

changes, draft a mark-up of proposed changes for review by the other side and negotiate the proposed changes. The second simulation involved the purchaser financing the acquisition.

The class was a weekly event of two and a half hours duration. The author was the principal instructor and was later assisted by two colleagues who played the role of clients. The goals for the course do not include communication of a substantive body of knowledge as it is of little use in corporate practice. Students were graded on their performance by a panel of three instructors and interim evaluations were made by the students themselves, their peers and the instructors. The assessment criteria were participation, contribution and performance.

The principal value gained by the students is the creation of an environment conducive to self-reflection and critique. Gratifyingly, the students appeared to view the course as a success.

Teaching law students how to practice law: a simulation course in pretrial practice

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45 *J Legal Educ* 4, December 1995, pp 513-529

Pretrial practice provides students with an opportunity to engage in all of the activities necessary to develop and prepare a case for trial in a law office setting. As most cases settle in real life, the emphasis of the course is on the quality of the preparation by counsel. Ferreting out facts and using the information available are

as important as presenting a polished argument in a court.

Simulations are more suited to the law school context than live clinics, as they are free from the anomalous and non-legal hiccoughs, such as whether the client will show up for an interview. In this simulation, the author has attempted to maintain the dynamics of representing a real client whilst minimising the inherent problems of clinical training.

The course includes the basic tasks that attorneys undertake in representing a client in a matter that may be litigated: interviewing clients; investigating facts; developing legal theories; establishing case strategies; preparing pleadings and pretrial motions; planning and engaging in discovery; counselling clients; and negotiating with opposing counsel. Professional responsibility issues that arise are dealt with if they emerge. However, the course is not structured to raise such issues.

The course divides a class of 24 students into 12 teams of two. Each pair of students form a firm and act for the plaintiff in one matter and the defendant in another. The same counsel oppose each other in both matters. The instructors act as senior partners. A text is assigned for the course but students are encouraged to find alternative resources.

There are three types of meeting. The class meets as a whole to discuss assignments or the next phase of the simulation. The second type of meeting is a split meeting of those acting for the plaintiff and those acting for the defendant. These are open

discussions which allow those firms which are not proceeding too well to catch up and understand the processes in an open discussion format. The third meeting involves each firm meeting with a senior partner. Here, the performance of the partners in the firm is critiqued and the status of their cases is discussed, as is the next step in the matter.

First-year law students appear as clients and a fictitious investigator is used to gather the information which students feel they require. An individual evidentiary assignment is set which involves students obtaining a birth certificate of one of their parents from the relevant agency. This exercise demonstrates to students the difficulty in real life of gathering information, and in some instances the inaccuracy of that information. Many of the exercises performed, such as client interviews, are videotaped and then reviewed by the senior partners. At the end of semester, if the opposing firms settle the matter, the agreement must be reduced to writing and signed by both parties. If they do not settle, then the final settlement position of each side is submitted and a final pretrial with a local court judge is held.

There is no final exam and grades are awarded on how well the firms have prepared their cases. The partners are usually awarded the same grade. However, this is not a hard and fast rule and the grades may differ if it is clear that one partner is carrying the other. The student response to the course is overwhelmingly positive, despite the heavier than normal workload, and as the course is strictly limited

to 24 students, many have to be refused entry.

WOMEN'S ISSUES

Progress report: women and people of colour in legal education and the legal profession

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6 Hastings Women's LJ 1, Winter 1995, pp 27-39

Whilst formal barriers to entry into the legal profession have been reduced over the past 25 years, serious problems of gender and race bias remain. Women and people of colour are still under-represented in the upper echelons of law faculties, firms and institutions.

Women outnumber men at Hastings College of the Law. However, women face a secondary level of discrimination that is inherent in the very nature of legal education. Studies have shown that men do better at law school due to the traditional Socratic method of teaching, the adversarial environment, the overwhelming male faculty and the lack of female mentoring. As a result, men are more likely to be in the top 10% of their classes. The Chicago Bar Association Alliance Report made recommendations intended to ameliorate these subtle forms of discrimination, including hiring more women faculty for tenure positions, having at least one core first semester course taught by a woman, teaching feminist jurisprudence and including the interests of women in traditional courses. It is not enough to add women and stir.

The Alliance Report recommendations would also serve to advance the interests of non-white law students. At UCLA 40% of the student body is comprised of 'diversity' students, with no one racial group making up more than 50% of a class. At Hastings, 40% of the student body is classified as 'ethnic minority', which is due to its program, Legal Education Opportunity Program. Such diversity programs need to be adopted throughout the country and law schools need actively to recruit students with a diversity background.

Faculties in law schools remain the province of the white male. Those women and people of colour that have entered academia are clustered at the bottom. Rare is the woman who becomes dean of a law school. The push for diversity can come from the groups themselves. The Hispanic legal community has made a concerted effort to increase its numbers in legal academia, resulting in the hiring of 22 Hispanics in 1991, a 25% expansion on existing full-time Hispanic law professors.

In the workforce, white males still occupy the positions of power. Eighty-seven percent of partners in the top 250 firms are male, and the number of female partners is only increasing at 1% per year. However, by the year 2000 it is estimated that 33% of lawyers will be women. The impediment to women reaching the top is that they generate less business than their male counterparts, partly due to the 'old boys' network'. Child rearing and homemaking cause fatal interruptions in the career paths of many women lawyers.

The profession must develop more flexible models of career development to retain women so that they are not penalised for child rearing and homemaking.

The increase in the number of non-white lawyers is not as promising as the increase in the number of women. Only 6.8% of lawyers in 1992 were non-white and only 2.4% of partners were non-white.

To increase the number of lawyers of colour in major law firms, several bar associations have adopted hiring goals. For instance, in San Francisco 15% of associates and 5% of partners are to be from minorities by 1995. This target has been adopted by over 100 firms and corporations. The American Bar Association Commission on Minorities created a program that enlisted corporate counsel at 140 leading firms, such as IBM, GM and Ford, to inform law firms that they want attorneys of colour working on their matters.

As well as expanding their hiring programs more prominently to include women and people of colour, workplaces must take steps to retain, develop and promote these people so as to maximise their contributions to the firm.

The assistance of the Librarian and staff of the libraries of the Law Society of New South Wales and the University of Sydney Law School is gratefully acknowledged.