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**ABOUT THE ALSB JOURNAL OF BUSINESS LAW & ETHICS PEDAGOGY**

**CONTENT & OPINIONS**

**EDITORIAL BOARD AND STAFF EDITORS**

**FROM THE EDITOR**

Business Law and Ethics: Foundational to Business Education

**ARTICLES**

LEGAL ANALYSIS: THERE'S A TEMPLATE FOR THAT!

*Nancy J. White*

THE DO BETTER, BE BETTER PROJECT: TEACHING CORPORATE RESPONSIBILITY AND SOCIAL JUSTICE THROUGH EXPERIENCE

*Rachel Spooner*

SIMULATING A COURT EXPERIENCE TO EXPAND DIVERSE PERSPECTIVES AND TO PRACTICE CIVIL DISCOURSE

*Sandra S. Benson*

A UNIFIED APPROACH TO CORPORATE COLLABORATIVE DECISION-MAKING: WHY TO ADOPT IT AND HOW TO OPERATIONALIZE IT

*Daniel J. Herron*

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## **FROM THE EDITOR**

### **Business Law and Ethics: Foundational to Business Education**

Business law and ethics continue to be relevant and necessary components of business education. Knowledge and understanding of business law and ethics is foundational to business education and for all business professionals as they perform their work. An absence or a disregard law and ethics can undermine excellence in other areas of a business, resulting in scandals at the least, and potentially the end of the business from legal judgments and bankruptcy.

Interest in business law has been consistent over the years, and attention to business ethics has increasingly been emphasized since the Enron fraud and demise in 2001. Substantial increases in litigation threats and costs, in addition to the rise of emotional and unpredictable social media campaigns and controversies, make these disciplines more important than ever.

This journal is a vehicle for the sharing of teaching information and excellence, as well as a venue for sharing and archiving valuable and relevant pedagogical ideas, research, and analysis. The quality of the articles is high, and the dedication and hard work of our authors, editors, and reviewers is outstanding.

This issue includes four articles worthy of your consideration. First, Professor Nancy White shares a legal analysis template to help students break down law into elements, and then add them to the template for the purpose of applying the law to factual situations in order to reach a legal conclusion. She generously includes a wealth of examples for each step along the way.

In the second article, Professor Rachel Spooner shares her intriguing ethics service-learning project, "Do Better, Be Better." The project includes concepts and tools important in business education today – corporate social responsibility, experiential learning, and service learning. This project is particularly valuable because it can be incorporated into a variety of business classes across the business curriculum. Her detailed explanations and experience-tested development facilitate easy implementation.

Next, Professor Sandra Benson utilizes a courtroom simulation exercise to strengthen business law knowledge and to help students develop critical thinking skills, communication skills, and civility when dealing with differing perspectives. This classroom-tested experiential learning exercise includes detailed instructions, as well as feedback from students and evidence of student learning.

Finally, Professor Daniel Herron studies the ethical concept of stakeholder theory and explains how the theory can be used as a basis for collaborative decision-making in the business world. This excellent in-depth analysis connects the theoretical ethical concepts to government's legal regulations and alternative dispute resolution.

As these papers illustrate, this journal successfully provides strong and valuable educational innovation for business law and ethics disciplines to benefit students, educators, the business community, and society as a whole.

Linda Christiansen  
EDITOR IN CHIEF

# Simulating a Court Experience to Expand Diverse Perspectives and to Practice Civil Discourse

Sandra S. Benson\*

## ABSTRACT

In U.S. society, incivility is rampant and people do not understand diverse viewpoints. The bigger question looms, “What can be done about it?” This article describes an activity, called *The Court Experience*, in which students grapple with diverse perspectives by rotating as judges, attorneys, jurors, and others, using reason and respectful communication to express ideas. Informal feedback is extremely positive, indicating that this activity may help students appreciate views they did not previously appreciate, strengthen their strategic and critical thinking skills, improve their oral and written communication skills, and enable them to grasp the big picture as to why it is important to consider legal issues when making business decisions.

**KEY WORDS:** CIVIL DISCOURSE, LEGAL STUDIES PEDAGOGY, COURT SIMULATION, CONSTRUCTIVE LEARNING, COMMUNICATION SKILLS, CASE ANALYSIS, ROLE PLAYING, STRATEGIC THINKING SKILLS, CRITICAL THINKING SKILLS

## I. Introduction

Incivility is rampant in society.<sup>1</sup> In his *Wall Street Journal* column, Gerald Seib considered the decline of civilized debate in the modern American political environment.<sup>2</sup> Politicians, media personnel, and activists engage in shouting matches resulting in dysfunctional governance instead of consensus and compromise.<sup>3</sup> “The bigger question may be,” Seib suggests, “What can be done about it?”<sup>4</sup>

The trend of incivility extends beyond the political realm.<sup>5</sup> Over a decade ago, Associate Provost for Special Initiatives Beverly Sypher examined the “rolling tide toward antisocial behavior at work”<sup>6</sup> characterized by emotional dumping, profanities and threats.<sup>7</sup> Mounting evidence indicated that rude behavior was becoming the

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<sup>1</sup> See Jonathan Zimmerman, *Civic Education in the Age of Trump*, THE ATLANTIC (Apr. 9, 2016), <https://www.theatlantic.com/politics/archive/2016/04/civic-education-in-the-age-of-trump/477501/>. Zimmerman cites a poll finding seventy percent of Americans believe political incivility is at a crisis level. Furthermore, one-third of the respondents report that they avoid talking about controversial topics due to fear that the conversation will become uncivil. *Id.*

<sup>2</sup> See Gerald F. Seib, *Civil Discourse in Decline: Where Does it End?*, WALL ST. J., May 30, 2017, at A4.

<sup>3</sup> See *id.* See also Andrea Leskes, *A Plea for Civil Discourse: Needed, the Academy’s Leadership*, 99 LIBERAL EDUC. 44 (2013), <https://www.aacu.org/publications-research/periodicals/plea-civil-discourse-needed-academys-leadership>. Leskes purports that people need to converse in good faith in a diverse democratic country that is founded on compromise. *Id.*

<sup>4</sup> Seib, *supra* note 2.

<sup>5</sup> Seib, *supra* note 2 (noting the ostentatious celebrations of athletes mocking opponents).

<sup>6</sup> Beverly D. Sypher, *Reclaiming Civil Discourse in the Workplace*, 69 S. COMM. J., Spring 2004, at 257. Sypher was in the Department of Communication and Associate Provost for Special Initiatives at Purdue University at the time of her article.

<sup>7</sup> *Id.* at 266.

norm.<sup>8</sup> Both employers and workers suffer severe consequences due to incivility in the workplace, including lost profits and productivity, as well as stress-related health conditions in employees.<sup>9</sup> Sypher asserts that we are responsible for developing teaching opportunities both to increase awareness and to practice civility.<sup>10</sup> With a substantial portion of our time spent at work, we need to change the environment to one of understanding and civil communication.<sup>11</sup> Sypher's approach is no less than a "call for arms"<sup>12</sup> embracing caring communication as a way to rebuild social capital, not only at work, but also in our communities.<sup>13</sup>

Likewise, Teaching Professor Tonia Hap Murphy notes the abysmal state of our civic education and our dysfunctional civic environment.<sup>14</sup> She contends that we have a responsibility to prepare our students for dual roles as both professionals and citizens.<sup>15</sup> A report on college learning and democracy's future indicates why we need to educate students for both economic life and citizenship: A prosperous U.S. economy and just global society depends on it.<sup>16</sup> Students cannot adequately prepare for both roles only by reading and gaining knowledge: Students need to practice democratic and team-building skills with hands-on, active engagement with others who have differing views.<sup>17</sup> Instructors can help students prepare for both career and citizenship roles through hands-on activities in civil discourse and perspective taking.<sup>18</sup>

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<sup>8</sup> *Id.* at 266-267.

<sup>9</sup> *Id.* at 265.

<sup>10</sup> *Id.* Sypher, whose name is now Beverly J. Davenport, later became the first woman chancellor of the University of Tennessee Knoxville (UT) in 2017. Amy J. Vellucci, *Davenport Fired as UT's Chancellor, Will be Retained as Faculty at \$439K Annually*, USA TODAY NETWORK-TENNESSEE (May 2, 2018), <https://www.knoxnews.com/story/news/2018/05/02/statement-soon-ut-chancellor-davenport/573782002/>. She may have experienced her own workplace incivility when she was fired after 14 ½ months by UT President DiPietro in a letter that has sparked student protests and some nationwide criticism. *Id.* DiPietro criticized Davenport's poor communication skills, failure to listen when others were talking to her, and unwillingness to accept ultimate responsibility for errors of subordinates, among other things. *Id.* Some UT faculty maintain her termination was retaliation for her failure to approve an outsourcing plan. Tyler Whetstone, *UT faculty, campus union insist Davenport's outsource refusal led to firing, DiPietro says no*, USA TODAY NETWORK-TENNESSEE (May 10, 2018), <https://www.knoxnews.com/story/news/education/2018/05/10/beverly-davenport-fired-ut-utk-outsourcing-joe-dipietro-bill-haslam/594638002/>.

<sup>11</sup> *See id.* at 267. Noting that we spend most of our time at work, Sypher purports that "what happens at work is more important than ever, and civil discourse is the heart of it all." *Id.*

<sup>12</sup> Sypher, *supra* note 6, at 267.

<sup>13</sup> *See id.*

<sup>14</sup> *See* Tonia Hap Murphy, *Fostering Civic Knowledge in Introductory Business Law and Legal Environment Courses: A Closer Look at Freedom of Speech*, 35 J. LEGAL STUD. EDUC. 195, 196-200 (2018). Murphy notes the prevalent belief that our current civic climate is dysfunctional, while studies show that civic literacy is appalling. *Id.* at 199. She makes a plea to legal studies instructors to cover constitutional law topics in legal environment courses. *Id.* at 196.

<sup>15</sup> *See id.* at 196. Murphy purports that students need to be able to critically evaluate political issues and officials. *Id.* at 202. Furthermore, business students need to be able to evaluate the civic consequences of business decisions, in addition to looking solely at economic considerations, such as the implications of packaging subprime mortgage loans together. *See also* ASS'N AM. COLLS. & UNIVS, A CRUCIBLE MOMENT: COLLEGE LEARNING AND DEMOCRACY'S FUTURE 9 (2012) [hereinafter CRUCIBLE MOMENT] (noting that, traditionally, both two-year and four-year colleges and universities have prepared students for both citizenship and economic life); Leskes, *supra* note 3, at 46-48 (citing a poll in which forty-four percent of the respondents between the ages eighteen and twenty-nine identified higher education as the key player in restoring civility); *cf.* Zimmerman *supra* note 1 (asserting that public schools are responsible for teaching the skills needed in a democracy, especially the skill of engaging civilly with others of different political views).

<sup>16</sup> *See* CRUCIBLE MOMENT, *supra* note 15, at 13.

<sup>17</sup> *See id.* at 3 (asserting that civic literacy cannot be developed fully only by studying books as we need face-to-face active engagement with differing perspectives); Leskes, *supra* note 3, at 48 (purporting that students need to be taught civil discourse, including both theory and practice).

<sup>18</sup> *See* CRUCIBLE MOMENT, *supra* note 15, at 11-12 (noting the overlap in skills desired by employers and the learning outcomes desirable for college graduates). One example of preparing students for both roles is the Community Economic Development course at California State University, Monterey Bay. In this required course, every business student provides fifty hours of service to a community organization, exploring the question, "How can businesses balance the 'triple bottom lines' of profit, people, and planet?" *Id.* at 11.

So, what does civil discourse mean? Various scholars, orators and organizations define civil discourse differently<sup>19</sup> dating back to Cicero,<sup>20</sup> whose concept of the *societas civilis* incorporated certain standards of conduct towards other members for the good of the society.<sup>21</sup> While there is a measure of self-control expected in civil discourse,<sup>22</sup> the term does not mean politeness<sup>23</sup> or require that spirited debate be avoided.<sup>24</sup> Rather, for purposes of this article, civil discourse means that the persons involved (1) engage in a frank and open exchange<sup>25</sup> of divergent points of view<sup>26</sup> without demeaning others;<sup>27</sup> (2) listen actively<sup>28</sup> to each other's point of view with an open-mind to gain understanding<sup>29</sup> and with a willingness to change their own views;<sup>30</sup> (3) advocate knowledgeably based on credible evidence;<sup>31</sup> (4) critically examine<sup>32</sup> the various points of view; (5) seek points of commonality;<sup>33</sup> and, finally (6) make an informed decision for themselves after considering the evidence.<sup>34</sup>

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<sup>19</sup> See, e.g., Carli Brosseau, *Executive Session: Civil Discourse in Progress*, 1 FRANKLY SPEAKING (2011), <http://archive.constantcontact.com/fs011/1105924840139/archive/110842226053.html> (The executive session held by the National Institute for Civil Discourse at the United States Supreme Court in September 2011 defined civil discourse as “robust, honest, frank and constructive dialogue and deliberation that seeks to advance the public interest.”); *Leach Completes Civility Tour*, NAT'L ENDOWMENT HUMAN. (Jun. 20, 2011), <https://www.neh.gov/news/leach-completes-civility-tour> (according to Jim Leach, a 30-year veteran in Congress and former Chairman of the National Endowment for the Humanities, civility requires us to realize that we are all connected); David Wegge, *Toward a More Civil Discourse*, ST. NORBERT COLLEGE MAGAZINE, (n.d.) (suggesting that while it is not easy to define civil political discourse “we all know it when we see or hear it”).

<sup>20</sup> Cicero, who lived from 106-43 B.C. was a lawyer, orator, prominent political figure, and prolific writer in the era of Julius Caesar. See Marcus Tullius Cicero, <https://www.history.com/topics/ancient-history/marcus-tullius-cicero> (last visited Mar. 16, 2019). Cicero's writings purportedly influenced Enlightenment thinkers, such as John Locke and Thomas Jefferson. *Id.*

<sup>21</sup> Kate Shuster, *Civil Discourse in the Classroom: Tools for Teaching Argumentation and Discussion*, S. POVERTY L. CTR. 3 (Oct. 2017), <https://www.tolerance.org/sites/default/files/2017-10/Civil-Discourse-v2-CoverRedesign-Oct2017.pdf>.

<sup>22</sup> See Wegge, *supra* note 19.

<sup>23</sup> See Shuster, *supra* note 21, at 3 (noting that rhetoric Professor Chris Lundberg suggests: “There are times when a certain degree of impoliteness is called for. If we say we are only going to allow polite discourse in the public sphere, we are writing off the first group of women who wanted political suffrage, because at the time that was seen as impolite.”).

<sup>24</sup> See *Leach Completes Civility Tour*, *supra* note 19 (asserting that civility is not mainly about manners.); Leskes, *supra* note 3, at 47 (noting that civil discourse does not necessarily make us feel comfortable because it can be painful for someone to challenge our deeply held opinions).

<sup>25</sup> See Brosseau, *supra* note 19; Barbara Mae Gayle, *Scholarship of Teaching and Learning Transformations in a Civil Discourse Public Speaking Class: Speakers' and Listeners' Attitude Change*, 53 COMM. EDUC. 174, 175 (2004) (contending that public discourse requires critically examining your own opinion, as well as others; exchanging diverse ideas; and attentive listening to arrive at common ground).

<sup>26</sup> See Gayle, *supra* note 25 at 175; CRUCIBLE MOMENT, *supra* note 15, at 15.

<sup>27</sup> See Leskes, *supra* note 3, at 47 (persons engaged in civil discourse will avoid violence, including physical, emotional, and verbal); Shuster, *supra* note 21, at 3 (quoting Professor Hollihan: “Name-calling, threats and bullying behaviors do not meet the demands of effective deliberation.”).

<sup>28</sup> See Leskes, *supra* note 3, at 47 (suggesting civil discourse includes thoughtful listening to others); Gayle, *supra* note 25, at 175; Benjamin R. Barber, *Public Talk and Civic Action: Education for Participation in a Strong Democracy*, 53 SOC. EDUC. 355 (1989) (public talk “entails listening no less than speaking”).

<sup>29</sup> See Sonja K. Foss & Cindy L. Griffin, *Beyond Persuasion: A Proposal For an Invitational Rhetoric*, 62 COMM. MONOGRAPHS 2, 13 (1995) (purporting that a rhetor offers an invitation to an individual indicating that they are open to enter that person's world to better understand their perspective); Leskes, *supra* note 3, at 47 (persons involved in civil discourse will look for both the sources of their disagreements and for common points).

<sup>30</sup> See Shuster, *supra* note 21, at 3 (quoting Professor Thomas Hollihan: “To engage in a healthy political argument is to acknowledge the possibility that one's own argument could be falsified or proven wrong.”); Leskes, *supra* note 3, at 47 (persons engaged in civil discourse must be willing to change their minds).

<sup>31</sup> See Leskes, *supra* note 3, at 47.

<sup>32</sup> See Gayle, *supra* note 25, at 175; See also CRUCIBLE MOMENT, *supra* note 15, at 4.

<sup>33</sup> See Leskes, *supra* note 3, at 47 (persons involved in civil discourse need to assume that they will need to compromise); CRUCIBLE MOMENT, *supra* note 15, at 4 (skills included in civic learning and democratic engagement include “bridge building across differences”).

<sup>34</sup> See CRUCIBLE MOMENT, *supra* note 15, at 9 (quoting Charles Kolb, President of the non-partisan Committee on Economic Development: “The heart of a vibrant democracy is educated, engaged citizens who are able to make choices for themselves, their families, their communities, and their country.”).

Students need opportunities to practice in a safe and supportive environment to fully develop their civil discourse skills.<sup>35</sup> Accordingly, an active exercise that requires students to practice civil, respectful communication from multiple perspectives may prepare graduates with valuable workplace skills.<sup>36</sup> This article describes one activity that legal studies instructors can easily implement at either the undergraduate or graduate level by selecting relevant cases. By teaching students to grapple with diverse perspectives, use reason and persuasion to express their ideas, disagree with dignity and respect, and explore our civil system in a simulated environment, the following courtroom experiential activity advances students' understanding of diverse perspectives and civil discourse in business education.

Part II of this article explores the pedagogical underpinning of this exercise – the constructivist theory of learning. Part III provides an overview of *The Court Experience* and its objectives, while Part IV summarizes informal student feedback from anonymous surveys and from student written reflections. Part V concludes by considering the feedback and how this activity meets the goals and criteria of a constructivist teaching activity. Appendix A contains an Instructor's Guide with preparation notes and grading rubrics. Appendix B contains student materials to aid legal studies instructors in easily adapting *The Court Experience* for their own courses.

## II. Building Skills and Knowledge through Constructivist Learning

In addition to knowledge, students need a variety of skills for the modern workplace.<sup>37</sup> To that end, business schools accredited by the AACSB International generally need to provide students with learning experiences in specific business and management skill areas.<sup>38</sup> AACSB-accredited business schools also commit to promote corporate social responsibility.<sup>39</sup> This includes fostering awareness, understanding and respect for diverse points of view in a safe and supportive environment.<sup>40</sup> Instructors in various disciplines and at varying educational levels have developed innovative learning activities to foster students' abilities to respectfully discuss and understand diverse points of view.<sup>41</sup>

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<sup>35</sup> See Diana E. Hess, *Discussing Controversial Public Issues in Secondary Social Studies Classrooms: Learning from Skilled Teachers*, 30 THEORY AND RES. IN SOC. EDUC. 10, 30 (2012) (“Teaching for discussion cannot be achieved through the use of other instructional strategies. Put differently, students cannot learn to participate more effectively in discussions by writing papers.”); Foss & Griffin, *supra* note 29, at 13 (asserting that the three external conditions of safety, value and freedom, are required for persons to present their perspectives to rhetors).

<sup>36</sup> See CRUCIBLE MOMENT, *supra* note 15, at 11 (noting that both the modern workplace and diverse democratic societies need people with capacities in “effective listening and oral communication, creative/critical thinking and problem solving, the ability to work effectively in diverse groups, agency and collaborative decision making, ethical analyses of complex issues, and intercultural understanding and perspective taking.”).

<sup>37</sup> See Lorrie Willey & Debra D. Burke, *A Constructivist Approach to Business Ethics: Developing a Student Code of Professional Conduct*, 28 J. LEGAL STUD. EDUC. 1 (2011).

<sup>38</sup> AACSB INTERNATIONAL - THE ASSOCIATION TO ADVANCE COLLEGIATE SCHOOLS OF BUSINESS, 2013 ELIGIBILITY PROCEDURES AND ACCREDITATION STANDARDS FOR BUSINESS ACCREDITATION 35 (2018), <https://www.aacsb.edu/-/media/aacsb/docs/accreditation/business/standards-and-tables/2018-business-standards.ashx?la=en> (“General Skill Areas” include written and oral communication, ethical understanding and reasoning, analytical thinking, interpersonal relations and teamwork, diverse and multicultural work environments, reflective thinking, application of knowledge, and integration of real-world business experiences) [hereinafter AACSB ELIGIBILITY PROCEDURES]. Legal studies instructors are important contributors to accreditation. See Donna Steslow et al., *Closing the Loop or Jumping Through Hoops: The Impact of Assessment on the Legal Studies Curricula*, 33 J. LEGAL STUD. EDUC. 97, 105-09 (2016). Following a survey of 124 members of the Academy of Legal Studies in Business (ALSB), authors Steslow, Lasher, and Kong report that the introductory Legal Studies in Business course contributes to the assessment of crucial skills in business programs, including skills in critical thinking according to sixty-five respondents, written communications per fifty-nine respondents, and oral communication per thirty-six respondents. *Id.*

<sup>39</sup> AACSB ELIGIBILITY PROCEDURES, *supra* note 38, at 7.

<sup>40</sup> See *id.* at 7.

<sup>41</sup> See, e.g., Hess, *supra* note 35, at 15-21 (describing a project that involved reading U.S. Supreme Court decisions on the First Amendment, where students participated in multiple two-hour seminar discussions throughout the semester and were required to prepare assignments beforehand, participate in a guided discussion, and debrief afterward); Leskes, *supra* note 3, at 48 (students in the required first-year seminar course in public deliberation and sustained dialogue at Franklin Pierce University learn the theory and ground rules and then practice civil discourse by developing briefs or role-playing.); CRUCIBLE MOMENT, *supra* note 15, at 51-58 (giving examples of civic learning requirements at several universities, such as Portland State University where students follow a curricular pathway from their freshman to their senior year with progressive skill-building to cultivate, among other things, social and ethical responsibility and understanding of the diverse nature of human experiences.); Gayle, *supra* note 25, at 176-83 (in which the author designed classroom procedures to help students reframe their views on controversial topics by presenting one view, then researching the issue and presenting from a different point of view, while reflecting on the evolution of their positions in various ways throughout the process; students also listened to and reflected upon other students' presentations); Kate Shuster, *Teaching Tolerance in Higher Education: Case Studies of Teacher Preparation Program*, S. POVERTY L. CTR. 4-20 (2018), <https://www.tolerance.org/sites/default/files/2018-09/TT-Higher-Education-Report-FINAL.pdf> (describing free resources by

Several universities have recently promoted civil discourse activities in a variety of social and residential settings beyond the classroom.<sup>42</sup>

Legal studies instructors can play a valuable role in preparing students to civilly discuss and gain insight into diverse points of view. Cases in our courses are rich sources of disagreements between parties with differing views. Moreover, legal environment cases span the broad range of current legal and social issues that confront and divide society today. How, then, can instructors utilize actual cases to promote student understanding of diverse views? The constructivist theory of learning provides an answer.

The constructivist theory of learning<sup>43</sup> is based on the premise that a learner constructs knowledge<sup>44</sup> in an active process building upon prior knowledge.<sup>45</sup> The learner needs to participate in the activity to build new knowledge.<sup>46</sup> In doing so, the learner weaves together his or her experiences, emotions, values, prejudices, facts and concepts to build his or her own unique construct of knowledge.<sup>47</sup> When a motivated learner receives new information from the environment that is different than expected, the learner will experience “cognitive dissonance” and will either reject the new information or make sense of it and incorporate it into his or her construct.<sup>48</sup> To make the new knowledge construct permanent, the learner must be able to apply the construct to new situations and receive feedback that this new understanding is valid.<sup>49</sup> Thus, as explained by Professors Lorrie Willey and Debra Burke:

Rather than transferring knowledge to the students, the professor creates situations in which the students can discover knowledge...The primary goals of a constructivist classroom are providing for experiences that expose students to varied perspectives, stimulating multiple ways to think about and resolve problems, allowing for the evaluation of alternatives, making learning realistic and relevant, encouraging ownership in the learning process, and encouraging self-awareness of the learning process.<sup>50</sup>

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Teaching Tolerance, a project of the Southern Poverty Law Center, and providing case studies of faculty in teacher education incorporating these resources into their undergraduate and graduate courses).

<sup>42</sup> See Melissa Korn, *U.S. News: With Civil Discourse 101, Colleges Address Campus Climate*, WALL ST. J., Aug. 1, 2018, at A3. (describing recent efforts on college campuses to promote civil discourse, including the Project on Civil Discourse in the School of Public Affairs at American University where students lead discussions in clubs and dorms; Wake Forest’s dinner parties, where 10-16 guests learn to speak civilly about issues to others with different views; and Carleton College’s offering for students of different backgrounds to reside in dorms together and study how to engage in controversial topics such as race and income inequality).

<sup>43</sup> See, generally D.C. Phillips, *The Good, the Bad and the Ugly: The Many Faces of Constructivism*, 24 EDUC. RESEARCHER 5 (1995) [hereinafter *The Good, the Bad and the Ugly*]; Ernst von Glasersfeld, *An Exposition of Constructivism: Why Some Like it Radical*, ASSOCIAZIONE OIKOS (Jan. 17, 2000), <http://www.oikos.org/constructivism.htm> [hereinafter *An Exposition of Constructivism*]; D.C. Phillips, *How, Why, What, When, and Where: Perspectives on Constructivism in Psychology and Education*, 3 ISSUES IN EDUC. 151, 151 (1997) [hereinafter *How, Why, What, When, and Where*]; Robert Kruckerberg, *A Deweyan Perspective on Science Education: Constructivism, Experience and Why We Learn Science*, 15 SCIENCE AND EDUC. 1 (2006); ERNST VON GLASERFELD, *RADICAL CONSTRUCTIVISM, A WAY OF KNOWING AND LEARNING*, STUDIES IN MATHEMATICS EDUCATIONS: SERIES 6 (1995) [hereinafter *RADICAL CONSTRUCTIVISM*]; Sandhya N. Baviskar et al., *Essential Criteria to Characterize Constructivist Teaching: Derived from a Review of the Literature and Applied to Five Constructivist-teaching Method Articles*, 31 INT’L J. OF SCIENCE EDUC. 541 (2009).

<sup>44</sup> See *The Good, the Bad and the Ugly*, *supra* note 43, at 1.

<sup>45</sup> See *An Exposition of Constructivism*, *supra* note 40, at 4 (explaining that knowledge is built by the learner and not simply passively received); Baviskar et al., *supra* note 43, at 543 (noting that this theory presupposes that a learner’s knowledge is built upon his or her prior knowledge).

<sup>46</sup> See *The Good, the Bad and the Ugly*, *supra* note 43, at 9-11 (summarizing Dewey’s view that the knower needs to be an actor who participates, analogous to the way a person can learn about football, as a spectator or as a participant who plays and affects the game); Willey & Burke, *supra* note 37, at 5-8 (explaining that the passive act of listening does not transfer knowledge as the learner needs to process new information in an active manner).

<sup>47</sup> See Baviskar et al., *supra* note 43, at 543.

<sup>48</sup> See Baviskar et al., *supra* note 43, at 543.

<sup>49</sup> See Baviskar et al., *supra* note 43, at 543 (contending that the learner must receive feedback and establish connections to other parts of construct to make the new knowledge permanent.); see also Willey & Burke, *supra* note 37, at 6 (noting that learners interact with peers and the instructor to construct knowledge).

<sup>50</sup> Willey & Burke, *supra* note 37, at 10.

There are many ways to design and implement a constructivist approach<sup>51</sup> because this is a theory of learning and not a theory of teaching.<sup>52</sup> The literature by researchers, philosophers, and educators on constructivist learning is vast<sup>53</sup> and fragmented; therefore, educators may easily misunderstand what qualifies as a constructivist activity.<sup>54</sup> In some cases, an educator may mislabel an activity as “constructivist” when it is not.<sup>55</sup> To meet this challenge, Baviskar, Hartle and Whitney propose criteria to aid educators in determining whether their teaching methodology meets the requirements of personal constructivism.<sup>56</sup> According to the proposed criteria, the methodology must (1) elicit the student’s prior knowledge;<sup>57</sup> (2) create cognitive dissonance;<sup>58</sup> (3) enable the student to apply his or her knowledge to new situations and receive feedback;<sup>59</sup> and (4) give the student an opportunity to reflect on his or her learning.<sup>60</sup> *The Court Experience* activity described in the next section meets these four criteria.<sup>61</sup>

### III. The Court Experience Overview and Objectives

#### A. Overview

*The Court Experience* is an experiential active learning project that aims to advance critical thinking, expand understanding of diverse points of view, and strengthen communication skills in civil discourse.<sup>62</sup>

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<sup>51</sup> See, e.g., Willey & Burke, *supra* note 37, at 13-20; Julie Furr Youngman, *A Constructivist Approach to Using University Special Collections to Explore Legal Principles*, 36 J. LEGAL STUD. EDUC. 5 (2019); Sue-Jen Chen, *Instructional Design Strategies for Intensive Online Courses: An Objectivist-Constructivist Blended Approach*, 6 J. INTERACTIVE ONLINE LEARNING 72 (2007); Michael Phillips & John X. Volker, *Designing A Constructivist Learning Environment- A Student Managed Investment Fund Course Experience*, 2014 GLOBAL EDUC. J. 127 (2014).

<sup>52</sup> See Baviskar et al., *supra* note 43, at 542.

<sup>53</sup> While constructivist concepts can be traced to Immanuel Kant, an eighteenth-century German philosopher, other philosophers, scholars, psychologists and authors developed various strands of this theory throughout the next two centuries. See *The Good, the Bad and the Ugly*, *supra* note 43, at 5-11. By the late twentieth century, this educational theory had gained enormous influence, particularly in science and math education. See, e.g., RADICAL CONSTRUCTIVISM, *supra* note 43, at xi (“In the past decade or two, the most important theoretical perspective to emerge in mathematics education has been that of constructivism.”); *How, Why, What, When, and Where*, *supra* note 43, at 152 (“Arguably [constructivism] is the dominant theoretical position in science and mathematics education”).

<sup>54</sup> See Baviskar et al., *supra* note 43, at 549 (purporting that the “descriptive literature on constructivism can be misunderstood by teachers and practitioners because the articles are esoteric and technical with little emphasis on their practical application, or they are descriptions of lessons that succeeded without emphasizing which elements made them constructivist.”). For example, group work is thought by some authors to be a form of constructivist teaching, but depending on how the group work is implemented, it may or may not be a constructivist form. *Id.* at 542.

<sup>55</sup> *Id.* at 544-48. In reviewing five articles that proposed to be based on constructivist teaching, Baviskar and his co-authors determined that only two met their criteria to be designated as constructivist. *Id.*

<sup>56</sup> *Id.* at 542. Baviskar and co-authors do not consider teaching methodology for social constructivism, which is concerned with how knowledge is developed in a culture, but instead propose criteria based on the personal constructivist theory. *Id.*

<sup>57</sup> *Id.* at 543-544. The first criterion, eliciting prior knowledge, is important because the personal constructivist theory presumes that a learner learns in the context of prior knowledge. Thus, the educator needs to understand what the students know so that students do not incorrectly incorporate new knowledge or ignore it. Quizzes, interviews and initial set up activities are all examples of activities an educator can use to figure out what the students know. *Id.*

<sup>58</sup> *Id.* at 544. The second criterion is to create cognitive dissonance by making the students aware of a difference in their prior knowledge and their new knowledge. This may occur through problems that are highly likely to be problematic for the student. *Id.*

<sup>59</sup> *Id.* The third criterion is to have the student apply their new knowledge and to receive feedback. This can occur in a variety of forms, such group discussions, presentations, or quizzes. The students should be able to compare their constructs with new situations or with their cohorts to check the validity of the students’ construct. This also provides the opportunity to make further connections of the new knowledge and retain it permanently. *Id.*

<sup>60</sup> *Id.* The student needs to reflect on his or her learning to be aware that learning has occurred. Again, a variety of forms can be used, such as reflection papers, explaining what the student learned to other students, or returning to the dissonance-creating activity.

<sup>61</sup> See *infra* Part V.

<sup>62</sup> See *supra* Introduction (defining “civil discourse”); see also *infra* Appendix A2 (providing an example of the grading rubric).

Students complete the following activities:

- Research cases selected by the instructor to correspond to Legal Environment of Business or other business law course<sup>63</sup> topics;
- Prepare for and rotate through assigned roles as clients and witnesses, attorneys, trial judges, reporters, members of the public, and jurors;
- Write their own statements for each role;
- Deliver their statements to the jurors, who will render a verdict during class; and
- Conclude with summaries and reflections.

The combination of these activities creates a learning experience that encompasses the key attributes of constructivist learning.

To create *The Courtroom Experience*, an instructor simply selects four to eight cases to illustrate key topics in the course.<sup>64</sup> The ideal cases will have interesting facts and strong legal arguments on both sides of the legal issues, allowing students to simulate real-world experiences<sup>65</sup> and to develop “realistic approaches to solving problems”<sup>66</sup> presented by the cases in question. As designed, the instructor assigns students rotating roles in different cases throughout the semester,<sup>67</sup> which has been recognized as an effective way to integrate more abstract concepts into course content.<sup>68</sup> Some of the roles are harder to prepare for than others and each call upon different skills. For example, the member of the public and the witness roles give a student the flexibility to create and embody a role. By comparison, a student in the attorney role must think strategically in structuring and condensing the closing argument to make the most effective use of the time allotted. The judge must identify and interpret the legal issues and draft jury instructions, which requires a student to not only develop sufficient subject matter knowledge, but then to distill that knowledge for their peers. This multi-level learning encourages students to take ownership in their own learning.<sup>69</sup> To balance the workload, students move from a harder role (such as judge) to one that is not as challenging (such as juror) for the next case.

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<sup>63</sup> I teach two undergraduate law courses: *Legal Environment of Business* and *Commercial Law*. Sections in the Fall and Spring have approximately 24 students per section and approximately 15 students in the accelerated five-week summer section. I also incorporate the simulation in my graduate course on corporate governance and fraud, with an average of 15 graduate students each semester. The simulations have worked well at both the undergraduate and graduate levels.

<sup>64</sup> The number of cases is flexible based on the term length and other activities in the course, making the project adaptable to many courses. My recommendation is four to eight cases to allow students to experience multiple roles without diminishing the utility of the activity. In the undergraduate Legal Environment of Business class, I started with eight cases. Seventy-five percent of the respondents in the Spring 2017 survey agreed that eight was the right number of cases, while 22.5% indicated fewer cases (ranging from four to seven) would suffice and 2.5% said more cases were needed. In the accelerated term undergraduate Commercial Law class, I use five cases. In the graduate corporate governance and fraud course, I started with four cases in the Spring 2018 and increased the number of cases to ten in the Summer 2018, with students in the latter version indicating slightly lower improvements in most categories on the survey including critical thinking and motivation to learn the law. Both graduate and undergraduate students have indicated that the simulations should be limited to one case per week. See *infra* Appendix B2 for the topics and cases I use in my Legal Environment of Business course.

<sup>65</sup> See Willey & Burke, *supra* note 37, at 7.

<sup>66</sup> See *id.* at 8.

<sup>67</sup> I assign each student to one role for each case so that every student has a role in every case. The goal is to rotate each student through every role, and the number of cases and students impacts which roles the instructor establishes. For example, when I use only five cases in commercial law, I use the roles of juror, attorneys, client/witness, judge, and allow the students to choose whether to be a reporter or member of the public for the fifth role. In the graduate course in the Spring 2018 in which I used four cases, I assigned students to four panels (attorneys; reporters/clients/witnesses; jurors; and judges) and the student panels decided who would be the reporters, clients and witnesses for each side. For a large class, the instructor could consider dividing the jury into smaller pools to deliberate separately and then compare their verdicts.

<sup>68</sup> See Willey & Burke, *supra* note 37, at 8 (noting that constructivist learning can occur through a variety of activities, such as role plays, journals, reflective essays, question-and-answer sessions, and cooperative learning). In addition, this activity involves role-playing, which is a type of experiential learning that has shown to be effective in many disciplines. See e.g., DAVID KOLB, EXPERIENTIAL LEARNING THEORY 41 (1<sup>st</sup> ed. 1984); Konrad S Lee and Matthew I. Thue, *Teaching the Fair Debt Collection Practices Act to Legal and Ethical Environment of Business Undergraduate Students Through a Role-Play Experiential Learning Exercise*, 34 J. LEGAL STUD. EDUC. 207, 218 (2018).

<sup>69</sup> Willey & Burke, *supra* note 37, at 10.

Each simulation can occur in a class period of approximately 60 to 85 minutes, depending upon the number of students involved and whether a lecture on the topic precedes the simulation.<sup>70</sup> To begin, the instructor establishes a very basic courtroom atmosphere with a courtroom scene projected on the wall or screen and signs for designated seats by role, thus generating a more immersive sensory experience. The instructor then calls the courtroom to order,<sup>71</sup> and the abbreviated court case simulation begins.

## B. Learning Goals and Objectives

The overall learning goals of *The Court Experience* project are as follows:

- (1) Read and analyze legal cases involving legal concepts related to this course;
- (2) Enhance written and oral communication skills in a civil exchange of ideas using persuasive, creative, and objective forms of communication; and
- (3) Explore legal and ethical issues from differing perspectives (judge, attorney for the plaintiff, attorney for the defendant, legal reporter, plaintiff, defendant, witness or member of the public affected by the decision) to gain an understanding of the court system and to gain insights into how a particular role shapes one’s work and perspective.

Specific learning objectives for *The Court Experience* project are described in the following table.

<b><i>The Court Experience</i> Learning Objectives</b>	
<b>Students will be able to:</b>	
<ul style="list-style-type: none"> <li>• Write closing arguments for a powerful summation.</li> </ul>	<ul style="list-style-type: none"> <li>• Deliver a persuasive closing argument using the evidence.</li> </ul>
<ul style="list-style-type: none"> <li>• Write news reports objectively explaining the facts and arguments from both the plaintiff’s and defendant’s perspectives.</li> </ul>	<ul style="list-style-type: none"> <li>• Deliver the news report in an engaging informed manner.</li> </ul>
<ul style="list-style-type: none"> <li>• Write a client/ witness/affected party statement picking a supporting role.</li> </ul>	<ul style="list-style-type: none"> <li>• Persuasively articulate supporting facts and the impact.</li> </ul>
<ul style="list-style-type: none"> <li>• Write an informed opinion as a concerned member of the public.</li> </ul>	<ul style="list-style-type: none"> <li>• Articulate an informed opinion based on the evidence.</li> </ul>
<ul style="list-style-type: none"> <li>• Listen objectively to the witnesses and attorneys to deliberate as part of a jury.</li> </ul>	<ul style="list-style-type: none"> <li>• Demonstrate professional skills and a positive attitude in class, including respect for diverse views, attentive listening, and critical thinking to weigh the evidence.</li> </ul>

<sup>70</sup> See *infra* Appendix A1 para. 4 (providing an example of suggested time allocations). The time needed for the simulation depends on the number of students and whether a lecture will precede the simulation. Each student gives a one-minute statement. While the simulations do take up all or most of the class period, the Debrief sessions are a time for the instructor to prompt with questions that challenge the students to bring together their learning from the entire chapter or assignment related to that topic. In my undergraduate classes, students are required to complete online quizzes and textbook readings in order to participate in the simulation. With better-prepared students, I have reduced the time allotted to lectures.

<sup>71</sup> I call the court to order with the entrance of the student judges based on the traditional chant of the U.S. Supreme Court: The Honorable Judges of the Court of the United States. Oyez! Oyez! Oyez! All persons having business before the Honorable, the Court of the [name of your institution], are admonished to draw near and give their attention, for the Court is now sitting. God save the United States and this Honorable Court!

### C. The Simulation

After the first few sessions of the semester covering the foundational issues in the course and legal analysis skills,<sup>72</sup> *The Court Experience* simulations begin, with students rotating to a different role with each different case during the semester. The roles and responsibilities are explained in *The Court Experience* Instructions in Appendix B1 for a legal environment of business course. The roles may be summarized as follows:

- **Attorney:** The student writes and delivers a **Closing Statement**.
- **Client or Witness:** The student picks or creates their own witness and delivers a **Client/Witness Impact Statement** to describe the impact if their party wins or loses.
- **Legal Reporter:** The student prepares and delivers a **News Report** objectively assessing the issues from both sides.
- **Trial Judge:** This role is one of the most demanding because the student writes and gives **Jury Instructions**.
- **Member of the Public:** The student identifies a person or organization that is likely to be affected by this case and then writes and delivers an **Informed Opinion** from that perspective.
- **Juror:** Jurors do not read the case before the simulation to remain objective. After the witness statements, closing arguments, and instructions, the jury adjourns to deliberate and render a verdict.

Each simulation occurs within a single class period in the following order:

1. Trial Opening
2. Client/ Witness/ Affected Party Statements
3. Attorney Closing Statements
4. Trial Judge Instructions to the Jury
5. Jury to Deliberation Hall
6. Legal Reporter News Reports and Questions
7. Member of the Public Statements
8. Jury Returns with Verdict
9. Debrief and Summary
10. Reflections

The instructor keeps the process flowing smoothly with a timer and calls students by role to the podium. However, it is not the instructor's role to interpret the facts of the cases, disseminate information or provide knowledge to students during the simulation phase of *The Courtroom Experience*; rather, the instructor operates as a facilitator<sup>73</sup> allowing the students through their roles to construct knowledge and share ideas, each becoming resources for learning in their own right.<sup>74</sup>

This is much different than a mock trial – intentionally so. The idea is not to train the students as trial attorneys or in exact court procedure, but to motivate business students to read and critically evaluate the cases before class from various perspectives, meaningfully participate during class in a civil exchange and accomplish the learning goals and objectives described in the prior section. Thus, we do not question or cross-examine the clients or witnesses during their statements. Instead, the reporters ask questions to the parties and attorneys

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<sup>72</sup> On the first day of class, I give a brief overview of *The Court Experience* project to get the students excited about the project. For the first several sessions of the course, I cover foundational topics, such as the court system structure and how a case proceeds through court, constitutional law, business ethics, and alternative dispute resolution. I show students how to look up cases in our system and explains the Issue, Rule, Analysis, and Conclusion (IRAC) system of legal case analysis.

<sup>73</sup> See Willey & Burke, *supra* note 37, at 9. However, the instructor does have an important role in establishing the framework and requiring the students to abide by the civil discourse requirements. For example, if a student disrespectfully labels a person or uses offensive language, I ask the student to restate their position without the offensive language and remind the students of the requirements of a civil exchange. The grading rubric also lets the students know what is expected. It does not take long for the class to catch on to the expectations of civil discourse in my experience.

<sup>74</sup> In a constructivist approach, it is important to expose students to the concept so that the professor is not the only source of information, and that the students look to their peers for information, alternative perspectives and solutions to provide an array of diverse ways of thinking. *See id.* at 9-10.

while the court is in recess and the jury deliberates. Questions to the attorneys, clients and witnesses are an important way to stimulate students to explore and explain their understanding as the jury deliberates. This also provides an opportunity to engage with other students and practice a civil exchange of differing views during the recess.

### C. Debrief and Summary Phase

The Debrief and Summary phase is an essential component of this constructivist exercise. During the Debrief and Summary, the instructor poses questions to explore the students' learning, create cognitive dissonance, clarify any misunderstandings and enable the students to apply their new knowledge. The questions begin after the jurors have delivered their verdict. Initial questions may ask each juror to discuss what evidence and arguments were important to their verdict. Then the instructor may ask each juror whether the juror changed his or her mind during the deliberation process, and if so, why. The instructor then asks the judges to compare the student jury verdict with the actual verdict. If different, the instructor can ask what additional evidence is in the opinion that was not revealed by the client, witness and attorney statements. Jurors often indicate that their verdict would have been different if the witnesses or attorneys revealed or emphasized certain additional facts that come to light in the Debrief sessions.

The instructor should also review with the class the Special Interrogatories that student judges provided to the jury and have the students consider whether the Interrogatories accurately asked the jury to consider all legal elements to prove the claims, affirmative defenses or counterclaims. The instructor corrects any misstatements and asks jurors whether their verdict would change if different instructions had been provided. The instructor may prompt students to explore other legal arguments that could strengthen the plaintiff's or defendant's cases,<sup>75</sup> whether the parties should have settled or used an alternative resolution dispute method rather than a lawsuit.

Additional questions from the instructor may prompt students to consider the impact that the outcome will have on business and on society. The instructor may further prompt the students to consider whether the parties' actions were ethical, even if legal. Additional questions direct the students to discuss how they may apply their new knowledge to prevent lawsuits of this nature in the future or how they will apply their knowledge gained from this case simulation. These in-class discussions provide valuable "aha" moments<sup>76</sup> for students to compare their new knowledge to their existing knowledge, apply their knowledge to new situations, and to permanently retain it in a way that makes sense to each unique learner.

### D. Reflection Phase

Students conclude the session by answering reflection questions and by assessing themselves on the grading rubric. For the written reflections, students address, among other things, what insights they gained from *The Court Experience*.<sup>77</sup> For the self-assessment, students rate their preparation, participation and performance on a rubric incorporating civil discourse criteria.<sup>78</sup>

The instructor discusses the civil discourse criteria and the rubric on the first day of class. This rubric requires students to show respect for everyone in the classroom (peers and instructors) by attentively listening when others have the floor; avoiding social media and other distractions during class; professionally

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<sup>75</sup> Typically, it is harder for students to represent the party who lost in the assigned case. Thus, it is especially helpful to discuss the legal arguments that could have been made if the students had deeper understanding of the legal issues or if different legal rules, such as those from other jurisdictions, had applied.

<sup>76</sup> At the end of the semester in the Legal Environment of Business class, students were asked to reflect on their "aha" moments of the most important insight(s) they have gained from the course as a whole. They then wrote their reflections to present to an outside guest speaker near the end of the semester. While the course entails many activities, such as other guest speakers and online course learning activities, almost all students describe an insight gained from *The Court Experience* activity (aka the Legal Beagle cases). See *infra* Part IV.

<sup>77</sup> See *infra* Appendix B1. In addition to asking what insights the student has gained from *The Court Experience*, I now ask what strengths and skills the student demonstrated. See *infra* note 98.

<sup>78</sup> See *infra* Appendix A2.

acknowledging the opinions of others even if different from their own; and speaking up at appropriate times to meaningfully contribute to class. Students prepare their Court Experience statements for their assigned roles.<sup>79</sup> During the simulation, jurors respectfully listen to the evidence and arguments and then deliberate, seeking points of agreement to reach a verdict.<sup>80</sup>

Prior to the next class, the instructor reviews the written reflections and self-assessment forms.<sup>81</sup> The instructor highlights a few insights to share with the class the next time. This provides an opportunity for students to strengthen their connections as they hear ways other students plan to apply their knowledge. Multiple simulations, debrief sessions and reflections allow students to take risks, learn from mistakes, enlarge their knowledge constructs and build their confidence in expressing themselves in a variety of roles in front of their peers.<sup>82</sup>

## E. Feedback and Grading

Feedback to students is a vital component of the process. Feedback occurs during the simulations<sup>83</sup> when students hear the other students deliver their statements. For example, students may hear how another classmate, who is on the same side, emphasizes different facts or reveals strong legal arguments. It is likely that the students will hear facts and legal arguments from the opposing side that they did not anticipate. During the reporter interviewing, the reporters challenge the attorneys, clients and witnesses with questions that reveal whether they grasped important facts and legal arguments. When the jury returns with its verdict, students may be surprised with the jury's decision.

The instructor uses the grading rubric during the simulation.<sup>84</sup> The rubric contains expectations for civil discourse.<sup>85</sup> In undergraduate classes, one-third of students' grades for each simulation are allocated to each the following:

- **Preparation**, which includes reading the assigned cases and completing homework and *The Court Experience* Outline before class. Up to 33.3 points
- **Participation**, which includes demonstrating professional skills and positive attitude in class, showing respect for diversity of people and ways of thinking, attentively listening and professionally expressing ideas using reason and persuasion. Up to 33.3 points
- **Performance**, which includes delivering a well-prepared statement that meets the role and time requirements. Up to 33.3 points

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<sup>79</sup> See *infra* Appendix B1.

<sup>80</sup> These criteria relate to the definition of civil discourse discussed in the Introduction. See *supra* Introduction.

<sup>81</sup> The instructor assigns the final grade. The student reflections and self-assessment are helpful for the instructor to consider. In my experience, the students have marked their grades down more than I have, sometimes revealing that they were not well prepared or attentively listening. If there are significant discrepancies in my grade and the student's self-assessment, I will meet with the student to discuss.

<sup>82</sup> Instructors incorporating *The Court Experience* can facilitate these opportunities by encouraging students to be creative in selecting who they want to be as a client, witness, reporter, or member of the public and to coach students to move further out of their comfort zones each time they enact a role. See Caryn L. Beck-Dudley, *The Future of Work, Business Education and the Role of the AACSB*, 35 J. LEGAL STUD. EDUC. 165 (2018) (indicating a need to provide students with opportunities to take risks and learn to be resilient.)

<sup>83</sup> The written outlines, which I require to be turned in the day before class, provide a means for me to assess the student's existing knowledge before the simulation in class. I provide a grade and feedback for the written outlines and for the in-class participation and performance after the simulation.

<sup>84</sup> See *infra* Appendix A2. From my perspective, this project was much easier to implement and grade than other active learning events I have developed. The students did not need much direction from me after I reviewed the instructions in class. While eight (8) cases may seem like a lot in a legal environment course, I found it easy to grade the students' oral reports in class and to fit the cases in within the semester. See *infra* Appendix A2 for a self-assessment grading rubric and Appendix A3 for an in-class grading form. The instructor can quickly mark the in-class form during the simulation. The instructor then collects the student's self-assessment (see Appendix A2) after the simulation, reviews the student's written report, and assigns a final grade. Because the reports are limited to one-minute, the written reports are only a few paragraphs each and thus relatively quick to grade.

<sup>85</sup> The instructor provides immediate feedback during the simulation and debrief sessions as necessary to keep the conversations within the civil discourse framework. See *supra* notes 75, 81 and 82.

Instructors can adjust grade allocations and total weight of the grades for *The Court Experience* to conform to their learning goals and other objectives of their courses.<sup>86</sup> Instructors should provide a detailed rubric to students as part of the project instructions. A sample is provided in Appendix A2.

## IV. Informal Student Feedback

### A. Anonymous Surveys

At the end of each semester, I asked my students to complete an informal anonymous survey, rating responses on a scale of 1 to 5 (where 1 = not helpful and 5 = very helpful). The questions are grouped in ten categories: Expand Perspective, Civic and Legal Awareness, Business Legal Knowledge, Critical Thinking Skills, Strengthen Communication Skills, Creative Thinking, Confidence and Self Esteem, Strategic Thinking, Holistic Thinking and Reflective Thinking. Responses from informal surveys of 115 students in undergraduate and graduate law courses<sup>87</sup> were very positive and indicate students' perceptions of improvements in both knowledge and skills. Summaries of the questions and responses are below:

#### 1. Perceptions of Improvements to Knowledge and Understanding:

Expand Perspective:							
Expanded my perspective on role of judges <sup>88</sup>	Expanded my perspective on role of attorneys	Expanded my perspective on role of jurors	Expanded my perspective on role of reporters	Expanded my perspective on role of clients or witnesses	Helped me understand diverse points of view	Helped me understand the difference between an advocate's role and an objective role	Helped me appreciate views I did not appreciate before
4.19	4.13	4.00	3.44	3.74	4.48	4.05	4.20

<sup>86</sup> For example, in the Legal Environment of Business course, *The Court Experiences* account for a total of sixteen percent of the grade. In a current graduate course on corporate governance and fraud, *The Court Experiences* account for twelve percent of the total grade.

<sup>87</sup> The informal surveys included students in two undergraduate Legal Environment of Business classes (Spring 2017 and Fall 2017), one undergraduate accelerated commercial law course (Summer 2017), one graduate class on corporate governance and fraud (Spring 2018), and one accelerated graduate course on corporate governance and fraud (Summer 2018).

<sup>88</sup> The hardest written role for students is probably the judge role because preparing jury instructions is challenging (even for attorneys and judges). I allow the student judges to collaborate before the simulation to select the best Special Interrogatories to deliver to the jury. I am generous in grading these written jury instructions if a student makes a good faith attempt to analyze the case and develop instructions based on the pertinent legal issues. Usually, one of the students assigned to that role has developed Special Interrogatories sufficient for the jury deliberations. I give additional clarifying instructions in the Debrief session.

Civic and Legal Awareness								
This project helped me understand the importance of the jury system	Helped me understand the importance of legal strategy and its impact on the jury.	Helped me realize that ADR may be a better option than court.	Helped me prepare to discuss legal issues with an attorney	Helped me appreciate the U.S. system of justice	This project provided a deeper understanding of legal issues than I would have gained from the textbook, lectures and homework alone.	Improved my understanding of the difference between legal and ethical business decisions	Improved my understanding of the importance of law for business	Motivated me to learn more about the law

Business Legal Knowledge				
Prior to this class, my knowledge of legal issues in business was, on a scale of 1 to 5 with 1 = very weak and 5 = very strong	This project helped me identify legal issues affecting business over and above what I learned from the textbook, lectures and homework	Helped me improve my ability to analyze legal issues affecting business	Helped me evaluate legal positions of various parties	Was better than the textbook in helping me to understand the legal concepts and how they applied in real world instances.

**2. Perceptions of Improvements to Skills**

Critical Thinking				
This project helped me improve my critical thinking skills because I had to consider diverse points of view in multiple cases.	This project helped improve my analytical skills by reading legal cases and developing reports.	This project helped improve my ability to evaluate whether a plaintiff had a valid legal claim.	Playing eight roles helped improve my ability to evaluate the legal and ethical implications of business decisions.	Overall, this project has helped me strengthen my critical thinking skills

Strengthen Communication Skills			
Prior to this class, my oral communication skills, on a scale of 1 – 5 with 1 being very weak, and 5 being outstanding, were	This project helped me improve my oral communication skills	This project helped me improve my written communication skills	Helped me better understand the difference in persuasive and objective communication

Creative Thinking	
This project engaged my creative thinking skills as I developed reports	This project helped me strengthen my creative thinking skills
<b>4.22</b>	<b>4.09</b>

Confidence and Self-Esteem							
Prior to this class, my confidence in public speaking was, on a scale of 1 (I was very frightened) to 5 (I was very comfortable)	Prior to this class, my overall confidence in myself, on a scale of 1 to 5 with 1 = not very confident to 5 = very confident	This project helped me to improve my confidence in public speaking	After this project, I feel better about my ability to be successful	This project helped me to improve my confidence that I could spot legal issues in the future	After this project, I am more confident in my ability to get a job or to advance in my future career	This project helped improve my confidence in decision-making	This project helped my overall confidence in myself
<b>3.20</b>	<b>3.76</b>	<b>4.08</b>	<b>4.14</b>	<b>4.29</b>	<b>4.07</b>	<b>4.16</b>	<b>4.06</b>

Strategic Thinking					
This project engaged me strategic thinking skills	This project helped me strengthen my strategic thinking skills	This project helped strengthen my strategic thinking skills as I considered the impact of the case and legal issues on the parties.	This project helped strengthen my strategic thinking skills as I developed reports.	This project will help me in my future career as I strategize on solving business issues.	This project will help me in my future career as I strategize on identifying and preventing legal problems.
<b>4.38</b>	<b>4.23</b>	<b>4.29</b>	<b>4.26</b>	<b>4.28</b>	<b>4.28</b>

Holistic Thinking			
The summaries at the end where students had to answer questions helped me to see the big picture	This project helped me see the big picture as to how the court system works.	This project helped me see the big picture as to why it is important to learn about legal issues affecting business	This project helped me see that legal and ethical decisions are interrelated and should be considered when making business decisions
<b>3.86</b>	<b>4.27</b>	<b>4.45</b>	<b>4.42</b>

Reflective Thinking			
This project helped me see the big picture as to the importance of considering legal issues when making business decisions.	The written reflections at the end helped me identify the insights that I gained from each class	This project was a valuable experience	After this project, I feel I have advanced in skills that will help me in my career.
<b>4.48</b>	<b>3.62</b>	<b>4.51</b>	<b>4.14</b>

## B. Highlights of the Informal Feedback

The average student response to each item may indicate that students perceived they improved in each of the ten categories. These outcomes are listed below. In addition, students in the Spring 2017 and Fall 2017 prepared and delivered reflections of their “AHA Moments” of the most important insight(s) they had gained from the Legal Environment Course throughout the semester.<sup>89</sup> Almost all students spoke about *The Court Experience* activity (also known as the Legal Beagle cases). A sampling of these comments is reported beneath the survey results.<sup>90</sup>

### 1. Expand Perspective:

- Helped students understand diverse points of view (average: 4.48);
- Helped students understand the difference between an advocate’s role and an objective role (average: 4.05).
- Helped students appreciate views they did not appreciate before (average: 4.20).
- Helped students expand their perspective on the role of judges (average 4.19).
- Helped students expand their perspective on the role of attorneys (average 4.13).
- Helped students expand their perspective on the on the role of jurors (average 4.0).

### Students’ “AHA” Moments

- The most helpful thing in this class that helped me learn was no doubt the Legal Beagle cases that we had to do. It allowed me to take the scenario and apply everything I have learned. Then the cases really helped me figure it out. Being able to play different roles made me look at each case from a different perspective. It was very beneficial to my learning and I think everyone learns better through hands on activities.
- This exercise helps both communication skills as well as a skill that is harder to come by; looking at a case from a view point different from my own.
- It will also help when I must look at a case that I may not agree with, but it is my job to be objective!
- The legal beagle cases that were studied throughout the class helped tremendously with my understanding of law within the United States. I was able to broaden my understanding for court cases by playing multiple roles within a court room. My ability to be open minded by multiple parties’ places within cases grew when playing the roles of the attorney or witnesses.
- It gives you a different outlook on things especially the legal side of it.
- It surprised me that I was able to separate my own beliefs from the cases, and was able to, in some cases, convince my classmates to take my side.

<sup>89</sup> Students prepared reflections considering the course as whole near the end of the semester in the two Legal Environment of Business courses (Spring 2017 and Fall 2017) and delivered their statements to an outside professional who came to our class. They turned in their written reflections as part of the final grade.

<sup>90</sup> These reflections were freeform and not categorized by the students. I categorized these comments to illustrate the types of comments that could relate to the rankings on the anonymous surveys.

- When we discussed how ethics was more than just doing what was the legal minimum and how the legal minimum is also the ethical minimum it made me realize that not everyone knows the difference between ethics and what is right legally. From the moment that I realized this I looked at people who have done wrong things a little more empathetically.
- My biggest challenge in the course I would have to say is when assigned a role, jumping into character, leaving my personal beliefs behind, applying the facts and placing myself within their shoes.
- I did not get to choose what side I wanted and therefore was forced to find the facts and truly understand the case inside and out!
- After taking this class I realized that law isn't black and white, but more of a gray color.

## **2. Civic and Legal Awareness:**

- Helped students understand the importance of legal strategy and its impact on the jury (average: 4.33);
- Helped students realize that ADR may be a better option than court (average: 4.11);
- Provided a deeper understanding of legal issues than students would have gained from the textbook, lectures and homework alone (average: 4.45);
- Improved students' understanding of the difference between legal and ethical business decisions (average: 4.16);
- Improved students' understanding of the importance of law for business (average: 4.47); and
- Motivated students to learn more about the law (average: 3.98).

## **Students' "AHA" Moments**

- My "aha" moment was when I realized that something that may seem one way may turn out differently based on how the law is interpreted by the jury. Ultimately the jury is in the hardest chair in the court room.
- Although serving as a juror may seem like an uncomplicated task, I believe it is one of the most difficult roles to play within the legal system. If the facts are not presented effectively and efficiently from both parties, the jury will most likely make a decision that may not reflect the best interests of the people involved.
- The topic spiked an intrigue.
- Coming in to this class, I was honestly dreading it. I thought it would be a hard subject to learn. My reasoning for this is because of many things. Before this class, I could not even sit down and watch the news or read an article about our government because I could not understand what they were talking about. It was very frustrating. However, as the year progressed everything seemed to get easier.
- I was so happy when I found out about the different types of ways to handle court cases, like arbitration, negotiation, facilitation, etc. I knew what each one means now and I feel more confident about talking to people when we talk about cases and what not.
- Business Law...has been surprising; I'll be honest... I came into this class dreading having to learn all the cut and dry legal terms, the confusing rules and regulations and trying to navigate the gray zone of exceptions. But after several weeks in the class I was surprised; I found myself paying more attention to the news and having a better understanding of what was going on.
- Being able to play each role allowed me to look at cases from different point of view. When it came to the attorney's roles, it made me appreciate how much work and research is done in real cases.
- I've gained a better understanding of the basic concepts pertaining to the legal and regulatory environment of business. I can also evaluate differing legal and ethical perspectives. One of the most stressful roles was being jury, even though it requires the least amount of work and that is because your decisions can affect the ruling of the case dramatically. I always thought that omitting some facts would not affect anyone, but turns out that in some of the mock trials, the jurors would've voted differently if they knew all the fact.

- After taking this class, I've been considering law school as an option after I graduate.

### **3. Business and Legal Knowledge:**

- Helped students identify legal issues affecting business over and above what they learned from the textbook, lectures and homework (average: 4.27);
- Helped students improve their ability to analyze legal issues affecting business (average: 4.35); and
- Was better than the textbook in helping them to understand the legal concepts and how they applied in real world instances (average: 4.51).
- Helped students better evaluate the legal positions of various parties (average 4.40).

#### **Students' "AHA" Moments**

- Each case made me think more and more and I gained so much legal knowledge from it.
- Once I dove into the curriculum along with the court cases I became open to law.
- We discussed opened my eyes to court cases that I never thought about presenting a legal situation.
- Throughout the class, I've seen myself grow knowledge wise and being more confident in speaking in front of the class.
- I always believed that the law was very straight forward. Something was either right or wrong. I learned that in the legal system there are a lot of grey areas.

### **4. Critical Thinking Skills:**

- Helped improve students' analytical skills by reading legal cases and developing reports (average: 4.40);
- Playing eight roles helped improve students' ability to evaluate the legal and ethical implications of business decisions (average: 4.33); and
- Overall, helped students strengthen critical thinking skills (average: 4.39).

#### **Students' "AHA" Moments**

- Overall, this course has pushed me to think critically and has pushed me out of my comfort zone when it comes to analyzing different perspectives.
- This course provided me with a more hands on experience and has taught me to view situations not only from my personal viewpoint, but also legal and applying each concept of the law to that scenario.
- Legal Beagle's, which is an activity I will forever be grateful for. At first, I didn't understand how to read a court case, nor actually comprehend it, but now I could do it with no worries. I was able to learn each role in the court room.

### **5. Strengthen Communication Skills:**

- Helped students improve their oral communication skills (average: 4.07);
- Helped students improve their written communication skills (average: 3.92); and
- Helped students better understand the differences between persuasive and objective communication (average: 3.96).

#### **Students' "AHA" Moments**

- I have, throughout my college career, avoided public speaking as much as I possibly could. I took a speech class at... that I absolutely hated and it fundamentally devastated any interest in speechmaking despite my enthusiasm for drama. After we began the legal beagle project, I was surprised to realize that I looked forward to Business Law each week. I was able to relate the project to performance and I genuinely enjoyed

working through the cases. In addition to my fear of public speaking, I had sincere doubts about my ability to objectively defend actions I don't personally endorse.

- I thought to myself, "There is no way I can do this. With the help of [the textbook learning system] and an excellent professor, I caught on quick and I loved it. The presentations gradually got easier and I got more confidence with every presentation I did now. I strongly recommend this teaching style to every professor that teaches this class, as it has helped me with communication skills, but also in my legal knowledge.
- Talking in front of everyone was easier than I thought. The more we did these cases, the more I wanted to do them.

#### 6. Creative Thinking:

- Engaged students' creative thinking skills as they developed reports (average: 4.22).

#### Students' "AHA" Moments

- Legal Beagle helped flow the creative juices in my mind. I was able to play a role of someone who I am not entirely comfortable being; an attorney, a judge—all whom have strong opinions and control a situation.
- My exact "aha" moment was when I had the role of attorney for the Legal Beagle report. I was thinking as if I were actually a part of the case, not as myself and it was a rather amazing thing for me.
- This project has been a favorite for me because we had to play courtroom roles such as the trial judge, attorneys, members of the public, reporters and more.

#### 7. Confidence and Self-Esteem:

- Helped improve students' confidence that they could spot legal issues in the future (average: 4.29);
- Helped improve students' confidence in decision-making (average: 4.16);
- Helped improve students' confidence in ability to get a job or advance in a career (average: 4.07);
- Helped improve students' public speaking skills (average 4.08); and
- Helped improved student's overall self-confidence (average 4.06).
- After the project students felt better about themselves and their ability to be successful (4.14).

#### Students' "AHA" Moments

- Not only have I retained memory from repetition and involvement but also within myself I have learned a *knew* [sic] found self-confidence when it comes to speaking in front of people and persuading people and expressing my opinion.
- It really helped me step out of my comfort zone and I have enjoyed every minute of it.
- I remember the big knot in my stomach and shaking little by little but as time went on and the more we *performed* the more comfortable and confident I became in front of everyone. Not only did I become increasingly confident but I was sure I knew exactly how I should persuade my audience.

#### 8. Strategic Thinking:

- Helped strengthen students' strategic thinking skills as they considered the impact of the case and legal issues on the parties (average: 4.29).
- Engaged students in strategic thinking skills (average 4.38).
- Helped students in their future career as they strategize on solving business problems (average 4.28).

**Students' "AHA" Moments**

- I have also learned the fact that, it is always good to do feasibility studies and knowing what the benefit of your actions as a professional person will be on society and weighing the pros and cons on society before taking a decision and not being ignorant of the law. For ignorant of the law is not an excuse.
- As a professional person, I will also consider the impact of my decisions on society.
- I've learned how to possibly prevent future legal issues.

**9. Holistic Thinking:**

- Helped students see that legal and ethical decisions are interrelated and should both be considered when making business decisions (average: 4.42).
- Helped students see the big picture as to how the court system works (average 4.27).
- Helped students see how legal issues affect businesses (average 4.45).

**Students' "AHA" Moments**

- Discussing and going through each case these last few months has really changed the way I make decisions. Especially, in the cases that we have had in making the decision about which side I would take I had to start thinking about the Ethical side of the situation and not just basing it on my emotions on how I would have wanted the case to go for me.
- I actually gained a skill and knowledge in legal terms which I will be able use it lifetime. There are a lot of ethical and moral dilemma in law system and that is one of the reasons why court systems take years for case proceeds.

**10. Reflective Thinking:**

- Helped students see the "big picture" as to the importance of considering legal issues when making business decisions (average: 4.48) and
- Was overall a valuable experience (average: 4.51).

**Students' "AHA" Moments**

- I have learned so much this year and the most I learned was from the Legal Beagle cases.
- Legal Environment of Business has been a wonderful course to take.
- Overall I enjoyed this course and have already recommended others to take it with you doing these legal beagle exercises because I think they work!
- This was a great worthwhile class even with all the work needed.
- My most favorite aspect of this course was the Legal Beagle project. I was fortunate enough to be paired with a wonderful group of people and we all became great friends while working together.
- Thank you for providing me with the conversational, the people and the public speaking skills that I will need to continue to grow in life and in my future career. The mental skills I gained this semester from your course will stick with me forever.

## V. Conclusion

According to the AACSB, business schools are to foster “awareness, understanding, acceptance and respect of, diverse viewpoints among participants related to current and emerging corporate social responsibility issues”<sup>91</sup> and should do so in a safe and supportive environment.<sup>92</sup> Based on the informal feedback, it appears that *The Court Experience* project may improve student understanding of diverse perspectives.<sup>93</sup> This may occur as the students critically examine the cases, each from a different perspective and then exchange divergent views in a civil, open and frank exchange.<sup>94</sup> The responses indicate that students may find that the activity engages a variety of their thinking skills, including strategic thinking, creative thinking, holistic thinking and reflective thinking. In this instructor’s opinion, this may be due to the variety of roles and responsibilities they simulate as they create reports, strategize on which witness they should be, develop legal arguments, create news reports, develop jury instructions, read the cases from different lenses based on their role and hear other classmates express their views.<sup>95</sup>

From an instructor’s perspective, the students’ preparation, participation, performance, enthusiasm and growth has been awe-inspiring. The students have embraced the civil discourse framework and do indeed listen attentively, consider others’ points of view, speak up respectfully with meaningful contributions and engage in the civil exchange of divergent ideas.<sup>96</sup> While some students are nervous during the first simulation, others will dive into their role, leading the way for other students and helping them to feel more at ease.<sup>97</sup> As the semester progresses with multiple simulations, students move farther beyond their comfort zones to confidently and articulately express their points of view using reasoning skills and legal terminology. The students tend to use fewer conclusory statements and back up their statements with facts. In both their written statements and oral discussions, the students generally improve in their ability to articulate the legal elements of a claim and to apply the facts to reach legal conclusions. Because every single student has a role in every simulation, students seem to recognize early in the semester that they need to come prepared. This makes the class time much more productive. Importantly, student enthusiasm grows throughout the semester as they seem more confident in role playing and in their legal knowledge, analytical abilities and communication skills.

*The Court Experience* meets the four essential criteria of a constructivist teaching activity.<sup>98</sup> In addition, the simulation’s design meets the goals and attributes of a constructivist classroom by exposing students to varied perspectives, stimulating the students to view issues through multiple lenses and encouraging the students to engage and take ownership in the learning process.<sup>99</sup> The simulation engages the learner through active

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<sup>91</sup> AACSB ELIGIBILITY PROCEDURES, *supra* note 38, at 7.

<sup>92</sup> *See id.*

<sup>93</sup> *See supra* Part IV B.

<sup>94</sup> The students’ ability to engage in civil discourse is evidenced by their written reflections and self-assessment grading forms completed at the end of each simulation. *See supra* Part III B.

<sup>95</sup> *See supra* Part IV B.

<sup>96</sup> These skills relate to civil discourse as defined in Part II herein. In Fall 2018, I began asking students to state specifically what skills they were working on and which ones they demonstrated during the simulation. Students reflections emphasized the civil discourse skills of listening to others and critically considering the evidence (e.g. Listening to every detail; Respectfulness; Listening to other members of the jury opinions and taking them under consideration; Ability to comprehend and critically think about heavy content; Listening critically to other’s points and making use of them; Voicing my opinion and stated unpopular opinions; Listening to the facts before jumping to conclusions about the case).

<sup>97</sup> It is important for the instructor to be encouraging to the students who are extremely nervous. It is helpful to let students know that they will be assessed from their own starting point, and not compared to others.

<sup>98</sup> *See supra* Part II. *The Court Experience* meets the four essential criteria of constructivist teaching proposed by Baviskar, Hartle and Whitney in this instructor’s analysis as follows: First, the instructor discovers the students’ existing knowledge from their written statements prepared before class and the oral statements delivered in class. (In the undergraduate courses, existing knowledge is also assessed before the simulation by means of online quizzes). Second, cognitive dissonance arises (a) during the simulations, when the students hear each other’s statements and recognize that their understanding is different or lacking; (b) when the reporters and instructor pose questions and students recognize that they did not read the facts closely or when they need to apply their knowledge in a new way to address the question; (c) after the student jury returns its verdict and it is compared to additional evidence in the real case; and (d) during the debrief sessions when students gain insight into the nuances of the legal rule and what legal arguments make the best case for each party. Third, application with feedback occurs through (a) explanations by the instructor during the debrief sessions; (b) student responses of how they will apply what they have learned to new situations and other classmates share their insights; (c) grading by the instructor on the student’s preparation, participation and performance; and (d) exams after the simulations that test students on their understanding of *The Court Experience* cases. Finally, the fourth criterion is satisfied by written reflections and self-assessments at the end of class.

<sup>99</sup> *See Willey & Burke, supra* Part II.

participation -- every student must participate in a role in every court simulation. The simulation engages the senses:<sup>100</sup> Students rise when as judges enter the room; attorneys and witnesses come to the podium to read their statements; and jurors adjourn outside of the classroom to deliberate. In addition, the experience engages students to consider multiple perspectives by reading actual cases, preparing written statements before the class, and then rotating through each role. During the simulation, jurors must listen intently to multiple perspectives and then evaluate the evidence to determine the verdict. Ultimately, *The Court Experience* is a social activity<sup>101</sup> in which every student in the room participates. There is no sitting on the side.<sup>102</sup>

Altogether, the informal evidence suggests that students may find this activity to be motivating and valuable. *The Court Experience* may aid students in grasping the “big picture” of how business, law and ethics are interrelated. Students may gain more confidence in their decision-making ability and communication skills. Perhaps best of all, students may take ownership in learning more about the law, all of which conforms to the constructivist view of learning<sup>103</sup> and the preparation of graduates for the future of work.

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<sup>100</sup> See Willey & Burke, *supra* note 37, at 5.

<sup>101</sup> See Willey & Burke, *supra* note 37, at 7.

<sup>102</sup> If a student comes unprepared, I give a one-time pass if to participate in the jury role for partial credit. The student must then switch out of the juror role on another case so that they experience all roles.

<sup>103</sup> See *supra* Part II.

**Appendices**

**Appendix A: Instructor Guide**

**A1: Preparation Notes**

**A2: Grading Rubric for Self-Assessment and for Instructor**

**A3: In-Class Grading Form for Report Statements**

**Appendix B: Student Materials**

**B1: *The Court Experience* Instructions**

**B2: Sample Cases and Rotation**

## **Appendix A: Instructor Guide**

### **A1: Preparation Notes**

#### **1. Prior to the Semester: Select Cases; Establish Dates for the Simulations and Timing**

Decide how many simulations you will conduct and which topics you will highlight. For example, I select cases to illustrate concepts in:

1. Constitutional law
2. Administrative law
3. Criminal law
4. International law
5. Negligence and Defenses
6. Strict Product Liability
7. Employment and Social Media Policies
8. Business Entities

Pick your cases and the dates for the simulations. I try to use cases from the textbook, unless there is a case that better illustrates the points I want to cover. The sample course outline in Appendix B2 includes representative cases that I have successfully used in my Legal Environment of Business class.

Decide how much time you can allot to each simulation and to each student based on the number of minutes in your class and the number of students. For example, I have approximately twenty-five students in an 85-minute class period. This allows time to conduct a brief lecture and overview of the case prior to the simulation.

#### **2. Beginning of the Semester:**

Give a brief overview of the project on the first day. Define civil discourse and the student code of conduct expected of every student. Explain the project and the instructions in more detail early in the semester. Refer to the Sample Course Outline for a suggestion.

Assign students to a group number. This is for purposes of rotating roles. Each student works individually to complete his or her reports (although the instructor may decide to allow team work on the jury instructions). Students will rotate through each of the following roles:

- **Attorney**: The student must write and deliver a **Closing Statement** to address the jury on behalf of his or her assigned party. The closing statements are limited to one minute. Therefore, student attorneys must strategically decide how to utilize their one-minute limit to summarize the key facts and issues and to draw one to two ultimate conclusions.
- **Client or Witness**: In this role, a student is assigned to one side and then picks or creates their own witness. The objective is to present facts based on the role the student selects based on the evidence presented in the case and reasonable inferences. The student writes and delivers a **Client/Witness Impact Statement**.
- **Legal Reporter**: In the role of legal reporter, a student prepares a **News Report** objectively assessing the facts, issues, and legal rules and writes out probing questions to ask the clients, witnesses and attorneys while the jury is deliberating.

- **Trial Judge**: The trial judge role is one of the most demanding roles and facilitates a student's critical thinking skills to identify the issues and the elements of each claim. The judge writes **Jury Instructions and Special Interrogatories** to give to the jurors.
- **Member of the Public**: These students represent people or organizations who are interested in the case and who attend the trial to give an **Informed Opinion Statement** based on evidence in the case and from the trial.
- **Juror**: Student jurors must not read the case before the simulation because they must remain objective for the trial simulation. After the witness statements, closing arguments and trial judge instructions, the jury is adjourned to deliberate and render a verdict.

### **3. On the dates of the Simulations, Set up the Classroom:**

The simulations can take place in your regular classroom. Type a sign for each role (Attorneys for the Plaintiff, Attorneys for the Defendant, Client/Witnesses for the Plaintiff, Client/Witnesses for the Defendant, Legal Reporters, Members of the Public, Jurors). Tape the signs in designated areas for each role counting the chairs needed for each role. If desired, find a picture of a courtroom scene to display on the overhead screen or PowerPoint slide.

For the last simulation, the instructor should consider a special room. Designate this simulation as a special capstone event. If possible, bring or have the students bring robes for the judges to wear. Allow the students to vote for best overall performance among their peers and most improved.

#### 4. Order of the Simulation:

There are four stages in *The Court Experience*: (1) Overview, (2) Trial, (3) Group Summary, and (4) Individual Reflections. The instructor serves as Marshal to call the court session to order and to call each student by role to the make his or her statement. The instructor times and grades the oral reports on the rubric. It is important for the instructor to keep the simulation moving to stay within the time limits. In a class of eighty-five (85) minutes with approximately twenty-five (25) students, the steps and timing occur as follows:

<b><i>The Court Experience Stages and Time Allotment</i></b>		
<b>Stage</b>	<b>Activities</b>	<b>Time Allotment</b>
I. Overview	Instructor's Lecture and Introduction of the Case	25 minutes
II. Trial	<p>Trial Opening</p> <p>Call the court to session with the entrance of the student judges using a chant based on the traditional chant of the U.S. Supreme Court:</p> <p style="padding-left: 40px;">The Honorable Judges of the Court of the United States. Oyez! Oyez! Oyez! All persons having business before the Honorable, the Court of the United States, are admonished to draw near and give their attention, for the Court is now sitting. God save the United States and this Honorable Court!</p> <p>Client and Witness Impact Statements Attorney Closing Statements Trial Judge Summary and Jury Instructions Jury Exits to Deliberate Legal Reporter News Updates and Questions Member of the Public Statements Jury Returns with Verdict Summary and Reflections</p>	35 minutes
III. Group Summary	<ul style="list-style-type: none"> <li>• Instructor prompts questions for students to review what the case was about,</li> <li>• The legal and ethical impact on business and society, and</li> <li>• What the case means to the students and how they can apply insights gained from the case.</li> </ul>	10 minutes
IV. Individual Reflections	<ul style="list-style-type: none"> <li>• Students complete the grading rubric with their own self-assessment and answer written reflection questions.</li> </ul>	10 minutes

If the class time is shorter or the number of students is greater, the instructor can move the lecture to a prior class or to an online video.

**A2: Student Self-Assessment and Instructor Grading Rubric for *The Court Experience***

Criteria	Points	Student or Instructor Comments
<p><b>PREPARATION Before Class:</b>                      Prerequisites (up to 33.3 points):</p> <ol style="list-style-type: none"> <li>1. I completed activities before class (read chapter, complete chapter quizzes).</li> <li>2. I prepared a Court Experience Outline following the instructions and thoroughly answering all questions.</li> </ol> <p>If prerequisites above are not met, then the instructor may not allow the student to present or participate in their assigned role.</p> <p><b>PARTICIPATION WITH PROFESSIONAL SKILLS AND ATTITUDE: (up to 33.3 points)</b></p> <ol style="list-style-type: none"> <li>1. I demonstrated a positive attitude, enthusiasm, knowledge, professionalism and good communication skills.</li> <li>2. I showed respect for everyone in the classroom (peers and instructors) by attentively listening when others had the floor, avoiding social media and other distractions during class, professionally acknowledging the opinions of others even if different from my own and speaking up with my perspective at appropriate times to meaningfully contribute to class.</li> <li>3. I demonstrated commitment to the values set forth in the university’s statement of standards and expectations... This includes honesty and integrity in preparing all work, respecting diversity of people and perspectives, engaging in the activities with active involvement and personal investment in the classroom and preparing for the activities and commitment to nonviolence with professional expression of ideas and using reason and persuasion to discuss and resolve differences.</li> </ol> <p><b>PERFORMANCE: (up to 33.3 points)</b></p> <ol style="list-style-type: none"> <li>1. I delivered a well-prepared, logical statement for my assigned role, completing all requirements of my role. I spoke clearly to make my points. I made my important points within the time limit. I demonstrated an excellent understanding of the case. For example, as the client, I clearly understood and could persuasively articulate supporting facts and the impact of this case on me. As reporter, I could objectively explain the legal issues and summarize the facts from both the plaintiff’s and the defendant’s perspectives. As attorney, I could persuasively describe how the facts applied to the issues and how the jury should find for my client. As trial judge, I could accurately instruct the jury as to the law and how it applied in this case. As a juror or member of the public, I respectfully listened to the arguments and seriously considered the trial judge’s instruction to formulate an informed decision.</li> </ol>		
<p><b>Student Self-Assessment: Total Score (out of 100):</b></p>		
<p><b>Instructor Assessment: Total Score (out of 100)</b></p>		

**A3: In-Class Grading Form for Performance during Simulation**

**Name of Case Simulation:**

**Grading Rubric for Student Performance During the Simulation (counts 33.3 points):**

Student Name	Student Role	Within Time Limit (+/- 15 secs) (3 points)	Dressed Appropriately (3 points)	Met Role Requirements* (27.3 points)	Total Points
Student 1					
Student 2					
Student 3					
Student 4					
Student 5					
Student 6					
Student 7					
Student 8					
Student 9					
Student 10					
Student 11					
Student 12					
Student 13					
Student 14					
Student 15					
Student 16					
Student 17					
Student 18					
Student 19					
Student 20					
Student 21					
Student 22					
Student 23					
Student 24					
Student 25					
Student 26					
Student 27					
Student 28					
Student 29					
Student 30					

\* Highlights of requirements for roles are as follows:

**Client/Witness:** Understood and persuasively articulated supporting facts and the impact of this case on the role being played.

**Reporter:** Objectively explained the legal issues and summarized the facts from both the plaintiff's and the defendant's perspectives. Prepared and asked probing questions.

**Attorney:** Prepared a persuasive closing argument.

**Judge:** Accurately instructed the jury as to the law and how it is to be applied in this case.

**Member of Public:** Articulated an informed opinion based on evidence.

**Juror:** Respectfully listened to the arguments and seriously considered the trial judge's instruction to decision. Deliberated with the other jurors to reach a verdict.

## **B1: Sample Court Experience Instructions**

### **INSTRUCTIONS FOR THE COURT EXPERIENCE**

This experiential Legal Environment of Business course offers several opportunities for you to experience the application of the law to business through simulations, role plays and case studies. The objectives of this project are to

- (1) Read and analyze legal cases involving legal concepts related to this course.
- (2) Enhance written and oral communication skills in a civil exchange of ideas using persuasive, creative and objective forms of communication.
- (3) Explore legal and ethical issues from differing perspectives (judge, attorney for the plaintiff, attorney for the defendant, legal reporter, or member of the public affected by the decision) to gain an understanding of the civil and court system and to gain insights into how your role shapes your work and your perspective. The idea is to get you to exercise your brain, diligence and creativity to develop skills that will facilitate your career development!

You are responsible to make sure you know your due dates.

ALL WORK MUST BE YOUR OWN. YOU MAY DISCUSS YOUR ASSIGNMENTS WITH OTHERS, BUT YOU WILL BE GRADED INDIVIDUALLY AND CANNOT SHARE YOUR WRITTEN WORK. ALL WRITTEN WORK MUST BE IN YOUR OWN WORDS; NO CUTTING AND PASTING FROM THE CASE OR FROM ANY OTHER SOURCE (except for a small number of short quotes which you designate as such using quotations)

**Make-Up and Excused Absences:** Refer to the Make-up Policy in the Syllabus.

General Ground Rules: You will be assigned to a group for purposes of assigning roles in eight (8) cases. Even though you are in a group, the work is to be YOUR OWN and you are graded INDIVIDUALLY. For each case: You must be prepared to play your role in the assigned case on *The Court Experience*. **I want you to have FUN as you begin to read and study the cases and then prepare for your role. This means you will need to be thoroughly prepared by following the instructions below:**

#### **Case Assignments:**

- A. **Read** each assigned chapter and assigned case, as indicated in the Course Outline. For each chapter assignment  
1. Complete all MindTap activities. 2. Locate the assigned case on WestLaw (see instructions below) and read the official court opinion to determine the facts and legal issues relevant to the topic the class is studying in that chapter. 3. Prepare your Court Experience Outline before class. 3. Participate throughout class with various instructor-designed activities and in *The Court Experience* (in class) in your assigned role.
- B. **Groups:** You will be assigned to a Group: G1- G8. Each group will rotate through the assigned roles.

**Roles:** Roles within the groups will be as follows

- (1) Attorney for 1<sup>st</sup> Party
- (2) Attorney for 2<sup>nd</sup> Party
- (3) Client (or witness or affected party) (pick one) for 1<sup>st</sup> Party
- (4) Client (or witness or affected party) (pick one) for 2<sup>nd</sup> Party
- (5) Reporter
- (6) Trial Judge
- (7) Member of the Public (read case before class)
- (8) Juror (do not read the case before class)

- C. **First Party v. Second Party:** For our purposes, I (the instructor) refer to the first party and second party instead of the plaintiff and defendant. This is because you cannot always tell who the plaintiff is from the title of the case (some appellate courts reverse the names and put the appellant party as the first name in the case). Therefore, when I refer to the 1<sup>st</sup> party, I am referring to the name to the left of the “v.” and the 2<sup>nd</sup> party is the name to the right of the “v.” in the case name. For example, if the case is Smith v. Jones, then Smith is the 1<sup>st</sup> Party and Jones is the 2<sup>nd</sup> Party. If there is only one name – e.g. In re O’Brien – then the name in the title will be the 1<sup>st</sup> party; you will have to search the opinion to find the name of the opposing party, who will be the 2<sup>nd</sup> party for our purposes.
- D. **Rotation/ Due Dates:** Your role is assigned based on your group. Each person in each group is assigned the roles as follows on the dates provided on Course Outline. NOTE: this outline may change from time to time, so you are responsible for coming to class for announcement and checking the Course Outline frequently for updates as posted on D2L. Figure out your due dates for your roles. It is your responsibility to get assigned to a group. If you are not in class (or your name is not posted on D2L) when I make the assignments, it is your responsibility to notify me immediately to get your assignment. If you miss the due date for your assignment, it will result in a zero for the assignment. Again, if your name is not on the assignment/ group sheet, it is your responsibility to notify me immediately to get your assignment.
- E. **Individual Grade:** Even though you are assigned to a group, this is an INDIVIDUAL project. Your work must be your own. Your participation in the interactive lecture activities and your participation in *The Court Experience* (in class) are graded individually.

## **Preparation**

### **A. Prepare Your Court Experience Outline for each case BEFORE CLASS:**

1. You must prepare and show a hard copy print out of your Court Experience Outline (see B. below) for each assigned case at the beginning of class BEFORE you will be able to present or participate in trial scheduled for that class. Your Court Experience outline must be written in your own words. You must ALSO upload this to the Dropbox PRIOR to class. Preparing your Court Experience Outline.
- **Attorney for 1<sup>st</sup> Party and Attorney for 2<sup>nd</sup> Party:** This is one of the most challenging roles. You need to read the case thoroughly to understand both the facts and the LEGAL arguments. You will be writing and delivering a **Closing Statement** to address the jury on behalf of your party. You also need to be prepared to answer questions from reporters and the instructor.
    - ✓ To prepare, look up the FULL version of the case in WestlawNext Campus research – an online database available on the library website. Use the citation from the case to retrieve the correct case. (For example, to find Reider v. State ex rel. Louisiana Bd. of Trustees for State Colleges, type in the following in the search box: **897 So.2d 893** and then press enter.)
    - ✓ The cases in Westlaw will typically cover several other legal issues raised on appeal. Just scan the other legal issues to discuss in class. Read carefully to understand all relevant LEGAL CLAIMS made by the plaintiff.
    - ✓ Draft: Prepare a draft of your closing statements. Your draft will not be uploaded to D2L.
    - ✓ Closing statements will be limited to ONE minute. The statement should be a minimum of 55 seconds. The ABA article suggests the closing be limited to 1 to 5 ultimate conclusions. For our purposes, you will probably need to limit yourself to 1 -2 ultimate conclusions to fit within our

one-minute time limit. Use the minimum, but do NOT go over the maximum. It is best to fill all of the ONE minute with HELPFUL conclusions.

- ✓ PRACTICE with a timer. Revise your Closing Statements as many as times as necessary so that you can deliver it in **ONE minute**.
- ✓ COMPLETE THE COURT EXPERIENCE OUTLINE in format below to include your **CLOSING STATEMENT**: Type your final version of your Closing Statement and answer the other questions on *The Court Experience* Outline. Upload to the dropbox before class. Print a hard copy to bring to class.
- **Client (or witness or party impacted) for 1<sup>st</sup> Party or Client for 2<sup>nd</sup> Party**: You will be assigned to either the first party or second party. For your assigned party, pick any witness or client in the case for your side and take on the role of that person. You may also choose to be a business or trade association which will be significantly impacted by the decision. Your objective is to present FACTS based on the role you are in to support the SIDE you are on, and to present the impact that winning for you side or losing on your side will have on YOU, based on the evidence presented in the case or based on facts you discover. You will be writing and delivering a **Client/ Witness/ Affected Party Evidence Impact Statement**. You will also need to be prepared to answer questions asked by reporters.

As an example of selecting your role, if the case assigned was Case 5.1 *Family Winemakers of California v. Jenkins*, and you were assigned to the 1<sup>st</sup> party, you could choose to be *Family Winemakers of California*. You could also choose to be another party impacted by this decision, such as another out-of-state winery that would be discriminated against. If you are representing Jenkins, then you would be representing the chair of the Massachusetts Alcoholic Beverages Control Commission (see footnote a. to the case on p. 103). Consider the evidence that the commission argued. You could also choose to be an owner of a store, tavern, restaurant or bar, or to be a wholesaler if you can state facts to support Jenkins and how it will impact your business.

Whichever role you choose, be sure to FIND and identify which facts best support the side you are on and the impact that winning or losing will have on you.

- ✓ Read the case excerpt from the textbook thoroughly.
- ✓ Pick your role. Find information about your business/person to support your role. Consider the impact this case will have on you. Find supporting facts.
- ✓ Draft: Prepare a draft of your evidence, in a light most favorable to the side you want to win. Write up the impact the case will have on you if your side wins. Write up the impact if your side loses.
- ✓ Your Evidence and Impact Statement will be limited to **ONE minute**. Try to use the full ONE minute, but do not go over. Practice with a timer. Revise your statement as necessary.
- ✓ COMPLETE THE COURT EXPERIENCE OUTLINE in format below to include your **CLIENT/WITNESS/AFFECTED PARTY IMPACT STATEMENT**: Type your final version of your statement and answer the other questions on *The Court Experience Outline*. Upload to the dropbox before class. Print a hard copy to bring to class.

- **LEGAL Reporter:** If you are a legal reporter, you need to read the case thoroughly to understand both the facts and the LEGAL arguments. You will be preparing a **News Report**. You will also prepare questions to ask the attorneys and parties to probe for deeper understanding.
  - ✓ To prepare, look up the FULL version of the case in Westlaw Next Campus research – an online database available on the library website. Use the citation from the case to retrieve the correct case. (For example, to find *Reider v. State ex rel. Louisiana Bd. of Trustees for State Colleges*, type in the following in the search box: **897 So.2d 893** and then press enter.)
  - ✓ Focus on the facts and the legal issue(s), court reasoning and outcome **pertinent to the assigned case in your textbook or posted on D2L**. The cases in Westlaw will typically cover several other legal issues raised on appeal. Just scan the other legal issues to discuss in class. Read carefully to understand all of relevant LEGAL CLAIMS made by the plaintiff. Then you need to figure out all of the legal elements the plaintiff must prove in order to win.
  - ✓ Next, figure out the legal rule that the judges applied in the actual case.
  - ✓ Next, apply the facts to the legal rule to come to an objective and informed preliminary conclusion as to who has the stronger case and the issues each party will face.
  - ✓ Draft a **ONE** minute News Report and practice delivering it with a timer. Try to use the full ONE minute, but do not go over. Revise as necessary. Your report should be from an objective viewpoint (not favoring one side or the other).
  - ✓ You also need to write probing questions to ask the client/witnesses/parties impacted and to ask the attorneys. Your questions need to show that you have a deep understanding of both the FACTS and the LEGAL ISSUES.
  - ✓ COMPLETE THE COURT EXPERIENCE OUTLINE in format below to include your **NEWS REPORT**: Type your final version of your report and questions for attorneys and affected parties. Answer the other questions on *The Court Experience* Outline. Upload to the dropbox before class. Print a hard copy to bring to class. .
- **Trial Judge:** If you are a trial judge, you need to read the case thoroughly to understand the legal claims and EACH and EVERY element required for each claim. This is one of the most challenging roles. You will be writing up and delivering **Jury Instructions** and you will be preparing a **Special Interrogatories to the Jury Form** for the jury.
  - ✓ To prepare, look at pages 121-131 of the 11<sup>th</sup> Circuit’s Civil Pattern Jury Instructions at the following link:  
  
<http://www.ca11.uscourts.gov/sites/default/files/courtdocs/clk/FormCivilPatternJuryInstruction.pdf>  
  
(The pages are the pages of the 11<sup>th</sup> Circuit booklet, not pages on your screen). This is a SAMPLE of a Title VII harassment by supervisor claim. You will be creating jury instructions for your assigned case based on a different legal claim. You will have to figure out the appropriate jury instructions.
  - ✓ In order to create jury instructions, look up the FULL version of the case in Westlaw Next Campus research – an online database available on the library website. Use the citation from

the case to retrieve the correct case. (For example, to find *Reider v. State ex rel. Louisiana Bd. of Trustees for State Colleges*, type in the following in the search box: **897 So.2d 893** and then press enter.)

- ✓ Focus on the legal issue(s) **pertinent to the assigned case in your textbook or on D2L**. The cases in Westlaw will typically cover several other legal issues raised on appeal. Read carefully to understand the legal claim (or claims) pointed out in the case in the textbook made by the plaintiff. Then you need to figure out all of the legal elements the plaintiff must prove in order to win by reading the full case.
- ✓ Draft a **ONE** minute “instruction” to the jury. This is the jury instruction where you explain the legal issue, and then you will describe every element that the plaintiff must prove in order to prevail. If the defendant has an affirmative defense, also describe all of the elements the defendant must prove in order to successfully assert the defense. You will then create a **SPECIAL VERDICT FORM** for the foreperson to complete to answer the questions.
- ✓ Practice your charges with a timer. If the instructions are too long, then delete any part about damages to keep your instruction within ONE minute. Revise your draft as necessary and practice until your timing is within the time limit
- ✓ Prepare a Special Interrogatories to the Jury Form to give to the jury. Look at the sample for the 11<sup>th</sup> circuit, PAGES 128-131.
- ✓ **COMPLETE THE COURT EXPERIENCE OUTLINE** in format below to include your final version of the **JURY INSTRUCTIONS** that you will read and to include the **SPECIAL INTERROGATORIES TO THE JURY** that you will give to the jury. Also, type your answers the other questions on *The Court Experience Outline*. Upload to the dropbox before class. Print a hard copy to bring to class.
- **Member of the Public (read case before class)**: Read the case before class to gain a basic understanding of the facts and legal issues.
  - ✓ Read the assigned case from the abstract of the case in the textbook.
  - ✓ Form your preliminary opinion but remain open to changing your view when you listen to the evidence and arguments during the simulation.
  - ✓ Complete *The Court Experience Outline* and your preliminary **Informed Opinion Statement**. Upload to the dropbox before class. Print a hard copy to bring to class.
  - ✓ Bring a copy of your opinion to class. During class, listen to the evidence and arguments presented. Consider whether your opinion has changed. During the recess you will deliver your opinion. State any changes to your opinion based on the evidence and arguments presented and discuss why your view has changed.
  - ✓ **Juror (do not read the case before class). DO read the chapter and complete MindTap but** Do NOT read the case before class. Remain open and objective as you listen to the attorneys, clients and witnesses in class. AFTER THE SIMULATION, you must read the case and then complete the Court Experience Outline, typing up your analysis. Upload to the dropbox before class.

## B. Court Experience Outline

**Court Experience Outline Name:** \_\_\_\_\_

- **Copy the questions below and answer all of the questions applicable to your role.**
- **Save your outline as a Word file and name it with your name and the chapter number. YOU MUST UPLOAD your COMPLETED OUTLINE BEFORE CLASS in the Dropbox for the applicable Court Experience, unless you are juror. Jurors must upload the outline within 24 hours after the simulation.**
- **Unless you are a juror, print out a copy and bring it to class in order to participate.**

Note: Preparation before class and this outline counts up to 33.3 points. Grading of this outline is based on the instructor's overall assessment of your answers. Answer the following questions:

1. Case Name:
2. Your Assigned Role (highlight one): Attorney for 1<sup>st</sup> Party; Attorney for 2<sup>nd</sup> Party; Client/ Witness/Affected Party for 1<sup>st</sup> Party; Client/ Witness/Affected Party for 2<sup>nd</sup> Party; Reporter; Trial Judge; Member of the Public; or Juror
3. If you are the client/ witness/ or Affected Party: Name the client, witness, or party impacted by the case that you have selected and describe this person or business.
4. Did you read the assigned case and complete MindTap activities for the chapter before class?
5. If you are an attorney, judge, or legal reporter, did you find and read the full version of the case
6. Have you had a personal experience under similar facts? If so, please share. If not, share how you can apply this case to your future career.
7. YOUR STATEMENT prepared before class\*:

**\*Attorneys:** Type your **Closing Statement**. Include facts, legal arguments, social policy and ethical principles would support a ruling for your client. **Clients/Witness/Party Impacted:** Type your **Evidence and Impact Statement**. Describe who you are and the facts as they relate to you. Also, describe the impact the outcome had or will have on you. Include facts, legal arguments, social policy and ethical principles would support a ruling for your client. **Trial Judges:** Type your **Jury Instructions and the Special Interrogatories to the Jury Form**. Your instructions should describe each legal claim relevant to our chapter. For each claim, describe each of the elements that the plaintiff has to prove for each claim. If the defendant has an affirmative defense, list each element the defendant must prove to prevail on the defense. The instructions should be in words the jurors can understand. The Special Verdict form should have boxes to check, as in the sample for the 11<sup>th</sup> circuit discussed above. **Legal Reporters:** Type your **News Report and Questions**. Describe the legal claims, the facts according to the plaintiff, and the facts according to the defendant. Describe additional facts from the full version of the case. Point out the facts that you believe may have made a difference in the outcome of the case. Also, list at least 3 questions you want to ask each party and the attorneys. **Members of the Public:** State who you believe **should have won and why** based on what you have read thus far in the textbook and from the case. **Jurors:** after the simulation, write up your analysis of why you deciding the way you did.

C. **In-class discussions and appropriate courtroom appearance for *The Court Experience*:**

1. Have fun thinking through the issues and how you can best represent your role
2. Do NOT read word for word from your Outline but you may have it with you for reference
3. **YOU MUST SPEAK TO GET POINTS. YOU WILL NOT GET POINTS FROM OTHER STUDENTS IN YOUR GROUP.**
4. In other words, your ability to speak clearly, persuasively and truthfully during both your summary and any questioning phase of the class is a major factor in earning your grade for this part.
5. **Appearance.** Business casual attire is required when you are the attorney or judge. Business casual (long pants, dress, or skirt, nice collared shirt or blouse) is sufficient for our purposes. (Hats, shorts, blue jeans and low cut shirts are not considered business casual.)

6. **Bring to class and Be Prepared:**

✓ **Your Court Experience Outline.** The outline is for reference only; you need to fully understand the facts, legal issues (that are pertinent to the textbook chapter), outcome and court reasoning for your case. Also, be prepared to go in depth in the discussion of the case. You also need to be prepared to make persuasive LEGAL arguments for your client.

✓ **Arrive to class on time. You will not be able to reschedule if you are late for class.** You must do both the in-class interactions/ appearances PLUS the written Outline PLUS MindTap before class to get credit.

✓ **DO NOT READ EVERY WORD OF YOUR OUTLINE.** Presentations and discussions are boring if you read word for word. You will be marked down **1-2 letter** grades if you read most of your outline. Give us some spark and energy to help make the class enjoyable and keep us alert! We are also time limited. So make sure you can make in your time key points limit.

D. **Class Format.** The instructor will determine the class format and this may change from time to time. It also depends on how many students are in each role.

**Due to time constraints or unexpected interruptions, it is possible that** we have to cut the time during class for the one minute talks. ***If this occurs, the students who are not able to perform or whose time is limited will not be penalized. The instructor may ask the students to perform this role in another class or may choose to double count the preparation or the participation grade as the performance grade.***

**The format will be fluid and may change in *The Court Experience* sessions.** As a very general guide, the class format for the classes with a Court Experience may follow a timeline and format similar to the following:

- (1) Announcements/ General Questions/ News Updates – 5 minutes
- (2) Lecture: 20 minutes
- (3) Trial Opening (statement to be provided by the Instructor) – 3 minutes
- (4) Client/ Witness/ Affected Party Statements: 7 minutes
- (5) Attorney Closing Statements – 7 minutes
- (6) Trial Judges – Instructions to the Jury – 7 minutes
- (7) Reporter Summaries and Questions for Attorneys/ Clients/ Witnesses (while Jury Deliberates outside the room) – 7 minutes
- (8) Member of the Public - 7 minutes
- (9) Jury Verdict – 2 minutes
- (10) Debrief and Summary – 10 minutes
- (11) Reflections – 10 minutes



**B2: Sample Cases and Rotation**

<b>Sample Cases and Rotation for <i>The Court Experience</i></b>
<p><b>Simulation 1:</b> <i>Bad Frog Brewery, Inc. v. New York State Liquor Authority*</i></p> <p>Group 1: Attorney for Plaintiff Group 2: Attorney for Defendant Group 3: Client/Witness Affected Party (pick one) for Plaintiff Group 4: Client/Witness Affected Party (pick one) for Defendant Group 5: Reporter Group 6: Trial Judge Group 7: Member of the Public Group 8: Juror (do not read the case before class)</p>
<p><b>Simulation 2:</b> <i>Craker v. Drug Enforcement Administration*</i></p> <p>Group 7: Attorney for Plaintiff Group 8: Attorney for Defendant Group 1: Client/Witness Affected Party (pick one) for Plaintiff Group 2: Client/Witness Affected Party (pick one) for Defendant Group 3: Reporter Group 4: Trial Judge Group 5: Member of the Public Group 6: Juror (do not read the case before class)</p>
<p><b>Simulation 3:</b> <i>U.S. v. Hanousek*</i></p> <p>Group 5: Attorney for Plaintiff Group 6: Attorney for Defendant Group 7: Client/Witness Affected Party (pick one) for Plaintiff Group 8: Client/Witness Affected Party (pick one) for Defendant Group 1: Reporter Group 2: Trial Judge Group 3: Member of the Public Group 4: Juror (do not read the case before class)</p>
<p><b>Simulation 4:</b> <i>Linde v. Arab Bank, PLC*</i></p> <p>Group 3: Attorney for Plaintiff Group 4: Attorney for Defendant Group 5: Client/Witness Affected Party (pick one) for Plaintiff Group 6: Client/Witness Affected Party (pick one) for Defendant Group 7: Reporter Group 8: Trial Judge Group 1: Member of the Public Group 2: Juror (do not read the case before class)</p>
<p><b>Simulation 5:</b> <i>Taylor v. Baseball Club of Seattle, L.P.*</i></p> <p>Group 2: Attorney for Plaintiff Group 1: Attorney for Defendant Group 4: Client/Witness Affected Party (pick one) for Plaintiff Group 3: Client/Witness Affected Party (pick one) for Defendant</p>

Group 6: Reporter  
Group 5: Trial Judge  
Group 8: Member of the Public  
Group 7: Juror (do not read the case before class)

**Simulation 6:** *Wilson Sporting Goods Co. v. Hickox\**

Group 8: Attorney for Plaintiff  
Group 7: Attorney for Defendant  
Group 2: Client/Witness Affected Party (pick one) for Plaintiff  
Group 1: Client/Witness Affected Party (pick one) for Defendant  
Group 4: Reporter  
Group 3: Trial Judge  
Group 6: Member of the Public  
Group 5: Juror (do not read the case before class)

**Simulation 7:** *Munroe v. Central Bucks School District\**

Group 6: Attorney for Plaintiff  
Group 5: Attorney for Defendant  
Group 8: Client/Witness Affected Party (pick one) for Plaintiff  
Group 7: Client/Witness Affected Party (pick one) for Defendant  
Group 2: Reporter  
Group 1: Trial Judge  
Group 4: Member of the Public  
Group 3: Juror (do not read case before class)

**Simulation 8:** *Holiday Inn Franchising, Inc. v. Hotel Associates, Inc.\**

Group 4: Attorney for Plaintiff  
Group 3: Attorney for Defendant  
Group 6: Client/Witness Affected Party (pick one) for Plaintiff  
Group 5: Client/Witness Affected Party (pick one) for Defendant  
Group 8: Reporter  
Group 7: Trial Judge  
Group 2: Member of the Public  
Group 1: Juror (do not read the case before class)

\* Read the textbook to find the case and its citation. Then search in Westlaw to find the full case.

**B3: EXAMPLE of Special Interrogatories to the Jury (Fraud claim) based on Sample Case: Holiday Inn Franchising, Inc. v. Hotel Assocs., Inc., 2011 Ark. App. 147, 382 S.W.3d 6.**

**SPECIAL INTERROGATORIES TO THE JURY**

Do you find from a preponderance of the evidence:

1. That Holiday Inn Franchising, Inc. had a duty to disclose to Hotel Associate's, Inc. the "Aden Plan" to grant a license to a competing hotel at the end of Hotel Associate, Inc.'s initial franchise licensing term, instead of re-licensing with Hotel Associate's, Inc.?

Answer Yes or No

\_\_\_\_\_

If your answer is "No," this ends your deliberations, and your foreperson should sign and date the last page of this verdict form. If your answer is "Yes," go to the next question.

2. That Holiday Inn Franchising, Inc. or any of its agents failed to disclose the Aden Plan to J.O. "Buddy" House or to any agent of Hotel Associates, Inc.?

Answer Yes or No

\_\_\_\_\_

If your answer is "No," this ends your deliberations, and your foreperson should sign and date the last page of this verdict form. If your answer is "Yes," go to the next question.

3. That Hotel Associates, Inc. suffered damages because of the failure of Holiday Inn Franchising, Inc. to disclose the "Aden Plan"?

Answer Yes or No

\_\_\_\_\_

If your answer is "No," this ends your deliberations, and your foreperson should sign and date the last page of this verdict form. If your answer is "Yes," go to the next question.

4. That Hotel Associate's Inc. should be awarded compensatory damages?

Answer Yes or No

\_\_\_\_\_

If your answer is "Yes," in what amount?

\$ \_\_\_\_\_

If you did not award damages in response to Question No. 4, this ends your deliberations, and your foreperson should sign and date the last page of this verdict form. If you awarded damages in response to Question No. 4, go to the next question.

5. That punitive damages should be assessed against Holiday Inn Franchising, Inc.?

Answer Yes or No

\_\_\_\_\_

If your answer is "Yes," in what amount?

\$ \_\_\_\_\_

So Say We All.

\_\_\_\_\_  
Foreperson's Signature:

Date: \_\_\_\_\_