experiences of the students and some on the intrinsic qualities of the stimulus. Resorting to popular TV and film characters helps the processing of attended information, which is conducive to learning.

Criminologically, it helps the students debunk the traditional image that crime occurs between strangers and on the streets, and that the perpetrator is usually a marginalized, lower-class member of society. It helps them see that crimes take place in all social classes and milieus, and that most of the time victim and offender know each other very well. It also ruptures the unitary, doctrine-focused and homogeneous conception of the law which is invariably concerned with the dissection of appellate court decisions. At the same time, it proposes a more diversified, open, cooperative, and plural teaching and learning process.

Julian Hermida is an assistant professor at Dalhousie University, Halifax, Canada. He teaches in the areas of Criminal Law and International Law. His contact information is: julian.hermida@dal.ca.

Surfing for Contracts

by Tom Gear

Last year while teaching a first year class on contract law, I used a fairly simple, technology-based assignment (internet, Word documents, inserting pictures from files, using text boxes) to enhance student understanding of basic concepts that were entirely new to most of them. The extraordinarily diverse groups of students I work with share an interest in law, automobiles, and the internet. All the students have laptops and internet access, but their computer skills vary widely. The difference in their technological ability does not seem a more significant bar to achievement than the use of legal pads and notebooks, and the attendant difference in writing skills that characterized the old school method. It appears that a lesson linking a widespread student interest (cars) to something of legal relevance (contract offers) is a good way to connect the study of law to life.

Students made a list of the seven parts of an offer (duration, subject matter, quantity, quality, work to be done, price, and payment terms) in a Word document. They saved the list as DSQQWPP. The next two steps required opening a new PowerPoint document, logging on to either www.cars.com, or www.autotrader.com, and analyzing the vehicles for sale by private owner or merchant. In addition to a title slide, each student had to assemble ten offers they located at one of the sites. A slide containing space for both picture and text was necessary as a starting place for analyzing the number of terms present and their sufficiency

of definitiveness (see below). All the students were required to compose ten slides each, with two vehicles in the \$10,000, \$20,000, \$30,000, \$40,000, and \$50,000 & up categories. Students would insert a text box at the side of the slide that considered the following terms: duration, subject, quantity, quality, work to be done, price, and payment terms.

In a group of nearly one hundred students, every single one completed this assignment either on time or ahead of schedule. From their comments, and their willingness to share their work with each other and

with me, I suspect they might even have enjoyed learning this way.

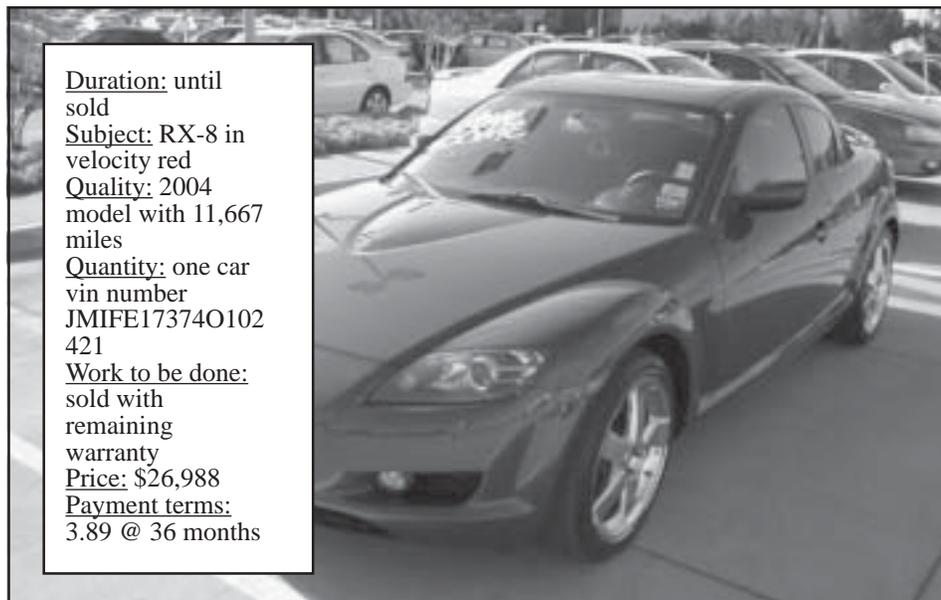
The slides sparked some rather lively discussions regarding the following questions:

- Are these terms sufficient to create a valid offer?
- Could this offer, as stated, create a power of acceptance in the offeree?
- Why or why not?

Tom Gear teaches at the Academy of Irving in Irving, Texas 75038. (972) 258-5311, tgear@irvingisd.net. Shortly before writing this article he purchased a new car similar to the one shown above, using the internet only. The vehicle was delivered during a brief mock trial recess. The usual caveats apply.

Mazda RX-8 @ www.cars.com

Duration:
Subject Matter:
Quantity:
Quality:
Work to be done:
Price:
Payment:



Duration: until sold
Subject: RX-8 in velocity red
Quality: 2004 model with 11,667 miles
Quantity: one car
vin number JMIFE17374O102421
Work to be done: sold with remaining warranty
Price: \$26,988
Payment terms: 3.89 @ 36 months



GONZAGA UNIVERSITY
INSTITUTE FOR LAW
SCHOOL TEACHING

– Promoting the science and art of teaching –

CONFERENCE ON LEARNING OUTSIDE THE CLASSROOM

Twelfth Annual Summer Conference • July 14-16, 2005 • Gonzaga University, Spokane, WA

The Institute for Law School Teaching will present its annual summer conference on July 14-16, 2005, at Gonzaga University in Spokane, Washington. The conference will feature six workshops that explore how students learn outside the classroom.

Structure of the Conference

The conference will include six workshop sessions. During each session, three or 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 many aspects of learning in legal education, and discuss how law teachers can facilitate this process.

Benefits to Participants

The workshops will deal with innovative materials, alternative teaching methods, new technology, ways to enhance student learning, and means of restructuring legal education to foster healthy lawyers. Each workshop will include materials that participants can use during the workshop and when they return to their campuses. In addition, the conference will facilitate informal interaction among creative teachers who love their work with students. Participants should leave the conference with the inspiration and information to apply the new ideas in the courses they teach next fall. In short, the ultimate goal of the conference is to help the participants improve their teaching and their students' learning.

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 Web site www.visitspokane.com can help you plan. Spokane offers many public golf courses and nearby rivers, lakes, and national parks.

Registration and Deadlines

Attendance will be limited to 100 participants to facilitate small-group experiences. The roster will be filled in the order that the Institute receives the registration form and conference fee (\$450, payable to Gonzaga University). *Refunds:* Attendees must notify the Institute in writing to receive refunds. If notice is received on or before June 10, 2005, a full refund will be provided. No fees will be refunded if notice is received after June 10, 2005.

Lodging and Transportation

Participants are responsible for their own travel arrangements. Limited blocks of rooms have been booked in two hotels, one adjacent to our campus and the other downtown. For reservations, call one of the following choices and request the special rate for the Institute for Law School Teaching. Please contact Liz Bowen for room rates.

The Red Lion River Inn –

700 N. Division St., 509-326-5577, <http://www.redlion.com>. Free shuttle service is available from the airport and to the Law School.

The Davenport Hotel –

10 S. Post St., 509-455-8888, <http://www.thedavenport.com>. Shuttle service from the airport is available by reservation for a fee. Shuttle service will be provided free from the hotel to the Law School.

Meals

Breakfast, lunch, and dinner on Friday, July 15, and breakfast and lunch on Saturday, July 16, are included in the registration fee. On Friday evening we will dine at the University's Bozarth retreat center, a lovely, wooded setting north of Spokane.

Pre-Conference Event (Optional)

We invite participants to begin getting acquainted on Thursday evening, July 14, at the Law School during a reception between 5:00 and 9:00. As guests of the Institute for Law School Teaching, participants will not be charged for this pre-conference event.

THURSDAY, JULY 14

5:00-9:00 p.m. **Welcome and Reception**

FRIDAY, JULY 15

8:45 a.m. **Welcome**

9:00 a.m. **Opening & Introduction: How and Where Learning Occurs**

This session is designed to demonstrate that most student learning occurs outside the classroom. After displaying a brief video excerpt of students discussing their law school experiences, one of the Institute Co-Directors will elicit stories from attendees about their epiphanies and then will present the results of various surveys on student learning.

9:45 a.m. **Break**

10:00 a.m. **Small Group Discussion of Implications**

If, as discussed in the opening session, the bulk of student learning occurs outside the classroom, a great irony results for law teachers and law schools. Most of a law teacher's planning and preparation deals with what occurs in the classroom. Most law schools similarly focus on learning inside the classroom, or at least learning inside the school's walls. In this session attendees will form small groups to discuss the implications of the information presented in the opening session about where

learning occurs and how students learn. Some groups will discuss the implications for law teachers; others will discuss the implications for law schools.

10:45 a.m. **Break**

11:00 a.m. **Large Group Discussions of Implications**

The group as a whole will reconvene to discuss the small groups' reports on the implications for law teachers and law schools about where and how students learn.

12:00 p.m. **Lunch**

1:30 p.m. **Workshops, Series One**

Participants may choose to attend any one of the following three workshops:

A. Inspiring Students

How do we as teachers motivate students to want to learn (as opposed to merely getting a good grade or preparing for the bar exam)?

B. Learning by Doing: Service Learning & Field Observation

A discussion about how to incorporate a service learning component into courses, or observations of the real world and the people in it. This discussion will also deal with the benefits to students of such experiential learning.

C. Facilitating Learning in Small Groups

A discussion of what teachers can do to facilitate learning in small groups outside the classroom. Such groups may be used anywhere along a continuum of activities; from completing an assigned and graded project to functioning as an informal study group. A component of this discussion will be how to teach students to be effective teachers to their peers.

2:45 p.m. **Break**

3:00 p.m. **Workshops, Series Two**

Participants may choose to attend any one of the following three workshops:

D. Metacognition: Getting Students to Think About How They Learn

A discussion of what teachers can do to assist students in thinking about how they learn and how to learn.

E. Tapping Creativity to Aid Visual Learning

A discussion of what teachers can do to assist students in synthesizing information by getting them to create charts, illustrations, and other visual displays.

F. Learning by Doing: Drafting Exercises and Simulations

A discussion of how to incorporate drafting exercises and simulations into courses, along with the benefits to students of such experiential learning.

4:15 p.m. **End of Day One**

SATURDAY, JULY 16

9:00 a.m. **Workshops Series One**

Participants may choose to attend any one of the three workshops from Series 1 (A, B, or C).

10:15 a.m. **Break**

10:30 a.m. **Workshops, Series Two**

Participants may choose to attend any one of the three workshops from Series 2 (D, E or F).

11:45 a.m. **Lunch**

1:15 p.m. **Pairings on Active Learning**

Conference attendees will pair off to work on their lists of ten essential things that students must learn in one of their courses. Each member of a pair will provide to the other his or her list of essential things. The other will attempt to identify for each item something students could do (not merely read) to learn it. Each member will then report his or her ideas to the other.

2:30 p.m. **Break**

2:45 p.m. **Group Discussion of Ideas**

All the attendees will reconvene as a group. Each attendee will identify for the entire group the idea he or she likes best from those presented by his or her partner in the pairings.

4:15 p.m. **Closing**

Learning Outside the Classroom

INSTITUTE FOR LAW SCHOOL TEACHING SUMMER CONFERENCE: JULY 14-16, 2005

Name: _____ Phone: () _____

School: _____ E-mail: _____

Address: _____ Courses you teach: _____

City/State/Zip: _____

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

Day One SERIES 1: A B C
SERIES 2: D E F

Day Two SERIES 1: A B C
SERIES 2: D E F

Optional Activities:

Optional, pre-conference event on Thursday evening, July 14 (No charge):

- I will attend the optional Thursday evening event.
- I will not attend the optional Thursday evening event.

Enclosed is a check for \$450.00. (Includes all meals on Friday, July 15, and 2 meals on Saturday, July 16.)

Return this form with your check (payable to Gonzaga University) to: Institute for Law School Teaching.

Attn: L. Bowen, Box 3528, Spokane, WA 99220-3528. For information, contact Liz Bowen (sbowen@lawschool.gonzaga.edu; 509-323-3738; fax 509-323-5840).

[From] The learned hand

Has something ever occurred in your classroom that left you uncomfortable or unsure whether you handled it well? Has a student's request for advice left you wondering how to respond? Perhaps you want suggestions on how to deal with student ambivalence about, or hostility to, a particular active teaching technique or active learning exercise. In this column the Institute's co-directors and advisory board respond to requests for suggestions from law teachers. If you wish to submit a question please send it to ilst@lawschool.gonzaga.edu.

Many students are using a laptop computer in the classroom, ostensibly to take notes. However, some—perhaps many—are checking e-mail, playing solitaire, surfing the web, or sending instant messages. How do I distinguish what's happening? How should teachers deal with the increasing, unauthorized student use of the internet (and other computer applications) in the classroom?

Using active learning techniques minimizes this problem. If students are actively engaged in a task, e.g., writing something down; conferring with a group of classmates; role playing; they cannot be surfing the net or playing games.

*Stephen L. Sepinuck
Gonzaga University School of Law*

The syllabus and the first day of class should explicitly address analytical and non-analytical reasons why students should refrain from using their laptops in ways unrelated to the class.

*Laurie Zimet
University of California, Hastings College of Law*

First think about what students should learn from being in the class that they wouldn't get from the reading. Knowing why attentiveness in class is important will help you explain it to the students. Electronic checking-out also disrupts the learning of other students. Consequently, it is not just the individual student who suffers, but those around that student. Some possible ways to address this include:

- Explain it to students so they realize why attentiveness in class is important. Put it in writing so you don't have to rely on student memory and have them questioning what you told them.
- Spend time sitting in other classes or meetings and be conscious of when your mind wanders. (I have to admit that at times I have been less than engaged in certain meetings and have done other things at the same time.) Then consider if there is anything you can do to make the students more engaged.
- Adopt more active learning exercises in class. These add to students' learning, increase retention of material, and engage more students than a Socratic dialogue.
- Call on people regularly, not just those who volunteer. Students have frequently told me that they are more

likely not to do the reading and "check-out" when they don't feel accountable.

These suggestions are more dicey, but work for some people:

- Walk around the room "Phil Donahue style" looking at people's computers and noticing what you see, then talk to those students individually regarding your concerns about how they're spending class time.
- Periodically re-assign student seating. For example, move back-row students toward the front.
- Have a course policy that notes "any student found using a computer in class in a way that does not support his or her learning will be considered absent."

Regardless of what you know, think about why you do it.

*Sophie Sparrow
Franklin Pierce Law Center*

I use the technique(s) that worked best for me as a litigation negotiator: I am firm, and I tell students exactly why I need to be so they understand it's not just a "power trip" or a nonsensical demand. In this case firmness means that I count students absent if they are using their computer for distraction (a student with three unexcused absences fails my course, so this matters). The reasoning is that essentially they are absent. They are also distracting other students, and, most personally, I become distracted very easily from my teaching focus when people aren't paying attention. This makes a triple negative from a seemingly innocent activity. Students may not agree but they do understand and that eliminates much resistance, as well as setting a clear bar. I provide this information in writing and also explain it during the first class. If I do think someone is drifting on the computer, I will ask the class generally if people on their computers are taking notes or engaging in distraction. If the problem seems to continue I contact the student individually, not in class (unless I'm too irritated to wait), to discuss the situation.

*Larry Krieger
Florida State University College of Law*

Computer misuse in the classroom—what might be considered a form of high-tech doodling—is becoming endemic to modern legal education. We are in the age of multi-tasking, which someone once described as the opportunity to do several things poorly at the same time. Alternative uses of the computer siphon off learning from class time. Some responses to this problem include: (1) Have a dialogue with the students about the problem. Tell students they are paying incredible amounts of money to learn and if they don't learn in class, that defeats the purpose of the classroom discourse. (If we are their mental aerobics instructors, we should not be doing the mental sit-ups for them.) (2) Call on several people in the class, if only

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The learned hand

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for a brief time, to encourage everyone to actively participate in the class and not be a court stenographer, taking verbatim transcript notes, or an internet surfer, both of which are equally problematic. (3) Get Silicon Chalk or

some other software program that blocks the students' access to the internet, or have the students remove their wireless cards from the computers, if feasible. (4) Do several "all-writes" during a class. That is, instead of calling on one student and asking for a verbal response, have everyone in the class write out a brief response to your question. This promotes active participation in the classroom by all the students without significant time costs. (5) Send brief e-mails after class to students who appear to be offenders.

The e-mail could say that the student seemed preoccupied or distracted and could invite the student to discuss it, if warranted. Of course positive feedback could be given as well. It takes only a minute or two to send an e-mail, but the payoff can be significant.

Steve Friedland

Nova Southeastern University Shepard Broad Law Center

How should I respond to inappropriate or inflammatory student comments in large class settings without dampening student participation generally or excluding the specific student from future participation?

Plan ahead and start early. Talk to students about what makes it safe to discuss controversial issues in class. Explain the problems with inappropriate comments, how you define these, and how they differ from airing different views. Invite any student to talk to you or, if not you, another person at the school, if they feel that a discussion was inappropriate. Put these ideas in writing and in your course syllabus. Periodically remind students about this need for open, honest discussion, including discussion of difficult ideas, and how some of these can create tension in the class. Before, during, or after a particularly difficult topic, e.g., discussing rape in criminal law, you may want to talk to colleagues, and a few current and former students about their sense of how to do this most effectively.

Responding to the comments in class as they are being said is not easy, and I don't know that there is one "right"

way. I find it hard to make good decisions on the spot in these circumstances. Even if you have a response, you may find that what feels o.k. in one class with one student, does not feel right when circumstances change. In a large class,

you may want to state that you have concerns about the comment and want to think about how it affects the class, and then move on to another student, ready to talk to the student after class and with the class as a whole the next time. But the comment may also provide an incredible learning opportunity if you discuss how to have these conversations. Depending on the comment, the class, and the student, you may want to ignore it in the class (but talk to the student afterwards about your concerns), respond with

humor, or invite the student to restate the point in a way that is appropriate.

Sophie Sparrow

Franklin Pierce Law Center

This is a process question that can be addressed explicitly in the first class and modeled by you during the discourse thereafter. Having alternative ways for students to make comments as part of the pedagogy will minimize the likelihood of this happening in a large, public setting. For example, using small groups or pairs tends to make people treat each other more humanely, while collecting written comments from the students will help the non-speakers, and gives you the chance to pick the ones you want to highlight.

Face it, every so often you get a self-styled eccentric. They know they're eccentric, the other students know it, and I don't give them a lot of attention. When someone is really over the top, I stop the class and, not looking at that student, comment about the absolute requirement in my classes, and for the practice of law, that at a minimum we deal with each other respectfully, even if we disagree. Everyone knows I am talking about that person but I never look at him or her. This has only happened a couple of times.

The most effective approach is to see them privately and find out what is really going on with them.

Laurie Zimet

University of California, Hastings College of Law

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The learned hand

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In those rare cases when something is totally out of acceptable bounds, I think it needs to be addressed directly in class in order to model for these aspiring lawyers a willingness to deal directly, but respectfully, with perceived breaches of fundamental decency. In addition, in these rare situations, and also in the more usual cases where the comments are less offensive or more of the distracting nuisance variety, I usually contact the person discreetly, often by e-mail, to either make things clear in writing, or to initiate a written dialogue or office chat. Students almost always respond to honest communication and a stronger bond with the teacher, and the time invested has been very satisfying for me.

Larry Krieger

Florida State University College of Law

There are several different approaches you can take (which may have varying degrees of success):

(1) Set some ground rules in advance. For example, you might say that the goal of the ensuing discussion is to share viewpoints, not to show that the speaker is right and everyone else is wrong. (They often laugh at this point.) Also, there is a difference between “I” statements, and “you” statements. Often statements that are made about what “I think” are not threatening and can be accepted by others. On the other hand, statements about what “you said”

create immediate defensiveness and are often considered argumentative. Thus, “I” statements are preferred over “you” statements. You might add that if students express differing perspectives in class these are likely reflective of the “real world,” and lawyers, to persuade, have to know how others perceive the world, not assume everyone is a carbon copy of themselves. Such revelations are of the type sought during voir dire to discover the values and attitudes of jurors.

(2) Use small group discussions. These often maximize class participation, if only because a small group is easily perceived as a safer environment. The small groups should be given specific instructions for the discussion and you should control the numbers in each group (three to five people seems to work well).

(3) Write first. Having students write out their thoughts first often makes them less defensive and gives them the time to articulate their thoughts in an organized fashion in a subsequent group discussion.

(4) Role play. If you ask them what arguments they could make if they represented plaintiff or defendant, for example, a more channeled and less reflexive discussion hopefully will follow.

Steve Friedland

Nova Southeastern University Shepard Broad Law Center

Motivating Students to Read for Class: A Practical Tool

by Richard E. Redding

As law professors, we know that a certain percentage of our students fail to complete the readings assigned for class. Some students complete all of the readings, but many—perhaps most—read only sporadically and some do not read at all, relying instead on the professor’s lectures and commercial study guides as their only source of information about the subject matter.

In doctrinal or lecture courses, we hope that whether they read or not, students’ knowledge, or lack thereof, will be roughly reflected by their course grade. Thus, we may not be overly concerned about students who fail to read for or participate in class, or whose attendance is a bit spotty. Some students can sufficiently master the material through sources and methods other than class sessions (study groups, study guides, etc.) and reading the casebook. Students know the risk they take and the price they will likely pay come grade time if they miss class or neglect reading assignments. Professors often allow students to make the choice—within reasonable limits.

But the problem is far more troublesome in seminar courses where grades, and the course itself, are structured

around student research papers and class participation. Without a final examination, there is no mechanism to hold students accountable for mastering the information found in the course readings and class discussions. It is hard to know whether a student has mastered the subject matter other than that relating to the narrow topic of his or her research paper. Students may have little motivation to read the assigned materials. Usually, students get a good enough sense of the readings through the professor’s lecture or general class discussion to enable them to make or respond to the occasional class comment or question, though often without much insight. This in turn degrades the quality of class discussion which is so critical for effective seminars. Frequently, questions and comments betray the students’ failure to read, consider, or think critically about the reading materials assigned for class.

The degree to which students neglect reading assignments undoubtedly varies widely across schools, courses, and professors. Apparently there have been no studies of the problem in legal education. However, a recent longitudinal

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A Practical Tool

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study documents a significant decline in undergraduate students' completion of course reading assignments over the last decade. These empirical results are consistent with a great deal of recent commentary in both the scholarly and the popular press reporting the decline of academic standards in higher education and the rise of the student-as-consumer culture, with attendant decline in the students' work ethic.

The Reading Certification

Although there are several pedagogical techniques available, it is difficult to motivate students to think critically, the way a scholar might, about topical readings. At a minimum, however, it should be possible to ensure that most students have read the course assignments.

One pragmatic tool in the law professor's arsenal is the "Reading Certification," a technique that I have used in many of my seminar courses. This practical

tool can be used alongside pedagogical techniques designed to foster critical thinking about course topics and readings. At the end of the semester, students are required to sign the following written statement:

"On my honor, I pledge that I have completed, in substantial part, the assigned readings for this course. My completion of the reading assignments is worth 7% of my final course grade."

Students may, of course, decide not to complete the assigned readings and thus not sign the pledge, thereby losing seven percentage points toward their final grade. The "substantial part" clause in the certification ensures that students who have fulfilled the spirit of the reading requirement are not unfairly penalized simply by virtue of having failed to read a few pages here and there.

At the beginning of the semester, I gently pitch the reading certification as a way for students to automatically earn seven "free points" toward their final grade simply by doing something that they otherwise would be expected to do for the course. I emphasize the purpose of the requirement—that students must read the assigned materials to get the most out of the course—and the specific ways in which completing it will improve their classroom experience. I also acknowledge that the reading certification is based on the honor system, and that while one cannot naively assume that all students are always honest, I trust that students will live up to their professional and ethical obligations. I point out that a student's failure to sign the reading certification at the end of the semester will not otherwise affect their grade (beyond the seven percentage points), or my regard for them as a student.

The results have been encouraging. The quality of class discussion has improved since I instituted the reading certification requirement, and I have the sense that most students are reading the assignments. In most courses one or two students do not sign the certification, which may indicate student integrity under the honor system. Of course, some students "cheat." The extent of student cheating will likely vary according to the culture of the institution and the strength of its honor system; in addition, students may feel greater or lesser loyalty to particular professors. But some student cheating is a small price to pay in return for a seminar class where more students are prepared by virtue of having read the class assignment. It makes for a much richer learning experience.

Moreover, students have reacted favorably—or at least not unfavorably—to the reading certification requirement. One might be concerned that students would view

it as too paternalistic, coercive, or patronizing, and perhaps they do, though I have not had a single student complain about the requirement. Indeed, some appear to appreciate it as a way to easily earn seven percent of their final grade. Another concern is that the requirement acts as an extrinsic motivator for students, whereas we should be fostering and rewarding students' intrinsic motivation to read and learn. Reading certifications, however, are no different from a variety of other extrinsic motivators we routinely use in pedagogy. It is unlikely that reading certifications would reduce the intrinsic motivation of students who otherwise would have read the assignments, whereas it likely will motivate those students who require extrinsic motivation. In any case, recent psychological research has drawn into question the traditional assumption that intrinsic educational motivators are always preferable to extrinsic ones, or that extrinsic motivators decrease intrinsic motivation for learning.

Reading certifications provide an easy, pragmatic tool to help ensure that students complete the assigned readings in seminar courses. But getting students to think deeply and critically about what they read is, of course, the much more daunting challenge.

"The quality of class discussion has improved since I instituted the reading certification requirement. . . ."

Richard Redding teaches at Villanova University School of Law. (610) 519-7948, redding@law.villanova.edu.

Professionalism, Integrity and Reputation: *Providing Opportunities for Consideration*

by C.K. Gunsalus

Simulation courses are an ideal place to portray and play out concepts of professionalism, and to experience how personal and professional integrity interact. Starting with the first class of my intensive negotiations course, interwoven throughout and culminating in our final activity, I focus on how professional reputations are built and spread. The themes that recur are:

- your reputation matters;
- you start building your professional reputation while you're still in law school;
- professional communities are small and people within your practice community will know your reputation; and
- you need to understand the messages others take away from your behavior in professional interactions.

I'm pretty certain the themes get through to at least some students. They comment that the "reputation" messages hit home and have an effect on their ethical development.

On the first day, we play a variant of a "prisoner's dilemma" (Win as Much as You Can), following an approach described in Gerald Williams' 1983 instructor's manual. When debriefing, we specifically talk about how people felt about being "betrayed" by others seeking to maximize their own gain, and whether they'll trust those people again soon. We talk about what it takes to rebuild trust and some ways to do that. And, in that first class, I introduce the reputation index that is a weekly feature of the course.

The reputation index, as it exists within our four-hour, 14-week class with weekly negotiations, provides a sheltered environment where students can experience how their conduct is perceived by others, whatever their intentions might have been. The

concept of the dichotomy between intent and effect is a new one to many students (in those words at least), but resonates fairly quickly. Students seem to learn a lot from the reputation index—even before I've taught them much of anything about negotiating.

I use a variation of business professor and negotiation guru Roy Lewicki's reputation index, in which students comment weekly (my modification) and then cumulatively (Lewicki's method) at the end of the semester about their interactions with the others in the class with whom they negotiate. After every negotiation is completed and we have debriefed it in class, students are asked three questions, in writing, about each of those with whom they interacted in the negotiation, partners and counterparts alike: (1) did the others in the negotiation follow the Model Rules, (2) did

they contribute to the learning, and (3) was it a good or bad professional experience?

Each answer is given a numerical value (+1 for positive, +1 for ethical, +1 for "contributed to my learning," 0 for neutral, and -1 for the negative) and is added to an individual's running total. Twice during the semester, in the middle and at the end, I give individuals their own numbers and all comments that have been written about them (if scoring someone else negatively, you must give a reason), and also report the class maximum, minimum, and average scores. For reasons I don't fully understand and am exploring with social psychologists who do research in this area, students typically score each other more harshly cumulatively than immediately during the week in which they actually had a bad experience. (This is exactly contrary to the research that says you have the strongest memory of a bad experience when it first happens, and then it attenuates over time.) The most common negative comments have to do with perceived misrepresentations and hardball interactions where participants feel abused or misused by the tactics used by another. These comments are generally received with initial mystification by students who only see themselves as being zealous advocates—or, interestingly, on more than one occasion, students who see themselves as pushovers for competitive advocates and thus need to be "tough."

In addition to providing the cumulative numerical tally at the end of the semester, I use Lewicki's form asking you to select no more than seven people who have "bad" reputations, "good" reputations, and who contributed directly to your learning. Again, any negative scoring

requires a comment. This form is also filled out in class, and the results tallied and returned during the final class of the semester.

Somewhere in the first third or so of the semester, we also do a quick exercise in which students are asked

to imagine overhearing others discussing them in the restroom at their retirement dinner—when the others do not know they are being overheard. I ask students what they want others to say about them in that circumstance and ask them to write it down (privately—not to turn in). I use this to suggest that we build up to the summary comments others make about us, and should have in mind the desired comments as the "superordinate goal" of our careers. I do not ask students to say out loud what they have written down, but some students always volunteer: "fair," wise,"

"My overall message is that the goal is to layer a set of professional skills on top of one's 'authentic' self."

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Providing Opportunities for Consideration

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and “made a difference,” are some typical comments. Of course, there’s always the student like the one who said his goal was to be known as a “ruthless winner” at the end of his career. At the end of class, he learned that not one person in the class would voluntarily negotiate with him again, and that no one would trust anything he said: maybe he left re-thinking his tactics for getting there. (Maybe not too!)

The question of “what kind of lawyer do you want all your moments to add up to?” then leads naturally to the concept of *choosing* how one presents in various professional circumstances. Here is where I introduce the idea of “what kind of lawyer do you need to be in this interaction?” Is the goal to build relationship? To intimidate the other party? Make that person angry? Make a deal? How does this choice relate to your reputation and your strategy for your negotiation/interaction?

My overall message is that the goal is to layer a set of professional skills *on top* of one’s “authentic” self (I’m not sure what that is, but my students use the term a lot). I point out that no one pays you to act out your fight with your life partner or your sister in your professional interactions, so you need to have a professional persona that is layered over your own personal reactions and emotions. This plays out in a lot of different ways: you may need a different persona for different situations, but they all layer over who you are, so who you are is always the foundation—and you’d better know what that is and where your boundaries are before you get into a difficult situation. This means, start at the very beginning and establish what your employers and clients can expect from you in terms of what you

will and won’t do with your professional skills.

I work on the concept that if you intend to build a relationship or make a deal in any given interaction (or even if your goal is to intimidate the other party) then each and every moment of your interaction should support that goal. (We use the theater analogy of beat-scene-act-play, where each beat (a single movement in a scene) should support each scene, which supports. . .you get the idea.) But all of it loops back around again to who you are and what you stand for. In negotiations that present ethical dilemmas (which are numerous), I point out that anticipation is better than reaction. When students tell me they crossed the line because being a zealous advocate required them to do so, we talk about how one compromises their ability to represent other clients in the future. I point out that there is a profession—older than lawyering—in which the professional does whatever the client pays for, but its not called lawyering, it’s called something else.

Students take the reputation index seriously, both by filling it out, and by considering the feedback they receive about their own conduct. I hope they take the lessons with them into their careers and that these experiences help them to be better lawyers—and maybe better people too.

C.K. Gunsalus is Special Counsel in the Office of University Counsel and Adjunct Professor at the University of Illinois College of Law.

Why do you teach?

We are interested in knowing why you teach. Please tell us your story in 450 words or less. Send your story to the Institute at ilst@lawschool.gonzaga.edu.

Why I Teach

by Diane Sullivan

I am the daughter of a mill worker from the City of Fitchburg. When I was 7 years old, I knew I wanted to be an attorney. At that very young age, I noticed that when neighbors had serious problems or tragedies, they called upon lawyers for help, even though most couldn't afford them. It seemed to me, even then, that lawyers were the advocates, leaders, and defenders of many of those in the community who were poor or struggling to provide for their families.

I remember thinking then that I needed to become a lawyer to help out people like my mother and father, both of whom were denied educational opportunity and the power that comes with it.

After I graduated from Fitchburg High School, I went to work as a bank teller making \$60 dollars a week. My boss, a man in a pinstripe suit, told me that I would get a raise for my superior performance, and I did. It was an additional \$3 per week. It was at that moment I realized I had better find a way to get an education. I'd be damned if I would settle for annual raises of \$156.00. I knew then that getting a college education was crucial for me in order to be able to help the people I cared about. So I became the first ever in my family to attend college. But I had to do it the hard way—at night, initially one course at a time. I remember clearly that when I had saved enough money to enroll for my first college course, I signed up for business law. I was thinking, somehow, some way, some day I would get to law school. But was the law—the profession I dreamed of—available to someone from the working class like me? I wasn't sure.

That first college business law class confirmed my passion for the law. The professor told us, "I am going to treat you like law students." While others in my class groaned, I was elated. "That's why I'm here," I thought. On my final examination he wrote on my paper that I belonged in law school. Yeah, I muttered to myself, easier said than done.

But I saved my pennies (literally, in a jar) and continued to take one course at a time because that was all I could afford. Eventually, as my income rose, I was able to take more classes until I was on a schedule of four night courses a semester. It took me nearly a decade to receive my B.A. from Fitchburg State College. All the while I remained focused on going to law school.

Finally, in 1988 at age 32, when the Massachusetts School of Law opened its doors, I applied, was accepted, received my degree, and passed the Massachusetts bar examination. I had fulfilled my dream (which often seemed impossible); I had become an attorney.

Today I am a professor of law at MSL and my students have backgrounds similar to mine. Many of them are also the first in their families to go to college and then to law school, and have had to work while going to school. But they have persevered because they want to live a more fulfilling life and to control their own destinies.

Their commitment inspires me to strive hard to be a role model for our students, and to teach them that with hard work, dreams *can* come true.

Diane Sullivan is a professor of law at the Massachusetts School of Law at Andover, where she teaches Contracts, the UCC, Women's Issues, and Animal Law. She can be contacted at dianes@msslw.edu.

The Law Teacher

Volume XII, Number 2

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