ice activities. This is critically important to ensure that students with family care taking obligations or financial pressures, who are often from low-income backgrounds, will not experience public service as an added source of what is often already significant stress.

The one-shot pro bono lawyer, particularly in large cities, is likely to draw many clients from groups that present special challenges to their lawyers. For example, low-income African-American clients are likely to have experienced multiple instances of racial discrimination, harassment, and violence over the course of their lifetimes. One way that white lawyers routinely fumble interactions is to treat their clients with the kind of paternalism that comes from naivety or discomfort. Most law students have to work hard to become aware of the paternalism and class privilege that is embedded in their language and demeanour. They have to work hard to learn how to use the skills that they are learning as lawyers without insulting or infuriating their clients.

Another challenge to the one-shot pro bono encounter goes in the other direction. There is a risk that not just the client, but also the student lawyer, will go away from the experience feeling unsatisfied and disappointed. When the client in a one-shot encounter fails to meet the student's preconceived expectations, the student often feels betrayal, bewilderment, or even outright hostility. Even under intense supervision in clinical settings, student lawyers struggle to let go of their sense of entitlement to instant satisfaction from working with low-income people.

The final risk with the one-shot pro bono model is that students will walk away from their experiences not just bewildered and dissatisfied but with angry feelings toward low-income people. Rather than coming away from their public service experience inspired to live a life of service, they run the risk of coming away with their own personal experience to cite as authority for punitive social policy responses to extreme poverty.

Do these risks mean that we should keep our students away from low-income communities? Of course not. But they do mean that we can no longer take for granted the old model of individualised voluntary pro bono representation. We need to think hard about whether we want to inculcate that model in our students, particularly if we seek a profession that aspires to gender and socio-economic justice.

SKILLS

In re MacCrate: using consumer bankruptcy as a context for learning in advanced legal writing

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Judges and the practising bar, especially potential employers of law students, criticise law schools for failing to prepare students to function as lawyers. Some scholars view the traditional methodology as distancing and disrespectful of female and minority voices. Scholars of learning theory insist that one approach to learning cannot and will not be effective for all students. Others are concerned that traditional Socratic teaching has been insufficiently effective in instilling professional responsibility, ethics, or a sense of service. Even those who defend the Socratic method for its efficacy in teaching analysis concede that law school curricula should also encompass other teaching methodologies, including upper-level writing and clinical offerings.

In the MacCrate Report, the American Bar Association weighed in on the debate. The original purpose of the ABA Task Force was to address the perceived gap between the legal profession and academia - a perception that the Task Force found to be somewhat distorted. But the Task Force ultimately determined that its most essential task was to identify the fundamental skills and values that every lawyer should acquire before assuming responsibility for the handling of a legal matter. The report also stressed the need for further effort to teach writing at a better level. Much criticism has been directed, appropriately, at the traditional curriculum's disdain for the teaching of legal writing as a central part of legal education.

The Consumer Bankruptcy course is designed to address the critiques that traditional pedagogy does not effectively prepare students for the ethical and competent practice of law. By working through the fact investigation, legal research and drafting common to a consumer bankruptcy, using a simulated case file, the students develop their lawyering skills while learning substantive law. The course stresses the skills identified in the MacCrate Report as essential to the profession: problem-solving, analysis and reasoning, legal research, factual investigation, communicating, counselling, negotiation, litigation and alternative dispute resolution, organisation and management of legal work, and recognising and resolving ethical dilemmas. The course requires the students, through simulation of a typical consumer bankruptcy case, to develop and employ each of these skills, giving primary emphasis to those skills most fundamental to legal writing - problem-solving, analysis and reasoning, legal research, and communication - while they learn the fundamentals of consumer bankruptcy law and practice.

It is crucial for students to develop their analytical skills though lawyering as well as through scholarship. They should not let their 'practical' writing skills atrophy over their law school years, only to be dusted off in the summer or in their first lawyer jobs. They need to build on the foundation of their first-year legal research and writing course by continuing to learn through writing in varied ways in their upper-level courses.

Certainly writing opportunities can be expanded by including writing in traditional courses. Innovative programs integrate skills sections with substantive courses. Clinical courses can be designed as writing courses. In such a course, however, the clinic's responsibility to the clients must drive the writing assignments; they cannot be designed purely around the teaching goals. A simulation cannot fully

substitute for the richness and complexity presented by real cases. But ideally a student should have both experiences: the opportunity to use writing as a means of learning and the opportunity to learn the clinical practice through writing as well.

It is certainly possible to teach advanced legal writing without a particular substantive context. This model either requires the analytical issues to be very simple or recognises that the students will merely skim the surface of the substantive law. This approach works in a highly sophisticated writing course focusing on technique but risks superficiality if the students are expected, primarily, to be learning basic drafting skills. It also fails to give students an opportunity to learn a substantive area through writing in and about it.

Bankruptcy is a generalist field in specialist clothing: a bankruptcy practitioner must cope not only with the contracts, secured transactions and debt collection issues that one would expect, but also with the not-so-occasional family or estates law problem, landlord-tenant issues, environmental law issues, tax law, pawnshop disputes, mental health issues, property ownership disputes and difficult jurisdictional and procedural concerns.

One of the goals is to have the students work with forms - choosing them, adapting them, and being thoughtful about necessary changes. They need to recognise the essential economic value of using forms but the professional need to use them with care. With each submission throughout the semester, the student turns in a cover memo identifying the audience for the document, its purpose, any forms used, alterations made to the form, other available forms, and why he selected the chosen form. The student also evaluates the assignment and provides a list of authorities relied on for each assignment other than the memo, the pre-trial statement and the brief. The documents are to be in professional form, ready for court filing.

The students' first job is to engage in fact gathering. They have to conduct an interview to get the documents and information necessary to write an opinion letter and to prepare a bankruptcy petition and supporting documents. After the in-class interview is complete, the students have to advise the client in writing about her options. Writing this first letter requires the student to consider his audience carefully and to think about how to communicate the key information. It is essential for the student to perform adequate research to provide accurate and ethical advice to the client.

The student's' next assignment is to research and write an office memo about the client's exemption issues. Next the students prepare the bankruptcy petition and schedules. This process requires them to research the local rules, to use complicated forms, and to think about how the information in the schedules may affect the course of the client's bankruptcy. They must take a global view of the entire bankruptcy process and consider how the petition and schedules will affect the direction of the case.

Once the petition is filed, the students turn to the job of sorting out what creditors can still do despite the bankruptcy filing and what the debtor can do to stop creditors from violating the protections the bankruptcy was supposed to give her. The final segment of the course focuses on litigation of the discharge ability of the debtor's student loan obligations.

After the students complete the interrogatory assignment, they turn to the joint pre-trial statement. This forces the students to think through the entire case and to work together with their opponent to produce a joint document. Finally, the students prepare a trial brief.

It has been said that all of the other identified MacCrate skills are encompassed within the skill of 'problem-solving'. Certainly problem-solving is the context of this course. In order to identify and diagnose the client's problems, to generate solutions and strategies, to develop and implement a plan of action, and to remain open to new information and ideas, the students must develop expertise in the bankruptcy law governing the client's problems, and they must be able to analyse the law and communicate their analysis to others. The end result should be students who have improved their skills by using those skills in context: learning writing through the substance of consumer bankruptcy and learning consumer bankruptcy through writing about it.

The impact of student GPAs and a pass/fail option on clinical negotiation course performance

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Practising attorneys negotiate constantly. Litigators resolve the vast majority of legal disputes through negotiated settlements rather than through costly and unpredictable arbitral and judicial determinations. Transactional representatives formulate the basic terms of all business arrangement through bargaining interactions. It thus should be apparent that the possession of negotiation skills should enhance substantially one's ability to practise law.

Students who maintain consistently high grade point averages (GPAs) usually are considered, by both academics and practising attorneys deciding which recent graduates to hire as associates, as intelligent, industrious, organised, and articulate. Would these personal attributes carry over to skills courses and positively influence student performance on negotiation class exercises or course papers? If so, there should be a statistically significant positive correlation between student GPAs and legal negotiating class achievement.

At George Washington University, students who take the Legal Negotiating course may elect a conventional grade or a pass/fail alternative. In this simulating course, the students engage in a series of negotiation exercises, with their bargaining results determining two-thirds of their final grades. The other one-third is based on the scores they earn on class papers. In conventional law school courses, student grades are only indirectly affected by the performance of other students. In Legal Negotiating class, however, stu-