



THE LAW TEACHER



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Promoting the science and art of teaching

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Gonzaga and Washburn to Co-Sponsor Institute Under New (and Old) Leadership

By Professors Gerry Hess and Michael Hunter Schwartz
Co-Directors, Institute for Law Teaching and Learning

If you are familiar with the Institute for Law Teaching and Learning and *The Law Teacher*, you probably already have noticed some changes. You are reading *The Law Teacher* in a new format, electronic. Washburn University School of Law is now listed alongside Gonzaga as a co-sponsor of the Institute and of *The Law Teacher*, and we describe ourselves as the co-directors of the Institute. Finally, we refer to the Institute as the “Institute for Law Teaching and Learning,” and not as the Institute for Law School Teaching. We are thrilled to announce that Gonzaga University School of Law and Washburn University School of Law have decided to collaborate in a joint sponsorship of the renamed and reconstituted Institute for Law Teaching and Learning, and the two of us have agreed to co-direct the Institute. While we celebrate the Institute’s past, we also envision an exciting future in which the Institute builds not only on its own reputation as a leader in legal education but also on the energy and excitement generated by the publications of Carnegie’s EDUCATING LAWYERS and CLEA’S BEST PRACTICES FOR LEGAL EDUCATION.

Here’s our vision for how we’d like to build on the Institute’s past success.

The name change reflects less a change in direction and more our sense that the Institute always has been about learning. The Institute has championed the notion that a teaching technique or

idea only has value to the degree that it leads to learning. Thus, adding the word “learning” signifies, both to those who know the Institute and to those who don’t, that the Institute will focus on the law teaching practices, habits of mind, attitudes, personal qualities and beliefs that help law students learn.

We plan to continue the Institute’s successful and popular annual conferences. The Institute has sponsored 13 conferences since its inception in 1991. Addressing such topics as assessment, innovative teaching methods, and reflection, the conferences have drawn legal educators from throughout the United States and Canada, allowing professors interested in growing as law teachers to get together, exchange ideas in formal and informal settings, and to re-find inspiration and renew our commitment to our students. Some of the future conferences, including this summer’s conference – *Implementing BEST PRACTICES and EDUCATING LAWYERS: Teaching Skills and Professionalism Across the Curriculum* (take a look at the Call for Presentations on page 3) – will be held at Gonzaga. Others will be held at Washburn. And we hope to replicate the Institute’s past successes in holding conferences at other law schools interested in promoting teaching and learning, such as the Institute’s past conferences at Suffolk, John Marshall, and Franklin Pierce.

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Institute To Enhance Web Offerings

In the coming months, look for the following enhancements to the Institute's web offerings:

- Portals designed to link new law teachers, adjuncts, experienced full-time teachers, and foreign law teachers to materials and information designed to meet their needs;
- A "Questions and Answers" hyperlink, addressing some common, basic questions we hear all the time, such as: Should I ban laptops? What should I say in my syllabus about my class preparation expectations? What's the best way to respond to a student question when I don't know the answer? How should I start and end my class sessions?
- An "Article or Book of the Month" hyperlink, in which we feature a recent or past article or book we think law teachers would find useful. Where possible, we will provide a link to a full text of the featured articles;
- "Idea of the Month" and "Teaching Issue of the Month" features;
- Links to law review articles, general education articles, and shorter works as "Recommended Reading";
- A full, searchable text version of OUTCOMES ASSESSMENT FOR LAW SCHOOLS, Professor Greg Munro's outstanding study made even more relevant to law schools and law teachers by the Carnegie and CLEA studies of legal education;
- Information about the consulting and workshop services we provide; and
- Information about common teaching technologies and their application to law teaching.

Gonzaga and Washburn to Co-Sponsor Institute Under New (and Old) Leadership

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The Institute will once again publish *The Law Teacher* twice annually, providing an outlet for law teachers interested in sharing teaching ideas and their thoughts about the law school learning process. In a nod to the electronic age and out of a desire to avoid needlessly killing trees, *The Law Teacher* will now come to you electronically.

We will continue to provide consulting services and workshops to law faculties interested in programs tailored to their particular needs and concerns. Between the two of us, we have consulted and spoken more than 50 times at a wide variety of US and foreign law schools.

The Institute will greatly expand its web presence, offering extensive services to law teachers and law schools interested in more immediate help with law teaching and learning issues. See "Institute to Enhance Web Offerings" in the sidebar on this page for upcoming enhancements to the Institute's web offerings.

We also plan to take the Institute in some new directions. While the two of us (and many others) have tried to be strong supporters of the scholarship of law teaching and learning and to mentor new scholars interested in writing in the field, our efforts have been neither systematic nor far reaching. As a result, new scholars in our field mostly have had to fend for themselves. We hope to change that result by creating a new, peer-reviewed journal, which we would

like to begin publishing under the auspices of the Institute in the next 18-24 months. The JOURNAL OF LAW TEACHING AND LEARNING will not only publish scholarly works breaking new ground in the field but also will be a mechanism for providing mentoring and other support to law teachers, including doctrinal, legal writing, clinical, academic support, and adjunct faculty members, interested in getting help in developing their ideas, even very early on in their research processes. As of now, we are envisioning an electronic law journal, but we hope to find sponsors that will allow us to distribute a paper version of the journal as widely as possible.

In short, we are excited about the Institute's future, about the opportunity to collaborate with each other and with the Institute's Advisory Board, and about all we will learn by working with the great number of law teachers committed to effective teaching *and learning* in the law school setting. We encourage you to contact either of us with your ideas and to let us know how the Institute (and we) can best meet your teaching development needs. We hope to see you in Spokane in June.

For more information about the Institute, please visit our enhanced website in the next few months. For more information about either of us, please go to <http://www.law.gonzaga.edu/Faculty/Faculty-Directory/Hess,-Gerry.asp> (Gerry) or <http://washburnlaw.edu/faculty/schwartz-michael.php> (Mike).

TEACHING AND LEARNING NUGGET

In a new feature, The Law Teacher will include short, one- or two-line teaching ideas. We are offering these ideas to spark your thinking about significant teaching and learning issues.

According to Dr. Benjamin Bloom, instruction in a course is successful when 80% of the students learn 80% of the course objectives.

Call for Presentations: Summer Conference of the Institute for Law Teaching and Learning

“Implementing BEST PRACTICES and EDUCATING LAWYERS: Teaching Skills and Professionalism Across the Curriculum”

June 23-24, 2009; Spokane, Washington

The Institute for Law Teaching and Learning invites proposals for conference workshops on techniques for teaching skills and professionalism across the law school curriculum. Building on the energy generated by the publications of Carnegie’s EDUCATING LAWYERS and CLEA’S BEST PRACTICES FOR LEGAL EDUCATION, the Institute’s summer conference provides a forum for dedicated teachers to share with colleagues innovative ideas and effective methods for modern legal education.

The Institute invites proposals for 75-minute workshops consistent with a broad interpretation of the conference theme, Implementing BEST PRACTICES and EDUCATING LAWYERS: Teaching Skills and Professionalism Across the Curriculum” The workshops can address teaching and learning in first-year courses, upper-level courses, clinical courses, writing courses, and academic support. The workshops can deal with innovative materials, alternative

teaching methods, ways to enhance student learning, evaluation of student performance, etc. Each workshop should include materials that participants can use during the workshop and when they return to their campuses. Presenters should not read papers, but should model effective teaching methods by actively engaging the participants. The co-directors would be glad to work with anyone who would like advice in designing their presentations to be interactive.

To be considered for the conference, proposals must be limited to one page, single-spaced, and include the following:

The title of the workshop;

The name, address, phone number, and email address of the presenter(s); and

A summary of the contents of the workshop, including its goals and methods.

The Institute must receive proposals by February 20, 2008.

Submit proposals via email to Professor Gerry Hess, Co-Director, Institute for Law Teaching and Learning at ghess@lawschool.gonzaga.edu.

The conference is self-supporting. The conference fee for participants is \$395, which includes materials and meals during the conference (two breakfasts, two lunches, and one dinner). The conference fee for presenters is \$175. Pleasant and reasonable accommodations are available near Gonzaga University School of Law, the site of the conference. Presenters and participants must cover their own travel and accommodation expenses.

For more information, please contact:

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Submit articles to *The Law Teacher*

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

Articles should be 500 to 1,500 words long. Footnotes are neither necessary nor desired. We encourage you to include

pictures and other graphics with your submission. The deadline for articles to be considered for the next issue is March 1, 2009. Send your article via e-mail, preferable in a Word file.

After review, all accepted manuscripts will become property of the Institute for Law Teaching and Learning.

Please e-mail manuscripts to Michael Hunter Schwartz at michael.schwartz@washburn.edu. For more information contact the co-editors: Michael Hunter Schwartz (michael.schwartz@washburn.edu) and Gerald Hess (ghess@lawschool.gonzaga.edu).

It's What You Say *And* How You Say It.

By James B. Levy, Nova Southeastern University School of Law

As the old saying goes: “It’s not what you say, but how you say it” that matters. No place is that more true than the law school classroom where numerous studies show that students suffer acute stress due in large part to a competitive and sometimes hostile environment that pits them against both their teacher and each other. Educational psychologists have long recognized that the nature and quality of a teacher’s classroom relationship with her students – the professor’s so-called “emotional intelligence” skills – cannot be overstated in terms of their importance to student learning and academic success. Neuroscientists have recently begun finding scientific evidence to support what these psychologists have been saying all along; that socio-emotional considerations can have a significant impact on learning outcomes.

Indeed, there is an emerging consensus among both the “hard” and “soft” sciences that the teacher’s emotional intelligence skills may play the biggest role in whether, and how much, our students learn. Countless studies in the field of educational psychology have demonstrated the indisputable power of self-fulfilling prophecies, the effect – for better or worse – of teacher expectations on student confidence, self-efficacy and motivation as well as the vital importance of social support networks. Now there are scientific studies that suggest that the quality of our relationships and our emotional mindset produce chemical changes in the brain that affect learning, retention, and cognitive efficiency. Thus, to maximize our effectiveness as teachers, we need to become more self-aware of the socio-emotional consequences of our classroom words and conduct.

Every time we interact with students – whether it is our classroom body language, the way we address them or the feedback we provide on their assignments – those interactions are all imbued with emotional overtones that signal to students our true feelings about them,

our perception of their abilities and our expectations regarding their success. Neuroscientists tell us that our moods and emotions play a vital role in attention and memory which are the building blocks of learning. Research also tells us that teachers and students, as member of a classroom social group, tend to coordinate their moods and emotions as a result of the social-psychological phenomenon known as emotional contagion. Thus, there’s a lot of truth to the conventional wisdom that to get an audience interested, one needs to be interested herself; we now know that’s an empirically demonstrable fact. All of this tells us that, as teachers, we need to be thinking about not only the substantive content of our classroom lessons, but the emotional subtext as well.

While we are often conscious of the emotional overtones of our verbal exchanges with students, this essay argues that nearly everything we do in the classroom – which includes our body language, our lesson plans, and the feedback we give students on their assignments – telegraphs to students much about our true attitudes and perceptions of them. In a recent article in Volume 12 of the *Journal of the Legal Writing Institute* entitled “Building Credibility in the Margins: An Ethos-Based Perspective for Commenting on Student Papers,” Professor Kristen Davis argues that students learn a great deal about their teachers’ feelings toward them through the comments we write on their assignments and exams. Professor Davis argues that a teacher’s classroom ethos is established, at least in part, through written feedback in addition to all of our other classroom verbal and non-verbal behaviors.

Research tells us we are most effective as teachers when we relate to our students in a way that connotes warmth, support and that we genuinely care about their learning. That’s not to suggest that we need to become Pollyanna’s who are never critical of our students’ work. To the contrary,

Additional Readings About Emotional Intelligence

Ken Bain, *What the Best College Teachers Do*, 122-23 (2004).

Louis J. Cozolino, *The Neuroscience of Psychotherapy: Building and Rebuilding the Brain* (2002).

Kristen K. Davis, *Building Credibility in the Margins: An Ethos-Based Perspective for Commenting on Student Papers*, 12 *Legal Writing* 73 (2006).

Elaine Hatfield, et al., *Emotional Contagion* (1994).

Robert Sylwester, *A Biological Brain in a Cultural Classroom* (2003).

honest feedback and constructive criticism are among the most important tools we employ. In fact, unjustified praise of students is counterproductive because they resent any perceived effort to manipulate them. Achieving a good socio-emotional classroom climate is more art than science, and a very difficult one at that. It requires the teacher to strike an appropriate balance between, on the one hand, being demanding, but, on the other hand, not so demanding as to create insurmountable goals for students to meet. We need to be warm and supportive but not cross appropriate professional boundaries between teacher and student. And we should imbue the classroom with enough challenge to motivate students to stay on task, but not create so much stress that it interferes with their learning.

All of this means that optimal teaching involves a holistic approach that nourishes both the intellectual and emotional needs of our students. Time devoted to crafting a substantively sound and intellectually interesting lesson plan may fall on deaf ears, or worse – may undermine learning, if the teacher doesn’t devote sufficient thought and attention to creating the appropriate emotional “mood lighting” for that class. Content and socio-emotional

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Using a Wiki to Increase Student Engagement in Administrative Law

By David Thomson, University of Denver

Administrative law is one of the courses students love to hate. This is particularly true in schools where Admin is a required course, since many students in the class would not take it otherwise, and gripe about being forced to. The problem with Admin law – for both the teacher and the student – is that it is such a vast topic that teaching it in a manner students can comprehend is difficult.

When I was asked to teach Admin law last year, I looked at this as a challenge, rather than a burden. Because I am fairly comfortable using technology in my teaching, I decided to use a Wiki to involve the students in the course more than they would be if I spent all our class time lecturing.

Wiki software is designed to support collaborative writing. The best known wiki, of course, is Wikipedia, a collaboratively written encyclopedia.

While Wikipedia has engendered some controversy, it remains a regularly updated encyclopedia of over 10 million articles that has been written in less than six years.

Opportunities for collaborative writing abound in most law school courses. I am a supporter of collaborative learning in law school, at least generally so – like everything else, the devil is in the details. But as I approached teaching Admin law, I thought of ways that I might use a wiki environment to increase engagement in my class. I came up with two. First, I set up a wiki for the students to write the outline for the course collaboratively. Second, I set up small group wikis for research projects on particular agencies.

The wiki course outline was the toughest sell. I have always been concerned about the influence that the varied availability of outlines might have on student grades. Some students get good

outlines and others do not, and it seems obvious that this might have an affect on the grade they ultimately receive for the course. So I had the students in this course prepare the outline together and they all had access to the same product (the collaborative outline) for the final exam.

I found that several students welcomed this approach, several resisted it vehemently, and the rest were willing to go along with the experiment. I had a few students drop the course when I announced the wiki requirements. Most of the students in the course were 3Ls, and some were graduating at the end of the semester. I think the students

I would recommend the use of wikis in other courses, particularly where the professor wants to encourage students to be more involved in their learning, and believes that a collaborative writing approach might help to achieve that goal.

resisting it were mostly students who felt they had their own process of getting “As” figured out, and they didn’t want anyone else to either 1) share it, or 2) interfere with it. I think the students who welcomed it (I received several encouraging E-mails) were students who typically struggle to prepare or receive outlines for courses, and often have to turn to commercial outlines (which can be particularly problematic for Admin law, since it is such a vast topic, and teachers teach it in substantially different ways).

Participation in the preparation of the outline amounted to 10% of each student’s grade in the class, and nearly all students participated. A week before the final exam, at the final review class, I gave them printed copies of their work product. They were allowed to take this outline and the textbook (only) into the final exam. The final product was

an excellent outline for the course, and exceeded 165 pages. It even included several tables and charts – some of which I had given the class as handouts, and others that were prepared from scratch by students.

The other use of wikis in the course was for group projects. One of the problems of teaching Admin law is that it often seems disconnected from the agencies that are involved in the cases. You can teach the principle from the case, but simultaneously teaching students how the relevant agency operates can be difficult. In addition, one of the critical skills of attorneys who practice administrative law is the ability to navigate and evaluate the operative aspects of the bureaucracy in which their client is entangled. So research skills also become important.

I assigned groups of 4 students to one of 11 Federal agencies. These were agencies that were involved in some of the seminal Admin law cases, and agencies that I thought would interest the students, such as EPA, the FCC, and OSHA. Students in each group used a group wiki to prepare a site of

information about their agency. In the last 20 minutes of the second class per week, the group presented their wiki to the class. All the wikis were available for other students to access, but the small group members were the only ones who could build the site for their assigned agency. The group wikis – and the matching presentations – amounted to 20% of the grade for the course.

Students really seemed to enjoy the wiki projects. Most of the groups went above and beyond and created fantastic sites about their agency, with pictures, cartoons, logos and the like adorning them. Of course, they often included numerous links to sources outside the wiki – both within the agency, and sources that criticized or commented on the operation of the agency. At the end of the course, I gave the students “a gift you made yourselves” in the form of a

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CD-ROM of all the agency presentations. The CD included 88 MB of information.

Setting up the wikis was simple, since the facility to do so was built into the University of Denver's courseware system of choice: Blackboard. Our Blackboard sites include a wiki capability, and also allow for group wikis to be configured. That process is simply 1) creating a new group wiki, 2) giving it a name, and 3) assigning the group members access to write to it.

Although not technically difficult, experimenting with a new technology and using it in two different ways, was challenging. Most particularly, it was challenging for the students, because I was asking them to try something new to support their learning. By third year, students often have, as I like to say: "one foot out the door and the other on a banana peel." When you combine that reality with trying something new – in a course that is required and generally has a bad reputation – you are bound to get resistance. But I am glad I pushed through that resistance. At the end of the year, my student evaluations seemed to also indicate that the students were glad they hung in there with the course. Further, I was heartened by the fact that attendance in this class was very high (particularly for Admin law, with mostly 3L students). There were no students who missed more than four classes, and most students attended nearly all of the classes. I would recommend the use of wikis in other courses, particularly where the professor wants to encourage students to be more involved in their learning, and believes that a collaborative writing approach might help to achieve that goal.

David Thomson teaches at the University of Denver. His book, Law School 2.0, will be published by LexisNexis in January 2009; portions of this article appear in the book. David can be reached at dthomson@law.du.edu. For information about using this and other technologies in teaching, visit David's website: <http://www.law.du.edu/thomson>.

By Thomas E. Baker, Florida International University College of Law

Law professors should make themselves reasonably available to colleagues for purposes of discussing teaching methods, content of courses, possible topics of scholarship, scholarly work in progress, and related matters.

— *AALS Statement of Good Practices by Law Professors in the Discharge of their Ethical and Professional Responsibilities (May 2003).*

Consistent with this Statement of Good Practices, every member of the faculty should be made to feel comfortable seeking out the professional advice of any more experienced member of the faculty who, in turn, should be expected to respond in a helping, affirming manner. The purpose of this faculty mentoring protocol is to facilitate faculty development through formative assessment rather than to evaluate through summative assessment, the latter being the primary purpose of the promotion and tenure process. The mentoring relationship envisioned here contemplates individualized confidential consultation, supportive advising, and personal encouragement one-on-one. This protocol is intended to provide some general guidance to both mentors and protégés on how to develop and nurture this relationship to achieve its fullest potential.

Mentoring and retaining junior faculty are important ways to improve the faculty and to achieve greater faculty diversity. An effective mentoring program also seeks to involve and reinvigorate senior faculty.

Rather than attempting a comprehensive, detailed description of mentoring activities, this protocol is intended as a working document, i.e., a checklist of some of the typical intramural activities that a mentor and protégé might expect from each other. Some activities in this protocol may

not suit some mentors and protégés; some activities not in this protocol may occur to some mentors and protégés. The explicit expectation is that mentors and protégés will be challenged and encouraged to be creative and proactive in mutually-supportive ways. The protocol is organized into four categories: Teaching, Scholarship, Service, and Academia.

Teaching

Mentors and protégés should seek to develop a professional rapport that allows the protégé to seek the mentor's advice on any teaching and course issues, including advising about selection of teaching materials, course syllabi, course design and requirements, assignments, teaching methods, use of technology, classroom management, examinations, course packages, and new course offerings.

Mentors and protégés should visit each other's classes and meet afterwards to discuss their observations.

Mentors and protégés should exchange and discuss useful articles about teaching.

Mentors and protégés together should review the course evaluations of the protégé (a useful complementary exercise would be to review the course evaluations of the mentor).

Mentors and protégés should attend faculty colloquia on teaching and learning and follow up together on

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A Model Faculty Mentoring Protocol

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ways to integrate those ideas into their own teaching.

Mentors should encourage protégés to attend the AALS workshop for new teachers their first year and subsequent relevant national and regional conferences on their course subjects as well as conferences on teaching pedagogy.

Mentors and protégés should engage in an ongoing discussion of the protégé's teaching philosophy as it takes shape and evolves; the protégé might draft a written statement of teaching philosophy as the focus of this interaction and then revise the statement on an ongoing basis.

Scholarship

Mentors and protégés should engage in an ongoing discussion of the protégé's scholarly philosophy and research plan.

Mentors should be available to act as a sounding board for protégés to “try out” ideas and proposals for scholarship.

Mentors should review drafts of the protégés' articles, collaborate on publication strategy, and advise on placement decisions, as much as the protégé desires these kinds of assistance.

Mentors should advise protégés on book publishing, grant-making, fellowship opportunities, *etc.*

Mentors and protégés should self-consciously seek to develop the scholarly network of the protégé by relying on the

mentor's contacts and by encouraging the protégé independently to pursue opportunities to become better known in his or her scholarly fields.

Service

Mentors and protégés should engage in an ongoing discussion of the protégé's service to the law school and the university communities, as well as to local, state or national bar activities, and various other professional undertakings of the protégé, for example, *pro bono publico* representations, law reform activities, improvements of the judicial system, *etc.*

Mentors should encourage and seek to facilitate the protégé's development

...growth and development of a teacher is a long-term process — being a teacher is a lifetime undertaking and a true calling.

as a public intellectual to inform and influence public opinion and government policy.

Academia

There should be a special sense of confidentiality in the relationship between the mentor and protégé that should be mutual and sustained; indeed, protégés should be encouraged and expected to share both successes and difficulties; mentors should be expected to provide confidential and candid advice in the best interest of the protégé.

Mentors and protégés should look for potential synergies among teaching, scholarship, and service activities with a mind towards achieving a professional

coherence and furthering the ongoing academic development of the protégé.

Mentors should review the draft of the protégé's annual report to the dean prior to submission and mentors and protégés should meet afterwards to discuss the dean's annual review and written report on the protégé.

Mentors and protégés should undertake an examination and review of the file of the last candidate to have successfully applied for whatever promotion or tenure to which the protégé will next apply (of course, with the permission of the last candidate).

Mentors should encourage protégés to participate in AALS annual meetings as well as other relevant professional organizations such as the ABA, SEALS, SALT, LATCRIT, State Bar, *etc.*

Mentors and protégés should discuss the pros and cons of common extracurricular academic activities such as

blogging, participation in relevant online discussion lists, writing op-eds, appearing on continuing legal education programs, *etc.*

Because growth and development of a teacher is a long term process — being a teacher is a lifetime undertaking and a true calling — both the mentor and the protégé should endeavor to continue their mutual commitment past the first year of the protégé's appointment, preferably until the protégé achieves tenure and joins the ranks of mentors.

Thomas E. Baker teaches at the Florida International University College of Law. He can be reached at thomas.baker@fiu.edu.

It's What You Say And How You Say It. — continued from page 4

considerations have to work hand-in-hand for students to learn best.

Obviously, our job requires us to make demands of the students and critique them when they make mistakes. But we can, and should, learn to do it in a way

that promotes the students' self-efficacy through warmth, support and a genuine belief that, in the end, they can succeed. When it comes to teaching, therefore, the most apt expression may well be that it's both “what you say” and “how you say it” that really counts.

James B. Levy teaches at Nova Southeastern University School of Law. He can be reached at levyj@nsu.law.nova.edu.

The Dirty Dozen

By Ashley S. Lipson, University of La Verne College of Law

Long ago law professors, seizing upon the name of a far *better-organized* philosopher than themselves, created the so-called Socratic system of instruction, an excellent technique when used properly. But like many good ideas, undesirable myths attached themselves, contaminating the main purpose. One such myth propelled by the all-knowing Professor Kingsfield in the Oscar winning film, *Paper Chase*, suggests that: *In law there are no answers, only questions*. This, in turn, implies that there is no reason to construct basic systems, axioms or classification schemes, such as those employed by virtually every other logic-based endeavor. Instead, the myth suggests that we should allow our students to wade through a Grand Canyon of cases and notes, as they pretend to construct their own sign posts along the way, attempting to find their own answers, which we tell them don't exist.

Imagine that you're a mathematician or scientist teaching a course with little uniformity and no standard axioms, structures or definitions. You might conclude that if Science and Mathematics were taught by law professors, perhaps we would all still be calculating with an abacas, debating which beads were being unfairly discriminated against. Thus, the *discipline* that the law demands appears to be lacking in the very educational structure responsible for its dissemination. And this lack of discipline shows. It shows in the shortcomings of our practitioners, the inefficiency of our judicial system and the poor development of our laws and statutes.

If the goal, therefore, is to confuse the students, especially the 1Ls, then why not do it right. Many casebooks already do it "right." But for those writers

preparing to write a new casebook, here are the "Dirty Dozen" rules that must be followed:

[1] Take the most important rules of law and bury them in the case notes. That way, the students who are worried only about being called upon in class (but don't have time to read the notes) will be thoroughly confused and mislead.

[2] Present a long series of cases, all aiming toward one beautiful immaculate truth; then, at the tail end of some

“One...myth propelled by the all-knowing Professor Kingsfield in the Oscar winning film, *Paper Chase*, suggests that: *In law there are no answers, only questions.*”

obscure case note, cite a statute that abrogates it.

[3] In your bold-titled cases, present lengthy unedited opinions that present narrow exceptions based upon silly fact patterns; even better if the case involves a crooked pedophile attorney (such as John Mitchell of *Pennoyer v. Neff* fame).

[4] Early in the book, be sure to present cases that utilize complex procedures and terminology that even lawyers have yet to understand. Be certain to provide some olde English cases from the 1700's.

[5] Edit out that part of the case that tells who won. Or better yet, carefully cut bits and pieces so that only incoherent, discombobbled text remains.

[6] Never include cases written by judges, who in plain English, tell us the outcomes. Make certain they contain language like this:

This court, therefore, modifies the lower court as to issues five and seventeen, which affirmed and at the same time reversed

the trial court's ruling during the second re-hearing as to issues three and six, and is therefore, modified in accordance with the remainder of this incoherent opinion. Reversed on other grounds.

[7] In your Teacher's Manual, instruct professors to tell the students that *Young v. Guy* and *Ferens v. John Deere* are "easy" cases that can understood by any neophyte student; be sure to do this to the students during some suicide pre-finals week.

[8] Before students have learned the significance of the Supreme Court or the New York Court of Appeals, give them some long winded slip opinions from a Mississippi trial court (with big bold titles, of course). If you can't find one, a Trent Lott speech will do.

[9] Never present a cohesive, logically structured outline. Instead, scatter the topics hither, thither and yon, or do as most, and scatter them *Curley, Moe and Shemp*.

[10] Always select cases that have several parties and entities with the same names. That way, the students won't be able to distinguish the plaintiffs from the defendants.

[11] Always let the tail (minority positions) wag the dog when it comes to selecting cases for purposes of teaching precedents.

[12] Never define a complex legal term; instead, refer the students to that "other" pillar of high priced, elegantly bound, confusion - *Black's Law Dictionary*.

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The Supreme Court Crossword

Feel like a diversion from grading your exams? Test your skills on this crossword created by Professor Ashley S. Lipson. The answer is on page 20.

Across

- This associate justice, poet, novelist, and essayist once referred to the Sherman Antitrust Act as an "imbecilic statute" designed to make everyone fight, while forbidding anyone from being victorious.
- This conservative Harvard graduate and teacher became the first academic to sit on the High Court since 12 Down.
- Prerequisite to any oral argument before the High Court.
- It is not permitted by law (Latin Abbr).
- British rule in India.
- Housing for livestock.
- Actor Binns, who played one of the jurors in "Twelve Angry Men" (Initials).
- Lane (P.O.).
- Proportionately determined or adjusted, pro _ _ _ _.
- Landmark case wherein the High Court affirmed the right to teach one's child a foreign language, even in Nebraska; 262 U.S. 290 (1923).
- Constrained to rule against.
- Zealous supporter of the Second Amendment.
- To deceive an opponent by a fake.
- Associate justice of the High Court from 1807 to 1826, who began practicing law with only three shillings in his pocket.
- Without bias or prejudice.
- His nomination to the Supreme Court sparked intense debate because of his views relating to rights of privacy and the First Amendment; he was rejected by the Senate Judiciary Committee 9 to 5.
- Cluster of small flexible parts.
- Organization of lawyers.
- A party to many Supreme Court cases.
- Singapore justice.
- Describes weak argument.
- Senior (Abbr).
- Court (P.O.).
- Continuous hostility.
- The High Court's first female police sergeant, Eileen F. Cincotta, was appointed during this month in 1985 (Abbr).
- Pleading abbreviation that signifies the inclusion of unnamed parties, _ _ al.
- This great-grandson of a slave became the first African - American to take a seat on the High Court.
- Supreme Court Justice Chase, who signed the Declaration of Independence and served in Congress during the Revolutionary War.
- First name of 1 Across.

Down

- Associate justice of the High Court from 1877-1911; his grandson, John Marshall, also served as an associate justice.
- President who appointed Abe Fortas and Thurgood Marshall (Initials).
- Mister (Abbr).
- Export-Import Bank Act (Abbr).
- Position on the High Court.
- Transgression of divine law.
- Credit note (Abbr).
- To one side.

THE SUPREME COURT

1		2	3	4	5		6	7	8		9	10
		11					12				13	
14	15			16					17	18		
19			20					21				
22						23	24					
				25	26				27		28	
	29	30	31					32				
33					34							35
				36					37		38	
39			40			41	42	43			44	
		45			46					47		
48	49		50	51					52			
53								54				

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- Enclosed by jurisdictional boundaries.
- A male name derived from old English words meaning "counsel."
- Served as an associate justice on the High Court from 1939 to 1962.
- Annuity (Abbr).
- Associate Justice White, John F. Kennedy's first appointment to the Court.
- Remedial Investigation.
- State named in the *Mellon* case, 262 U.S. 447 (1923), which involved the constitutionality of federal grants for infant and maternity care.
- Ridge of rocks or sand.
- The supreme law of the marching field (Abbr).
- European Free Trade Association (Abbr).
- Tainted evidence (Abbr).
- Delirium tremens (Abbr).
- Input/output (Abbr).
- Naval Reserve Officer Training Corps (Abbr).
- Deck (Abbr).
- Right (Abbr).
- In 1941, Roosevelt nominated him to fill the seat of Harlan Fiske Stone, who had been appointed Chief Justice.
- Former Chief Justice of the Supreme Court, whose most significant opinions dealt with the Separation of Powers.
- Actor Barry, who frequently portrayed lawyers (Initials).
- In the year (Abbr).
- Law School in Baton Rouge, Louisiana.
- The western end of the Aleutian Islands.
- Associate Justice Black, the first appointee of FDR.
- Material object representing a deity.
- Suffix meaning "characterized by."
- Advocate (Abbr).
- Timely and Appropriate (Environmental law acronym).
- Pronoun for every Supreme Court justice before the advent of Sandra Day O'Connor.
- Opportunistic infection.

— see page 20 for solution

Teaching Outside the Box: Focus on Learning

By Vickie Eggers and Joni Larson, Thomas M. Cooley Law School

We all desire to be the best we can be at our teaching. But, is *desiring* to be the best the same as *preparing* to be the best? Will our best shot at teaching bring about the students' best learning? Maybe its time to take a step back, outside our role as teachers, and focus instead on learning and the connection between learning and teaching.

Parker Palmer may have said it best in *The Courage to Teach* (1998),

[T]eachers possess the power to create conditions that can help students learn a great deal—or keep them from learning much at all. Teaching is the intentional act of creating those conditions, and good teaching requires that we understand the inner sources of both the intent and the act.

To be an effective teacher we need to be clear about *why* we teach what we teach and what we hope to accomplish in the process. Many of us derive *what* we teach from our textbook – fourteen weeks of assignments, fourteen weeks of instruction – simple! However, simply adopting a textbook as the focus of *what we hope to accomplish* places the emphasis of instruction squarely on imparting rules from instructor to student, on covering a pre-determined outline of information. Glaringly absent from this focus is the student. Moreover, when what we hope to accomplish is limited to simply imparting information, we often experience less than satisfactory results from our students and little if any teaching satisfaction for ourselves.

It's time to toss aside that well-worn textbook and take up pen and paper. Of course we need to teach our students the rules. But, what else can we teach them

in the process?

In what ways does your knowledge go beyond the black letter law?

What experience do you have to share?

What skills can you impart that would be useful to students?

How could you teach those skills?

This is where the pen and paper come in. Begin by making a list of what, besides substantive content, you could be teaching your students. This list can be

Parker Palmer may have said it best...
'[T]eachers possess the power to create conditions that can help students learn a great deal—or keep them from learning much at all.'

the foundation for a new set of learning goals.

A learning goal (versus a learning objective) is a broad statement of what the learners will be expected to know and be able to do once they have completed a specified course of instruction. As you read through the following three broad goals, notice how they generally can provide the answer to the question of *what do you hope to accomplish?* You just need to fill in the details, gleaned from your answers to the questions listed above.

Teach the students the black letter law.

Teach the students how to analyze a problem by applying the law to a particular factual situation.

Further the students' ability to be critical thinkers by providing a set of processes and concepts that will allow the students to think through any subject or discipline, through any problem or issue.

Traditionally, law school courses focused

on teaching black letter law, with the Socratic Method employed to assess a student's ability to glean rules from case law. The goal was to teach the substantive content of an area of the law

With the publication of the MacCrate Report, law schools began pushing towards more application-oriented teaching, reflected primarily in the creation of new clinical programs. In some classrooms, problem-solving skills were added to substantive learning.

Without a doubt, this approach takes us a step beyond merely imparting a substantive area of the law to the students.

Can we go further? The Carnegie and Best Practices reports urge us to teach students how to approach

the practice of law. Can we teach our students to be critical thinkers? And, if critical thinking skills are our goal, what does that look like in our classrooms?

First, we must be willing to step outside the box of traditional law school teaching methodologies and into a new paradigm of legal education. This means moving the focus of attention away from the professor standing at the front of the classroom (teaching) and onto the students (learning). If we truly believe that the purpose of law schools is to foster and develop students who demonstrate higher-order thinking skills and the ability to skillfully evaluate the application of the law, we must get out their way and give them the opportunity to learn these skills.

In turn, the students must leave their role as scribes, faithfully and passively recording our words of wisdom with minimal thought or understanding. It's

— continued on page 12

Deposition Techniques & the Socratic Method

By Eric Chaffee, University of Dayton School of Law

Although the Socratic Method remains a favored way of teaching law students, this method is difficult to use effectively. Professors often employ the Socratic Method to demonstrate the complexity of the law without giving students a basic framework for understanding it. Those teaching the law could likely learn a lesson from those practicing it. This essay explores the application of generally accepted deposition techniques to the Socratic Method.

Deposition techniques have a direct application to the Socratic Method because both have similar purposes, i.e., eliciting information and presenting theories through questioning. When taking depositions, practicing attorneys seek to discover facts while asking questions that present their legal theories. Similarly, in the classroom professors employ the Socratic Method to compel students to relate the facts of a case through questions that seek to illuminate legal concepts.

Effective deposition-taking and effective Socratic teaching both begin with extensive preparation. Prior to taking a deposition, lawyers often spend substantial time reviewing relevant documents and preparing lengthy outlines, so that their questions are succinct, focused, and maximize the use of available time. A professor using the Socratic Method must be equally diligent. To guide students through a case, statute, or other material, professors must understand every aspect of it.

When teaching a case, statute, or other topic, a professor using the Socratic Method should employ the funnel technique commonly used in depositions. This is an information-

gathering method in which examiners begin with broad, open-ended questions and refine their understanding of an issue through increasingly focused queries. For example, one could begin discussing a case by asking questions like:

What can you tell me about this opinion?

Can you describe the facts of this case?

Can you take the class through the court's analysis?

Beginning with broad, open-ended questions gives students the freedom to show their understanding of the law and develops their ability to teach the law to others.

As the deposition or Socratic discussion moves forward, the funnel technique

ultimately the same, i.e., to demonstrate how the law applies to facts through questioning. Examiners in both contexts seek to guide others to their views while adapting to new facts and ideas discovered in the course of the discussion.

To achieve this goal, generally accepted deposition techniques once again prove useful. After information-gathering occurs through the funnel technique, the examiner should engage in theory testing to reinforce important legal concepts and clarify the importance of the topic being discussed. Theory testing is a technique commonly used in depositions when a questioner attempts to get a person being examined to say or agree to the questioner's theory of the

facts or the law.

To some, theory testing might seem disingenuous in the classroom because it could cloister independent thought. However, the goal in the classroom is to instruct, and an unbounded

discussion often does very little to deepen a student's appreciation of the law.

Theory testing in the classroom generally takes two forms. First, a professor may seek to clarify and reinforce important concepts in a discussion by using leading questions. For example, a professor could ask questions such as:

Mens Rea is the mental state required for a crime, correct?

The rule in this case is that an agent is liable if a principal is undisclosed or partially disclosed, correct?

Second, a professor could also engage in theory-testing by asking open-

In depositions, good lawyers are always conscious of what a judge or jury might think when they hear the testimony collected. Professors should be equally conscious of what students might think while hearing a Socratic discussion.

allows a progressively more focused discussion about what the person being examined knows. By asking narrower follow-up questions, a professor can help introduce omitted facts and remedy logical leaps made by a student. A professor can also help to explore aspects of a case, statute, or other topic that a student may have overlooked. The ultimate goal of the funnel technique is to exhaust and fully explore in an orderly and logical manner what the person being questioned knows.

In addition to the information gathering aspect of depositions and the Socratic Method, both seek to present legal theories through questioning. Discussion in the classroom will usually be less adversarial and entail a more explicit examination of the law, but the goal is

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Teaching Outside the Box: Focus on Learning

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time to wake them up and give them a reason to think about what they are hearing. We must engage them and provide opportunities in the classroom for them to explore, apply, and puzzle-out answers for themselves. We must ask them to analyze and assess their understanding and reasoning, identify strengths and weaknesses in their analysis, and develop strategies that will enable them to apply critical thinking to any possible problem or issue. With a critical thinking approach, the students have opportunity to think rather than memorize, argue effectively rather than recite, think of possible implications of the law rather than prepare an outline.

For those still squeamish about embracing a focus on students and critical thinking, we pose three questions.

1. Is there anything in the content of what you teach that isn't adequately addressed in case law, a hornbook, or other secondary source?
2. Could a well-trained attorney locate and understand such information?
3. What characteristics come to mind when you read "well-trained attorney"?

Learning through critical thinking will look different with each teacher and in each classroom. We can, however, point out some common denominators. First, critical thinking skills grow best in a non-threatening as well as supportive learning environment. As professors, we must respect the students as decision makers; we must nurture their willingness to explore the state of law and the ramifications of how it has developed or could be developed. The MacCrate Report says, "Learning is dependant on thought, produced by thought, analyzed by thought, comprehended, organized, maintained, and transformed by thought." We must enable learning by focusing more on that thought process, and less on the conclusion reached.

Second, designing a classroom around student engagement and critical thinking comes with a cost – significant use of class time. There is tension between the need to get through the designated course content and spending time on critical thinking skills. How to resolve that tension lies in the question needing to be answered - what do we hope to accomplish? Is our goal to teach the students all the intricate rules of every subject matter? Or is our goal to teach the students how to figure out an intricate rule on their own, if and when the need arises?

Yes, this approach is very different from traditional law school teaching. To be done effectively, it requires effort and change. It can be unsettling. We must leave behind our safe and secure role as the sole source of correct information, dolling it out in a manner that is eerily similar to that of the Wizard of Oz. We must leave behind our almost childlike hand-hold on the students as we insist on leading them through the maze of rules. What we get in return is a classroom where students are engaged in the learning process. Enthusiastic participation replaces bleary-eyed passiveness. Learning sparks the moment and life-long skills are developed. We, as professors, may be left well outside our comfort zones, but may soon discover that that place, in fact, is the perfect place to be.

What thoughts does the approach invoke for you? Have you tried it? What successes and / or challenges have you had? Have you rejected it? Why? We would love to hear from you. Please e-mail us at outoftheboxlawteacher@hotmail.com. Nothing better than a spirited debate to get us all thinking!

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Deposition Techniques & the Socratic Method

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ended questions that are designed to highlight major concepts. In fact, open-ended questions may produce more desirable results than leading questions because they force students to state concepts in their own words and synthesize them. In discussing an opinion, a professor might ask:

What is the rule that we should take from this case?

How would you incorporate this case into your outline for the class?

These two approaches can of course be combined as needed to refine the classroom discussion.

Ultimately, the goal of both depositions and the Socratic Method is to provide a defined framework for thinking about a case or other matter. In depositions, good lawyers are always conscious of what a judge or jury might think when they hear the testimony collected. Professors should be equally conscious of what students might think while hearing a Socratic discussion. Professors must provide a balance between showing students the complexity and the frequent ambiguity of the law while introducing students to defined legal concepts and constructs.

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Editor's note. A version of this article published in the Spring 2007 edition of The Law Teacher contained errors that we created in the editing process. We are happy to publish this corrected version.

The Use of Clickers in the Law School Classroom

By Darlene Cardillo, Albany Law School

In the past several years, much has been written about the positive impact of integrating technology into teaching. The dilemma is how to incorporate technology in a way that is consistent with a law professor's teaching style and with his/her technological skills, and at the same time enhance student learning.

During the spring semester of 2007, one of the veteran professors at my law school, Daniel Moriarty, experimented with the use of "clickers" as part of teaching his 1L Criminal law class.

Professor Moriarty's teaching style is Socratic. Normally his students read the assigned material and respond to questions in class. Professor Moriarty explains difficult or complicated concepts and introduces new ideas.

One of the problems with Socratic teaching is that only a limited number of students can actively participate during a given class. A professor talks to a single student at a time. In principal, all the students should be trying to answer the professor's questions even when the questions are not addressed to them, but there is no way to know for sure that they are doing so without calling on them. Consequently, with a class of almost seventy students, a majority of the students (especially the shy ones) will remain unnoticed.

A laptop with wireless Internet access in front of each student poses an additional distraction. Even if the students are not checking their e-mail or surfing the web and are actually using their computer to take class notes, they are not interacting with the professor or with each other.

The use of "clickers" has the ability to overcome these obstacles. It allows more students to actively participate during class and gives the professor the opportunity to evaluate all the students' comprehension of the material. The clickers also engage the students and

focus their attention since they all must respond to each question.

Several of the professors at this Albany Law School used *eInstruction's* Classroom Performance System (referred to as "clickers" or CPS). At the end of the semester, the students in these classes responded to a survey and gave very favorable feedback regarding the use of the CPS system. One student commented: "It has enhanced my learning. The questions are used to guide us along and I think the professor does a great job of forming them, and making them work with our class. Since we started using them I really feel as though I'm learning a lot more." Another stated: "It encourages participation where one might otherwise be too shy or hesitant to stick their neck out in front of the entire class. By actually participating and committing to an answer I can see how well I actually know the material compared to how well I think I know it. Plus, it's a good gauge for me to see how well I understand the material compared to other people in the class."

A third replied: "I hope that the school sticks with it and encourages more professors to use it."

The professors who used the clicker system first semester also use PowerPoint on a regular basis as part of their teaching and are fairly comfortable with technology. This was not the case with Professor Moriarty. He is adept at uploading documents to his TWEN (The Westlaw Education Network) web site for his students. But in the classroom, his technology use was minimal. I am the Instructional Technologist

at the law school and was confident that we could find a way to use the clicker system in Professor Moriarty's Criminal Law class.

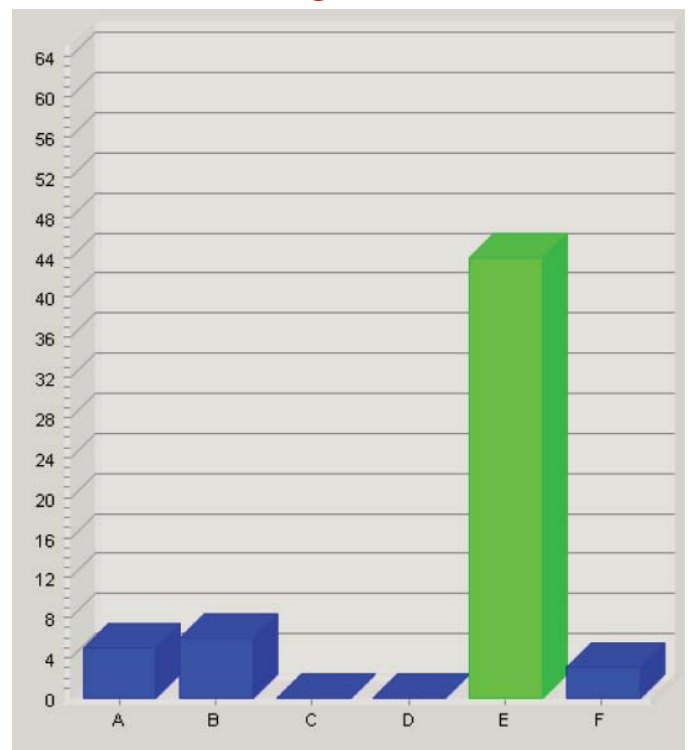
We abandoned the idea of using *eInstruction's* CPS with PowerPoint (which had worked for the other professors) and decided to have Professor Moriarty upload multiple choice or True/False questions for each class to his TWEN site and assign them to students for homework. I set up his Criminal Law class in CPSONline and on his laptop. Professor Moriarty only had to learn how to connect his laptop to the LCD projector and to start up the CPS system on his laptop at the beginning of each class.

To make sure that the students took the CPS experience seriously, Professor Moriarty announced to the Criminal Law class that the number of correct answers that each student recorded would be totaled and at the end of the semester, this score would count for 10% of each student's grade.

Professor Moriarty began most of his classes by having the students use the "clickers" to record their responses to the questions (on the TWEN site) that they

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Figure 1



Further reading on “clickers”

Maryfran Barber & David Njus, Clicker Evolution: Seeking Intelligent Design, 6 CBE-Life Sciences Educ. 1 (2007).

Jane E. Caldwell, Clickers in the Large Classroom: Current Research and Best Practice Tips, 6 CBE-Life Sciences Educ. 9 (2007).

Paul L. Caron & Rafael Gely, Taking Back the Law School Classroom: Using Technology to Foster Active Student Learning, 54 J. Legal Educ. 551 (2004).

Ralph W. Preszler et al., Assessment of the Effects of Student Response Systems on Student Learning and Attitudes Over a Broad Range of Biology Courses, 6 CBE-Life Sciences Educ. 29 (2007).

Douglas Slain et al., An Interactive Response System to Promote Active Learning in the Doctor of Pharmacy Curriculum, 68 Am. J. Pharmaceutical Educ. 1 (2004).

S. A. J. Stuart et al., Using an Electronic Voting System in Logic Lectures: One Practitioner’s Application, 20 J. Computer Assisted Learning 95 (2004).

Clickers – continued from page 13

had answered for homework. Professor Moriarty would then project on the screen a graphical representation of the class’ responses and indicate the correct answer. (See figure 1) A discussion ensued following each question/answer.

When Professor Moriarty started using the clickers, I was present in his classroom to make sure there were no technical glitches. My physical presence evolved into merely providing moral support. After several months, I didn’t need to be in the classroom at all and was there often as a casual observer of the process.

The CPS system encouraged more class discussion, prodding even shy students to get involved as responses were debated. Another advantage of this technology is how it allows the professor to assess his own teaching. The report below shows that 88% of the students got question 1 correct, 73% questions 2 and 75% question 3. Looking this data, a professor is able to quickly correct any misconceptions that students may have (see figure 2).

The CPS reports also enable the professor to keep tabs on individual students’ daily progress (see figure 3). A student who consistently receives low scores is either not doing the reading or is having difficulty with the material. The latter can then be corrected through remediation before the student fails an exam.

Surveys completed by Professor Moriarty’s students posted positive reviews on the CPS system. When asked on how it enhanced their learning, one student said: “The professor is able to provide an alternate means of grading students by assessing understanding daily, and discuss certain issues more closely when there is misunderstanding.” Another added: “It’s much faster than a paper quiz. Less quiz time allows for more lecture time. We learn more.”

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Figure 2

Class: Criminal Law
Class Points Avg: 2.36 out of 3.00 (78.53%)
(Includes only students who took assessment)

1 (No Question Stem Entered)	
A	88% (No Answer Stem Entered)
B	0% (No Answer Stem Entered)
C	7% (No Answer Stem Entered)
D	3% (No Answer Stem Entered)

2 (No Question Stem Entered)	
A	0% (No Answer Stem Entered)
B	73% (No Answer Stem Entered)
C	12% (No Answer Stem Entered)
D	14% (No Answer Stem Entered)

3 (No Question Stem Entered)	
A	8% (No Answer Stem Entered)
B	10% (No Answer Stem Entered)
C	0% (No Answer Stem Entered)
D	0% (No Answer Stem Entered)
E	75% (No Answer Stem Entered)
F	5% (No Answer Stem Entered)

Figure 3

Assessments - All																Totals	
Grades																Earned Points	Max Points
Hw 5 pts 1/29 Hour 6	Hw 3 pts 2/5 Hour 9	Hw 3 pts 2/8 Hour 11	Hw 1 pts 2/13 Hour 13	Hw 1 pts 2/15 Hour 14	Hw 7 pts 2/20 Hour 15	Hw 1 pts 2/22 Hour 16	Hw 4 pts 2/26 Hour 17	Hw 2 pts 2/27 Hour 18	Hw 2 pts 3/5 Hour 20	Hw 3 pts 3/27 Hour 25	Hw 1 pts 4/2 Hour 27	Hw 1 pts 4/3 Hour 28	Hw 4 pts 4/5 Hour 29	Hw 1 pts 4/9 Hour 30			
5.0	2.0	2.0	1.0		7.0	0.0	4.0	2.0	2.0	1.0		1.0	1.0	1.0	32.0	36.0	
5.0	3.0	2.0	0.0	1.0	6.0	0.0	4.0	2.0	1.0	1.0		1.0	1.0	1.0	29.0	36.0	
4.0	3.0	2.0	0.0		6.0	1.0	4.0	2.0	1.0	1.0		1.0	1.0	1.0	29.0	36.0	
2.0	3.0	3.0	1.0		7.0	0.0	3.0	2.0	2.0	1.0		1.0	1.0	1.0	30.0	36.0	
3.0	1.0	3.0	1.0	1.0	7.0	0.0		2.0	2.0			1.0	1.0	1.0	27.0	32.0	
4.0	2.0	3.0	1.0		7.0	0.0	2.0	2.0	2.0	1.0		1.0	1.0		29.0	34.0	
4.0	3.0	2.0	0.0	1.0	6.0	0.0	3.0	2.0	2.0	1.0		1.0	1.0	1.0	30.0	36.0	
			0.0		7.0	0.0		1.0	1.0			1.0	1.0	1.0	16.0	20.0	
4.0	2.0			1.0	7.0	0.0	4.0	2.0	1.0	1.0					29.0	34.0	
4.0	3.0	3.0	1.0	1.0	7.0	0.0	2.0	2.0	2.0	1.0				1.0	32.0	36.0	
	2.0	2.0					2.0	0.0		1.0					13.0	20.0	
	1.0		0.0	1.0	5.0	0.0	2.0	2.0	2.0	1.0		1.0	1.0	1.0	18.0	27.0	
	2.0	3.0	1.0	1.0	7.0	0.0	3.0	2.0	2.0	1.0		1.0	1.0	1.0	28.0	32.0	
4.0	2.0	2.0	1.0	1.0	7.0	0.0	3.0	2.0	2.0	1.0		1.0	1.0	1.0	32.0	37.0	
5.0	3.0	3.0	1.0	1.0	7.0	1.0	4.0	1.0	2.0	1.0		1.0	1.0	1.0	36.0	37.0	
5.0	2.0	3.0	1.0	1.0	7.0	0.0	4.0	2.0	2.0	1.0		1.0	1.0	1.0	32.0	36.0	
3.0	3.0	3.0	1.0	1.0	7.0	0.0	4.0	2.0	2.0	1.0				1.0	30.0	35.0	
4.0	3.0	3.0	1.0	1.0	7.0	0.0	4.0	2.0	2.0	1.0		1.0	1.0	1.0	33.0	37.0	
3.0	2.0	2.0	1.0		5.0	0.0	4.0	2.0	2.0	1.0		1.0	1.0	1.0	27.0	36.0	
5.0		2.0	1.0		5.0	0.0	3.0	2.0	2.0	1.0		1.0	1.0	1.0	28.0	33.0	
5.0	3.0	2.0	0.0		5.0	0.0	3.0	2.0	2.0	1.0		1.0	1.0	1.0	29.0	36.0	
3.0	2.0	3.0	1.0	1.0	7.0	1.0	3.0	0.0	2.0	1.0		1.0	1.0	1.0	29.0	37.0	
3.0	2.0	3.0	1.0	1.0	7.0	0.0	3.0		2.0	1.0		1.0	1.0	1.0	27.0	32.0	
3.0	2.0	2.0	1.0			0.0	2.0	1.0	2.0	1.0		1.0	1.0	1.0	21.0	29.0	
4.0		2.0		1.0	7.0	0.0	3.0	2.0	2.0	1.0		1.0	1.0	1.0	29.0	33.0	
4.0	3.0	3.0	1.0	1.0	7.0	0.0		2.0	2.0	1.0		1.0	1.0	1.0	29.0	31.0	
4.0	3.0	3.0	1.0	1.0	7.0	0.0		3.0	2.0	2.0		1.0	1.0	1.0	27.0	30.0	
2.0		3.0	0.0	1.0	7.0	0.0	3.0	2.0	2.0	1.0		1.0	1.0	1.0	28.0	34.0	
	3.0	3.0	1.0		7.0		4.0	2.0	2.0	1.0				1.0	28.0	28.0	
	2.0	3.0	0.0	1.0	7.0	0.0	4.0	2.0	2.0	1.0		1.0	1.0	1.0	28.0	32.0	
2.0	0.0	3.0	0.0	1.0	7.0	0.0	3.0	2.0	2.0	0.0		1.0	1.0	1.0	25.0	36.0	
4.0	3.0	3.0		1.0	7.0	0.0	4.0	2.0	2.0	1.0		1.0	1.0	1.0	31.0	33.0	
3.0	2.0	2.0	1.0		5.0	0.0	3.0	2.0	1.0	0.0		1.0	1.0	1.0	22.0	34.0	
2.0	2.0	2.0	1.0		7.0	0.0	3.0		1.0	1.0		1.0	1.0	1.0	24.0	29.0	
2.0	3.0	2.0	0.0		4.0	1.0	3.0	2.0	2.0	0.0				1.0	21.0	34.0	
4.0	3.0	3.0	0.0	1.0	4.0	0.0	4.0	0.0	2.0					1.0	19.0	27.0	
4.0	3.0	2.0	0.0		7.0	0.0	3.0	1.0	0.0	0.0		1.0	1.0	1.0	25.0	35.0	
2.0	2.0	2.0	0.0		6.0	1.0	4.0	1.0		1.0		1.0	1.0	1.0	23.0	34.0	
3.0	1.0	3.0	1.0		5.0		3.0	1.0	2.0	0.0		1.0	1.0	1.0	23.0	35.0	
3.0	2.0	3.0	1.0	1.0	7.0	0.0	3.0	2.0	2.0	1.0		1.0	1.0	1.0	31.0	37.0	

The Sixth Strategy: Integrating the Law School and Business School Case Methods

By George J. Siedel, Ross School of Business, University of Michigan

The 2008 “rankings” issue of *U.S. News & World Report* (April 7-14, 2008) includes an article entitled “These Law Schools Mean Business.” The article notes that at many law schools, students have an opportunity to include business studies in their legal education. According to Dean David Van Zandt of Northwestern University’s School of Law: “The resounding theme is that the students need to be able to work effectively with their clients—and that means understanding what their clients do.”

The article delineates five strategies that law schools use to provide their students with an opportunity to study business. First, Northwestern’s School of Law offers a joint degree program with the business school that students can complete in three years. Second, Virginia offers a specialized program whereby students take core and elective business courses. Third, thanks to a recent change in the academic calendar, students at the Stanford Law School can take more non-law courses, including courses offered by the Graduate School of Business. Fourth, many schools hire practitioners to teach business-related courses. Finally, some schools have created clinics or institutes devoted to business-related teaching and research.

While laudable in their attempt to provide law students with an understanding of business concepts, the five strategies appear to be appendages to traditional legal education that benefit only a sub-set of students. The *U.S. News & World Report* article does not mention any attempts by law schools to make fundamental changes in legal education by integrating the law school case method with the business school case method. What is the difference between the two methods and why hasn’t integration been used (or at least reported) as a sixth strategy?

In an article in the *Texas International Law Journal* entitled “Legal Complexity in Cross-Border Subsidiary Management” (Summer 2001), I explored differences between the law and business school case methods. The teaching of business school cases is fundamentally different from the law school case method. In law schools, the emphasis is on analyses of judges’ decisions in order to derive and analyze legal principles. Business school cases are action-oriented and place students in the role of managers who must make business decisions. Thus business school students act as decision makers while law students focus on analysis of decisions made by others—i.e., judges.

Incorporation of business school-type cases into law school courses would seem to be a logical development for law schools concerned about providing their students with business education. A number of existing cases deal with the intersection of law and business. For example, a search for cases at the Harvard Business School “Case Study” website on April 9, 2008, using “legal” as the search term produced 666 hits. (http://www.hbsp.harvard.edu/hbsp/case_studies.jsp). Under the leadership of Professor Constance Bagley of the Yale School of Management (who has authored a number of business school cases with legal themes), the Academy of Legal Studies in Business (<http://www.alsb.org/>) is developing a bank of business school case studies relating to business law.

Despite the availability of teaching material, use of business school cases in law school is difficult. As noted in an article entitled “A Tale of Two Case Methods” by Professor Bruce Barton of the University of Tennessee College of Law (75 TENN. L. REV., forthcoming), “innovation is hard and at times painful.” He concluded that earlier efforts to use the business school

case method in law schools were not successful because of the “hassle it would be to develop and teach business school type cases.”

Professor Barton is correct that business school cases are difficult to teach. They are often lengthy and require a multi-disciplinary perspective. Business school case teaching also demands a considerable amount of class time—often eighty minutes per case—that would reduce time available for coverage of substantive and procedural law.

There is an alternative to the traditional business school case method that is much easier for law professors to implement. I have used this alternative in MBA business law courses and in executive education courses that include a mix of managers and attorneys. This alternative is based on a four-step process called the Manager’s Legal Plan that enables managers and their attorneys to use the law for competitive advantage. My book *Using the Law for Competitive Advantage* (Jossey Bass 2002) contains many examples of the plan.

A product liability example from the book is described below. This example is most appropriate for use near the end of a module or a course on product liability.

Step One: Understand the Law

When a company faces product liability litigation, managers must first develop an understanding of the law. Attorneys play a critical teaching role in explaining legal concepts to their clients. A survey of corporate executives by the American Corporate Counsel Association concluded that educating clients about legal issues is a corporate attorney’s most important role (<http://www.acc.com/Surveys/CEO/CEOReport.pdf>).

In law school, you could ask students to play the role of an attorney who must explain product liability concepts to a client. This exercise will enable students to develop a valuable legal skill while internalizing the legal concepts. A side benefit is that students might develop greater appreciation for the challenges you face as a teacher!

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Integrating the Law School and Business School Case Methods

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Step Two: Reach a Decision.

In the real world, at some point managers must decide whether to proceed with product liability litigation or to settle the case. In law school, this provides an opportunity for students to play the role of an attorney advising a client who is faced with this decision. This step also provides an opportunity to incorporate alternative dispute resolution (ADR) concepts and decision analysis. *Using the Law for Competitive Advantage* contains examples of ADR systems design and decision tree analysis.

Step Three: Develop Business Strategies and Solutions to Prevent Legal Problems

Steps Three and Four, unlike the first two steps, are preventive and often difficult to achieve because of the human tendency to spend almost ninety percent of the time on making decisions and little time on learning from the experience (Russo and Schoemaker, *Winning Decisions*, 2001). Yet the payoff to business in preventing future litigation can result in significant competitive advantage because of reduced legal costs.

In law school, at this step students could analyze a company's strategic decision of whether or not to manufacture a

product that carries a product liability risk. This provides an opportunity to link strategy with the loss-spreading function of strict liability. For example, a company that has loss-spreading capability through higher pricing might decide to manufacture a product despite its product liability risk.

Step Three also enables you to incorporate material from other law courses, thus illustrating interconnections between different areas of law. For example, you might explore the concept of limited liability and the possibility of incorporating subsidiaries to protect the parent from the devastating impact of a large product liability award. You could also examine the use of warranty disclaimers under the UCC and potential disagreements between marketing and law departments over whether to use disclaimers. And you could cover the importance of focusing on foreseeable uses when designing a product and developing warnings. A related concern is the impact of discovery and the development of a document retention system that meets company needs.

Step Four: Reframe the Legal Concern as a Business Concern

This step is difficult because of frame blindness. Our tendency as humans to use frames—such as legal frameworks—to simplify decision making also causes

us to overlook options for improvement (Russo and Schoemaker, *Decision Traps*, 1990). An example of reframing as it relates to product liability is the focus on foreseeable uses. Managers are often critical of the law for requiring products to be safe for foreseeable uses that were unintended by the company. But when these foreseeable uses are reframed as a consumer's need for new products rather than a legal liability, managers and their attorneys should be able to find opportunities for competitive advantage through new product development to meet consumer needs.

Conclusion

The five strategies described in the *U.S. News & World Report* article for providing business education to law students operate on the fringes of legal education. The sixth strategy—the use of the business school case method—is much closer to the core of law school teaching but is difficult to implement. As illustrated by the product liability example, The Manager's Legal Plan provides a simple method that links legal issues with business concerns relating to business strategy, corporate structure, marketing, product design, new product development and document retention. The use of this method is one step toward what Professor John P. Heinz of Northwestern's School of Law calls the goal of many law schools: "...training lawyers who understand the world of business better and can more easily put themselves in the shoes of clients" (*The National Law Journal*, May 3, 2004, page 8).

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TEACHING AND LEARNING NUGGET

Have you considered keeping a teaching journal? A teaching journal is any effort to systematically record, in a notebook, document file, etc., your post-class reflections. Teaching journals allow you to keep track of the teaching ideas that work and those that need revision.

Showing Students That Outlining Is Not a Foreign Activity

By Patricia Grande Montana, St. John's University School of Law

We tell law students that the best way to prepare for an examination is to write an outline of the course. We urge them to write their own, and not rely solely on a commercial one or another law student's. The writing process itself is what forces them to review the course material, synthesize it, and then organize it into a coherent structure. This is essential to learning the doctrine and understanding its application in future cases, such as the ones presented on the exam. When law students use another's outline exclusively, they miss out on this important step. Instead, they spend disproportionately more time memorizing the doctrine as arranged by the outline's publishers than studying the material their professor emphasized and its application to real-world situations.

Although we advise students of the benefits of creating their own outline, we do not give them enough guidance on how they should approach it. Because many law schools do not provide any formal instruction on outlining and professors typically do not monitor their students' progress in this area, students often do not know how to develop effective outlines, particularly in their first-year. Their inability to master this skill early on invariably affects their performance on exams. Thus, to improve the quality of students' legal analysis on exams, we need to devote more time (even if only informally) to teaching them how to navigate the outlining process successfully.

It's easier for students to tackle outlining if they can see that the process is similar to activities they complete in their everyday lives. For this reason, when I discuss outlining for the first time, I analogize it to a non-legal activity like

organizing a wardrobe. Imagine that you cleared out your closet as part of a spring cleaning frenzy. You dumped all of your clothing into a big pile on the floor. In this disorganized state, the only thing obviously similar about the items in the pile is that they are all articles you wear. To organize your closet, you will need to sort through them and divide them into more manageable piles by type of clothing. You will then need to work on each pile individually, creating even

It's easier for students to tackle outlining if they can see that the process is similar to activities they complete in their everyday lives.

smaller ones sorted by sub-type and then color. For example, you might subdivide the shirt pile into casual and dress shirts; within each of those piles you might separate the white ones from the colored ones and patterned ones. All the while the goal is to organize your closet so that you can find the clothes you need fast and with little effort.

Similarly, the goal of outlining is to lay out the course material into a usable format so that the student can easily and quickly find the answer to any legal problem on the subject matter. Instead of clothes, law students must sift through the judicial opinions, their case briefs of those opinions, class notes, and anything else they covered over the semester. At the beginning of the process, the material seems just as disorganized as the pile of clothes cleared from the closet and tossed on the floor. Though all of the material relates to the same doctrine, it needs to be arranged into smaller piles by topics, sub-topics, sub-sub-topics and so on. For example, if the student is outlining Torts,

there will be a set of material relating to intentional torts. So, intentional torts will form a separate category in the outline. Because there are different types of intentional torts (battery, assault, etc.), this category can be subdivided and each type can be further separated by element. At every level, the student must draw on the material to fill in the relevant rules and illustrations of those rules, using their course syllabus and text's table of contents to identify the broad categories.

To help students visualize what their end product should look like, I show them the online version of West's key number digest system. West's digest system divides the law into over 400 broad topics; those topics are then subdivided into smaller categories and assigned a key number. West provides summaries of cases that correspond to each key number. Because this information is too voluminous to display on screen all at once, West uses an expandable tree instead. You can view an individual topic by clicking the tree next to

that topic and expanding the list under it. As you expand a topic, you move from the general to the more specific subjects under that topic, eventually leading you to the summaries of related cases.

Law students should create outlines that model this hierarchical structure. For any topic covered during the course, they need to make sure that they "expand" it completely. This means that they must include all of the material related to that topic and arrange it from the general to the specific. Returning to the Torts outline example, under the topic *intentional torts*, sub-topic *battery*, there should be a general rule for what constitutes a battery. Let's assume that battery is defined as the intentionally touching of another in a harmful and offensive way. If the student read cases on what establishes an intentional touching, that aspect of the battery rule must be expanded in the outline. Under the sub-sub-topic *intentional touching*,

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Outlining

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there would be a specific rule, followed by summaries of cases that illustrate whether or not that rule is satisfied.

The best outline is one that has expanded every branch of the tree. Law students can then use this single comprehensive document to memorize the rules and study their applications. Only after they become fluent in the material should they begin to collapse it in the way that West's key number digest system is collapsed online. Because law students are rarely allowed to take an exam with their outlines in hand, they need to be able to look at a topic heading and immediately recall all of the information that flows from it. The collapsed outline will remind students of the issues they should be "spotting" on the exam as well as test their knowledge of the rules and applications. Thus, the outline is an evolving document that will reflect the various stages in the students' studying.

By explaining the parallels between everyday activities and outlining and illustrating what the process entails, law professors can help law students develop more effective outlines. Because this skill is essential to their success on exams, law professors should spend the time showing them that outlining is a very familiar activity.

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Things in Threes – Utilizing Tricolons – a Linguistic Look

By Bruce Ching, Valparaiso University School of Law

Classical rhetoric, the art of persuasion, taught the practitioner to present items and actions in groups of three. A well-known example is Julius Caesar's summary of his military campaign in Gaul: "I came, I saw, I conquered." Another is the assertion of abiding qualities of "faith, hope, and love" in the Christian new testament. Still another is the slogan of "liberty, equality, fraternity" from the French Revolution.

Such tricolons also occur in judicial opinions. For example, in a Title VII sexual harassment case, an appellate judge excoriated the employer by stating that "Its efforts at investigation were lackluster, its disciplinary efforts nonexistent, its remedial efforts perfunctory." (*Carr v. Allison Gas Turbine Division, General Motors Corp.*, 32 F.3d 1007, 1012 (7th Cir. 1994).) Recognizing the judicial opinion's rhetorical technique, one commentator declared that the judge's statement "expresses indignation in a tricolon of ascending condemnation . . ." (*Martha Nussbaum, Poets as Judges: Judicial Rhetoric and the Literary Imagination*, 62 U. Chi. L. Rev. 1477, 1508 (1995).)

Tricolons can also occur in a series of related judicial opinions. The landmark abortion law decision of the United States Supreme Court in *Roe v. Wade* began by contrasting an older statute with a newer "legislative product that . . . reflects the influences of recent attitudinal change, of advancing medical knowledge and techniques, and of new thinking about an old issue." (*Roe v. Wade*, 410 U.S. 113, 116 (1973).) Similarly, in the subsequent case of *Planned Parenthood of Southeastern*

Pennsylvania v. Casey, the Court referred to "the fundamental constitutional questions resolved by *Roe*, principles of institutional integrity, and the rule of *stare decisis*," to summarize considerations leading to its assertion of affirming the "essential holding" of the *Roe* decision. (*Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 845-846 (1992).) And in the recent decision of *Gonzales v. Carhart*, the Court held that a federal statute banning a particular abortion procedure "is not void for vagueness, does not impose an undue burden from any overbreadth, and is not invalid on its face." (*Gonzales v. Carhart* 127 S. Ct. 1610, 1627 (2007).)

Tricolons in Legal Writing Classes

The effectiveness of the tricolon technique is enhanced by parallel linguistic structure among components. One legal writing textbook notes that "[b]y making phrases or clauses syntactically similar, you are emphasizing that each element in a series is expressing a relation similar to that of the other elements in the series. Such coordination promotes clarity and continuity." (*Helene S. Shapo, Marilyn R. Walter, and Elizabeth Fajans, Writing and Analysis in the Law*, 174 (4th ed., Foundation Press 1999).) A rhetorician similarly observes the strengths of using parallel linguistic structures, but also notes the limitations of the technique:

Parallelism means shaping the chunks of your language in a connected discourse so that they are as much alike as is

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TEACHING AND LEARNING NUGGET

The gold standard for instructional designers is when the instruction is effective (the students learn), efficient (the learning process proceeds at a reasonable pace), and appealing (the students feel excited about learning).

Utilizing Tricolons

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possible while maintaining their separate meanings. It's used in written language, but has to be handled with great care in that medium because it so easily becomes overobvious and excessive. In spoken language, however – in speeches and talks and oral presentations of every kind – it can be used much more freely. People listening to language don't have the text before them, and they find the repetitiousness of parallel items helpful for processing what they're hearing.

(Susette Haden Elgin, *BusinessSpeak*, 203 (McGraw-Hill 1995).)

Grouping items into threes emphasizes parallel structure – once is an occurrence, twice could be a coincidence, but three times appears to be a pattern. Of course, results tend to be better when content and structure are mutually reinforcing.

In class discussions of tricolons, we explored ways in which linguistic structure (syntax) could be used to reinforce linguistic meaning (semantics).

I decided to expand on the textbook treatments of tricolons by examining two samples from

American political history – the Declaration of Independence written by Thomas Jefferson, and Mario Cuomo's nominating speech at the 1992 Democratic National Convention.

"our lives, our fortunes and our sacred honor"

At the end of the Declaration of Independence, Jefferson states that "for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes and our sacred honor." First, we observed that the repetition of the word "our" – in classical terms, an anaphora – at the beginning of each tricolon component helped to facilitate transition between components. We then considered why Jefferson would have used the particular sequence of "our lives, our fortunes, and our sacred honor" – rather than, e.g., "our lives, our sacred honor, and

our fortunes." One student said that finishing the phrase with "our fortunes" would run the risk of "sounding sort of greedy." Other students observed that "our sacred honor" was the highest and noblest of the tricolon components, and placing it at the end gave it a position of emphasis. I noted this was an example of the principle of recency – placing something last gives it the most emphasis. I then pointed out that placing "lives" at the beginning of the tricolon also gave it a position of emphasis, under the principle of primacy. Jefferson's sequence therefore gave some emphasis to the Continental Congress delegates' pledge of their lives, mentioned but de-emphasized the pledge of their property, and gave the strongest emphasis to the pledge of their "sacred honor."

We also looked at the meter of the tricolon components – lives (one syllable), fortunes (one stressed syllable followed by one unstressed syllable),

The effectiveness of the tricolon technique is enhanced by parallel linguistic structure among components.

sacred honor (one stressed syllable followed by one unstressed syllable, then again one stressed syllable followed by one unstressed syllable). We concluded that the metrical arrangement could subtly suggest an increasing importance as the phrase reached its finish.

"our schoolrooms, our bedrooms, and our bodies"

In nominating Bill Clinton as the Democratic Party's candidate for President, Mario Cuomo declared, "We need a leader who will stop the Republican attempt, through laws and through the courts, to tell us what god to believe in, and how to apply that god's judgment to our schoolrooms, our bedrooms, and our bodies." As with the discussion of the Declaration of Independence, my students noted that the anaphora of "our" at the beginning of each tricolon component helped to establish transition between components.

I then asked why the particular tricolon components might be especially appropriate in the context in which the speech was given. In response, students suggested that each of the components appealed to a particular constituency of the Democratic Party: schoolrooms (opponents of prayer in public schools), bedrooms (gay rights advocates), bodies (opponents of restrictive abortion laws).

Then I asked why the sequence in Cuomo's phrase might be a good one. Students observed that the sequence gave the statement a thematic shift from the public arena (schoolrooms), to the private (bedrooms), to the extremely private (bodies). I prodded further about transitions in the phrase, and students pointed out the repetition of "rooms" in the first and second tricolon components (schoolrooms and bedrooms), and the alliteration of the second and third tricolon components (bedrooms and bodies).

Considering the metrical arrangement, I noted that each of the items – schoolrooms, bedrooms, bodies – consisted of a stressed syllable followed by an unstressed syllable. And that the repetition of the identical meter might have the effect of lending a subtle sort of emphasis.

Conclusion

As noted above, the presentation of tricolons can use sequencing – such as metrical considerations and progressive shifts in theme – to link content to structure with varying degrees of subtlety. Although students commented favorably on our discussion of tricolons, they seemed rather relieved when I said they did not *have* to use them in their papers. But I was unexpectedly moved when one of my students later came back with excitement to tell me about her experience in a moot court competition, and how she concluded her argument by saying "There are three reasons my client should win: law, policy, and equity."

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Why I Teach

By Marjorie A. Silver, Touro Law Center

Thirty Touro law students went down to New Orleans over the 2007 Spring break to help with the Katrina recovery efforts. When they returned, several made a presentation about the work they had done, accompanied by a slide show.

Some of the students made extraordinary efforts to contact homeowners living elsewhere who had fled New Orleans in the wake of Katrina, to notify them that official pink signs posted on their houses threatened demolition unless they took immediate action. Others, upon learning how incredibly complex the requirements were for obtaining a permit to rebuild, decided to prepare a step-by-step instruction manual in easily understood plain English. After they completed drafting, they took the manual to City Hall to verify that the information in it was correct. The official who examined it was so impressed that he asked whether he could make copies to distribute.

When I heard this presentation I *kvelled*.¹ “This is why I teach,” I thought.

1 To *kvell*: Yiddish *koeln* to be delighted, from Middle High German *quellen* to well, gush, swell; to be extraordinarily proud; rejoice (from <http://www.m-w.com/dictionary/kvell>).



In early May of that year, I was in New Orleans for the AALS Clinical Teachers Workshop. On Saturday morning, a colleague and I hired a taxi, and had the driver take us down to the Lower Ninth, to personally witness the devastation. After driving around for about an hour and a half, we turned a corner and there were the headquarters for Common Ground. I recognized the sign from the students’ slides that said something like: “Shame on you tourist for just driving by and not stopping to hear about our pain.”

So of course there was no way we weren’t going to stop! I got out of the taxi and walked up to a big, shirtless man with long dreadlocks (it was *very* hot!), and introduced myself: “Hi, I’m Marjorie Silver. I’m a law professor from New York.” And just to make conversation, I added: “In fact, some of our students were down here a couple of weeks ago. . .” The man shouted “**Touro!**” I—quite taken aback, knowing that many students from many schools had been in New Orleans at the same time—said “Yes!” And he said, “Come here and let me give you a big hug! Your students were *wonderful!* They were *amazing!* They made a difference in the lives of at least 60 people!”

It was one of the most wonderful, most incredible moments of my life.

I am so proud of these students. They demonstrated outstanding problem-solving skills. They didn’t wait for someone to tell them what to do. They identified real needs, and took meaningful action, using their legal training *and* their wealth of life experience.

This is why I teach.

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R	E	V	I	L	O		L	E	U	M	A	S
E		D	O	O	G	R	U	H	T		T	E
G	U	A		D	U	E	F		T	C		N
S		N	I	H	T		N	A	T	A		R
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L	N		G	N	I	F	E	R	B			A
A	I	A	L	C	S		S	E	M	L	O	H

Solution
THE SUPREME COURT