
EASY ASSIGNMENT TO PROMOTE LAW STUDENTS' APPRENTICESHIP OF IDENTITY

FEBRUARY 7, 2016 | JOHN LANDE | LEAVE A COMMENT

The 2007 Carnegie Report recommended that law schools promote an apprenticeship of professional identity as well as of knowledge and skills. This has always been a concern of mine because lawyers need a professional compass to help guide them through the vast range of types of legal matters, clients, services (e.g., litigation or transactional), among other factors affecting their professional work.

This is particularly a concern in the negotiation context where lawyers may use very different approaches. In the conventional wisdom of our field, we distinguish two general models with various names such as interest-based and positional. In practice, these concepts aren't used very much by lawyers, in part because they are incoherent. Lawyers actually vary more specific aspects of the process, such as (1) the extent to which they exchange offers, discuss interest and options, or focus on norms, (2) concern about the other side's interests, (3) efforts to create value, (4) level of friendliness, (5) use norms in particular ways, and (6) use power (or not).

This analysis of negotiation is particularly relevant for lawyers because so much of what they do is negotiation, which isn't limited to resolution of the ultimate issues at the end of a matter. Lawyers negotiate with many different people, including clients, service providers, and court personnel in addition to their counterpart lawyers. These negotiations start from the outset of a matter and involve procedural and relationship issues as well as the "substantive" issues. In essence, most legal matters are long series of negotiations.

All of this is to say that I consider my "Negotiation" course to be a "Lawyering" course.

This semester, I assigned students to review several law firm websites and write a homepage for the kind of practice that they would like to be part of. [Click here for the assignment](#), which you are welcome to use or adapt in your courses.

This assignment was designed to achieve several objectives and I was very pleased with the results. The ultimate objective was for students to imagine how they would like to practice law, i.e., conceive the professional identity they want. Having them study real law firms'

websites helped ground them in reality and see models that they might or might not want to emulate. Moreover, it helped them understand the legal marketplace and where they might fit in.

In class, I had students pair up, read each others' papers, and discuss them for a while. Then we reconvened to discuss what they learned. We started by talking about what they learned from reviewing law firm websites and they made a lot of insightful observations. Toward the end of this part of the discussion, students mentioned several law firms' websites, which I projected on the screen and we discussed. We had a good laugh at the website of the "[Texas Law Hawk](#)," a Fort Worth criminal defense attorney who is undoubtedly a disciple of Cynthia's philosophy. (Be sure to watch the commercials.)

Then we discussed students' webpage language. Not surprisingly, they followed the lead of the real websites in addressing potential clients with descriptions of how clients would benefit from hiring the students / lawyers. I cautioned that this is tricky because it creates client expectations that can be hard to meet. I said this language was somewhat like a contract offer. I noted that the most common remedies for dissatisfied clients would not be lawsuits or disciplinary complaints but rather firing lawyers, refusal to pay bills, refusal to hire the lawyers in other matters, and bad-mouthing to other potential clients.

Clark Cunningham has collected a lot of [empirical research showing that clients \(both individual and organizational\) often are frustrated with their lawyers](#). I told my students that when they do the multi-stage simulations later in the course, when they will have lawyer-client interactions over an extended period, many lawyers and their clients probably will feel very frustrated with each other. Teaching this to students is so important because discussion of the reality of lawyer-client relationships is absent from most of the law school curriculum.

After class, I compiled language from students' websites into a single document (without identifying which students wrote each excerpt) and emailed it to the class.

In sum, I think that this was a good, practical exercise that I think is very helpful for students to think concretely about the kind of lawyer that they want to be – and that doesn't require a lot of time outside of class for students or instructors.

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