

EXPERIENTIAL LEARNING: SIMULATED CLIENT INTERVIEWS & VIDEOS IN THE CLASSROOM

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Creating & Utilizing Simulated Client Interviews in the Classroom

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Making the Large Class More Experiential Using Video

CREATING & UTILIZING SIMULATED CLIENT INTERVIEWS IN THE CLASSROOM

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Alright. Should we go ahead and get started? Today I am going to talk about creating and utilizing a simulated client interview in a classroom. In particular, I use this approach in a classroom where I talk about and teach about limited liability companies and operating agreements. So why did I decide to do a simulated client interview? Well short of feeling like I needed to add more to my workload—and we all know how that feels—and take on something new and create something new. Really, what happened is about 18 months ago I was asked to develop a new, one-credit boot camp about limited liability companies and operating agreements as a part of our corporate and commercial law certificate program. While I knew the final project was going to be students drafting portions of an operating agreement, I didn't feel like that was enough anymore. I wanted to do something different and bring in something new. So one of the things I knew that I had not incorporated into my own teaching was the idea of a simulated client interview. I think it was just because it felt a little overwhelming to think about how to make that work in my setting. Then, I was also hearing from students that, while they had lots of opportunities to write and to do transactional drafting and lots of opportunities to engage in negotiation, there weren't nearly as many opportunities to engage in a simulated client interview, unless they found themselves working in one of the clinics. So, with all of that in mind, I thought maybe it is time that I take this plunge and figure out how to bring in a simulated client interview into my course.

So why a client interview? Well, I think we all know there is a lot of literature out there that tells us how important it is to bring experiential skills into the classroom and to have our students start focusing on practical lawyering skills. So really, that was the background for doing it. Then, why a

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simulated client interview? Because you can cover a lot of ground with this one, experiential exercise.

So it's experiential in the fact that the students get a chance to interview a client. So they're getting experience. It's also practical in that they're starting to learn a practical skill that they're going to take away with them when they graduate and practice. Again, that is "How do I approach a client interview?" and "How do I interview a client to solicit information?"

I think also, at the same time, you're integrating the skills with the doctrine because obviously if students have to engage in a simulated client interview, they have to know enough information about limited liability companies and operating agreements to be able to interview the client and get the information that they need. So, you're also mixing skills with doctrine as well.

Then, I like to think that this gives students a chance to be creative. A lot of times in law school students don't get many chances to be creative. So, how do they get to be creative in the simulated interviews? Well, they really get to be creative because they get to play the clients in one of the rounds of the simulated interviews and it is amazing what I hear from the students when they come back in and they talk about some of the crazy things that happened when they were actually acting as the clients in the interview. They are also getting to be creative as the lawyers, because as I talk about how I structure this in my classroom, I create a scenario where the lawyers don't necessarily know the questions that they're going to be asked by the client. So, they have to think on their feet. They can't walk in, think they know all the answers, and have the canned responses. There's going to be some things that come up during the client interview that they (the lawyers) are not really prepared for.

Then I like to say too that it gives them a chance to really start focusing on their own professional development, their personal identity as lawyers, and just starting to get that exposure to know that this is what it's going to be like when I go into the practice world and there's going to be an expectation that I have to interact with other people who aren't lawyers, who aren't my colleagues, who aren't my professors. So it's a chance to introduce them to that as well.

So, I'm going to talk a little bit about my course setting because it's probably unique, but I feel like you could take this concept and incorporate it many different ways. My LLCs course is a one-credit class I teach as a part of the corporate commercial law certificate at the University of Denver. One of the things we like to do is offer the students a chance to take a one-credit class, what we call boot-camp course. It's an intensive course. It generally happens over four meeting sessions, four hours per session, and they're usually pretty close in time. So for instance with this course, we do a Friday, a Friday, and then a Friday/Saturday. So they tackle one-credit worth of content within a month's time, which is a little crazy for them. It is a little crazy for me as well but then we're all done. So one of the goals with our boot-camp courses is to impart practice-ready skills for the students so that they learn something really practical that they can walk away with. So I will tell you that in a one-credit class, I can't teach everything there is to know about LLCs. I barely get to

touch the surface of LLCs. I barely get to touch the surface about operating agreements, but it is also amazing how much you can teach about LLCs and operating agreements in a one-credit class. I also have the luxury that many of these students are 3Ls. Most of these students are doing the corporate and commercial law certificate. So when they walk into this classroom, they have some background. They probably have the exposure to and coursework in corporations. They at least have a little bit of base knowledge about limited liability companies, and some of them have been exposed to that as part of an externship. So I think that helps as well to give them a leg up and allow me to bring this into the classroom.

The first time I taught this class was in the fall of 2015 and, as I said, I knew drafting was going to be the big element, but I also wanted to incorporate something else so I went with the client interview and to see how that would play out. What we do in our class is that I actually have two simulated client interviews. I have an in-person interview and then we have a conference call with the client as well. So I've incorporated two different opportunities for this.

Let's talk about preparation in case you want to do this in your own classroom. As I said, if you want students to do interviews, they have to have enough knowledge to be able to do the client interview. One of the things that I do is have the students do a fair amount of pre-reading before the first class session. I post a lot of readings about limited liability companies. I post a significant amount of readings about operating agreements and the different provisions that make up an operating agreement and I will be honest, I send out an email that's a no-holds-barred, and I say you've got to read this because when you walk into the first class, we're going to hit the ground the running. My expectation is that you would have read this material and you'll be ready to go. I really haven't run into an issue with that. Hopefully, knock on wood, I won't in the fall as well.

They do a lot of pre-reading and then that first class session, we spend about two and a half hours talking about limited liability companies and the different provisions of the operating agreement pretty intensively. My goal with that is to try to tie in concepts, on top of the reading, to get them enough background information, and get them prepared for the upcoming interviews. The other thing I tell students at the beginning of class is that we take two breaks during these four hour sessions and I say, on your second break, you're going to self-select a group that you're going to work in for the upcoming simulations. That gives them a chance to ponder who they might want to work with. It gives them a chance to maybe talk with other students during that first break to help them make that decision. I am a fan of self-selection. I'm not their parent. I don't feel the need to put them in groups together. What I find is most of them self-select and they are able to do so easily. I have a handful of students that don't know anyone. I tell them to come talk to me at the break. I introduce them and they find themselves in a group together. So I feel like I've been lucky in the sense that with the self-selection, and then, also with students who don't know each other doing the introductions, that I have not run into a lot of issues with groups or with groups coming to me and complaining about how things are happening in their group.

I'll talk a little bit further on in my presentation about the graded aspects, but there's not a huge group grade to this overall class, and I think that makes the group work run maybe a little bit more smoothly as well. So they do their self-selection on the second break, then after that I pass out the basic facts and information that they're going to have about the two different scenarios so that we can talk about how the simulated interviews will work. How is this simulated client interview which is going to happen a week—a week from that day—how is it going to play out? Now when the students sign up, I have them select which client they want to be. Why this becomes complicated with students, I don't know. So if they are the client for scenario one, then they are the lawyer for scenario two. If they're the lawyer for scenario two—then they're the clients for scenario one. I can't explain how getting the students to wrap their minds around this is so difficult and mind-boggling. I feel like it's something I'm doing. Like I'm not explaining it correctly. But once I get them on that page and they understand what their different roles are going to be each time, then we come back together as a class. I give them the factual information. We talk about the expectations for the client interview, and then, I spend probably about fifteen to twenty minutes just talking about undertaking a client interview. At the same time, I post some readings up on the TWEN site about client interviewing. Just some very basic reading. Most of it comes from local bar associations or the ABA. It is sort of that skill of how do you engage in a client interview.

Alright, so how does it work in my classroom? In an attempt to keep it somewhat manageable, I only have two client scenarios—I only built two client scenarios. One involves two clients. They are two friends who are coming together to open a high-end restaurant delivery service through the use of an app. So we have some intellectual property as a part of that scenario. The three-person client team scenario are three brothers who decide they want to make some money on the side. They're going to start purchasing rental properties and they're going to run that as a side business. So again they sign up in their groups. They're either two-person teams or they are three-person teams. I normally have twenty-five students enrolled so I have five groups on each side. I'm reducing my class to twenty in the fall. I'm very excited about that. So I will only have four groups on each side of the scenarios. Now what gets interesting is when a student drops out at the last minute. So then you just have to make do. So one of the three-person teams becomes a two-person team, and it all works out okay. So everyone in the class signs up at this point. They know which client they are going to be. Everybody in the class gets the basic client facts about both clients. So Ashley and Jake are the two friends coming together. The Silver Brothers are the three brothers who are going to start the rental property business.

There are just some basic facts that everybody gets about that client and everyone is privy to. Then, on top of that, there are additional client facts that only go to the clients. That is additional information only the clients know. It is going to help them answer the questions that are being asked during that initial client interview from their lawyers. They are told that they need to keep that information confidential among themselves as the client. The other thing that I did, not the first time that I taught it, but the second time, was I brought in five individualized client facts. So each client gets their own unique set of

facts that their soon-to-be business partners do not know. They also are instructed to not share those facts but to use them in that initial client interview. I discovered that these additional individualized facts worked well and I cannot take credit for this idea—that idea came from the first class I taught. I asked my students for feedback and this was their idea and it made for a much more interesting client interview the second time around that I ran this class. So, in other words, you have to have your two basic client scenarios. You have to have two sets of additional facts—one for each scenario. Then you need five individualized facts. I do not go crazy on the individualized facts. It is just two or three extra things that pertain just to that particular client that they can use in the scenarios. Then again as I mention, I have them read some basic articles about client interviewing skills and techniques in order to prep for the upcoming interviews.

How much time does this take? Well, the first time I did it, I prepped it over the summer. I think if this is something you want to try out in a fall class, having summer to prep for it is feasible. I do not know that I would have wanted to do the prep over winter break and have it ready for a spring semester class. Make it easy on yourself. Use information that you know. I will be quite honest, the Silver Brothers are based on my nephews. I used their factual information, where they went to college, what they do. I moved them out of New York and moved them to Denver to put them in Colorado, but it made my life a lot easier that I was able to bring in information that I already knew. As far as the two-person client scenario goes, it is loosely based on myself and a childhood friend. I say very loosely because I made us way smarter than we are in real life. But I just used some of that information from our years of growing up and thinking about our interactions to build that kind of scenario. Then, obviously years of practice. If you have been a practicing lawyer, use what you have learned from your clients. Especially when you are creating those individualized facts and thinking about these quirky things that you want to give for each individual client. I would also like to say, do not get so crazy that it cannot be realistic, but also do not be too easy. The students actually enjoy this, and every time I ask my students for feedback, they say make it harder. Or, maybe not harder. Make it more interesting. Make it quirkiest and complicated. So sort of take that to heart if you go down this path.

Alright, so what happens with the in-person client meeting? The first thing that the lawyer team has to do is they have to prepare and submit two agendas. They send an agenda to their clients that they are going to be meeting with. So obviously, I have had to figure out who is interviewing who in the first and the second rounds so the students know who to send agendas to. So they send an email agenda to their client. They are graded on that aspect of the class. The agenda has to be high-level. It has to be professional and they are told they need to treat it as though this is an email going to their clients in preparation for this upcoming meeting. I also make them submit a very detailed agenda to me that is really their full blown agenda of what they want to ask, what do they want to learn, what do they want to accomplish with this client meeting? I do that for a couple of reasons. The main reason is that I want to make sure they are ready.

One way to make sure they are ready for the meeting is to require them to put together the detailed agenda with the questions and the information that they want to cover. I also do it for my own benefit to make sure they are ready but for their benefit too. So that they walk into the meeting and they feel ready as well. The emails have to come in the day before the meeting, so that the client team has time to read it and be prepared for the meeting, and also, just so I know that they are ready to go forward. There are two sets of one-hour client meetings. So obviously, if they are the client the first time they are the lawyer team the second time. The other thing that I learned is to re-pair the teams. The first time I did this they were client and lawyers, and lawyers and clients and I did not re-pair them. They were a little bit too comfortable with each other for that second round where they switched their roles. So the second time out of the gate, I re-paired the teams for the second interviews. What that also does is they get exposure to different students and different personalities. Then they get to encounter just those different personalities that they might not have done otherwise. I emphasize that they should treat this as an actual client meeting.

Now I am going to tell you that I do not mandate that they come dressed up. I would say 80% of the class does not necessarily wear a suit and tie. I definitely have some people come in wearing a suit and tie, but I would say most of the students show up on interview day in at least business casual wear. So I feel like it is a Friday and we start class at 8:30 in the morning—I have to give a little slack there. So I do not require the dressing up, but most of them just do it on their own.

So again, there are two rounds. They get an hour to meet with their clients and ask their questions. They get a fifteen-minute break in between before they do the second round. Before we start the interviews, we come into class and talk for fifteen minutes. I give them time to ask just sort of their last minute questions, so they feel like they know what they are heading into. Then I give them about fifteen to twenty minutes to meet with their group before they go into the actual interview, so that that they just have some face time together to get their thoughts organized and to get ready; especially, if they are playing the lawyers in that first round. They kind of need that time to make sure they are ready and have their game plan for the meeting.

What else do I do? Then at the very end, we come back and reconvene. We do a little bit of a deconstruction and then we talk about what's going to happen the following week, which is the interview with the client as a conference call. So we also circle back and we talk. We revisit the idea of client interviewing and client interviewing skills and how those are a little bit different for an in-person meeting versus a client conference call. So I play the client on the call. I will walk through why I do that. Probably the main reason is that I want the students to shift their prominent focus to just being lawyers. So they have had a chance to be lawyers and clients. For the second time around, I want them to just be focused on being the lawyers. It is also my way of making sure they are all taking it seriously. I do not feel like that is really necessary. I have not had that be an issue, but it can be a check and balance there. Also, by being the client on the calls, it allows me to start bringing those lawyer teams to common ground from their initial client meeting. So it allows me to do that

and last but not least, I did not have it in me to create enough information to continue to have students play both clients and lawyers. It was just starting to feel like a little bit too much. So I act as the client. It does not take a lot of preparation for the client conference calls. I revisit all the facts—the basic facts, the additional facts. They also have to send another agenda. That agenda obviously just comes to me because I am the client. It has to be treated as if it is going to the actual client. It has to be professional. I review their agendas before the call. I jot a couple of notes on their agendas so I am prepped for the call.

The other thing I do before I get on these conference calls is I try to create two or three zingers for each client scenario that I can work into the conference calls, just like I gave the individual clients for the interviews. Oh, I got a little bit ahead of myself. So the conference calls, they are twenty minutes. Trust me, if you are going to play the client, you do not want them to be longer than twenty minutes, because you are doing either eight or ten of them if you have a twenty- or twenty-five-person class. I emphasize again the formality of this, but also, I emphasize the fact that this is not much time. You better be prepared. You better be on your game. You better know exactly what you want to ask and learn from your client, because this is your chance to get those final answers before you are going to draft that operating agreement. I will also tell you I do not hold a formal class session this day. We forego class. So it is a really easy day for them. They have a twenty-minute commitment on that day. I, on the other hand, have a four-hour commitment on that day. So I feel like it is a balance and they do more prep work than I do so it works out okay.

Alright so we have done the client interviews. Their final assignment is to draft portions of an operating agreement. I will tell you here, my focus is really to get them to draft substantive portions. Not necessarily the background, easy information that they can just cut and paste from everywhere. I have them do a little bit of that but what I am really trying to get them to focus on are things like capital contributions, additional capital calls, what happens for a failure to make a contribution. Obviously, we have a 50/50 scenario, so we might have deadlock situations. So with the drafting component, which is the bulk of their grade, I really try and get them focused on the more detailed complicated stuff.

I want to just touch a little bit on what I grade and what I do not grade. So I grade the client meeting agenda and the detailed client agenda. So that is the first aspect for the in-person meeting. It is for 10% of their grade. I grade the client conference call agenda. That is worth 5% of their grade. So that 15% is a group grade. Then the operating agreement which is an individualized assignment is worth 85% of the grade. If I lived in a perfect world, I would have them submit a summary and draft their operating agreement based on everything that they learned in their interview and in their conference call. I do not live in that world yet. It would create a lot of extra work from a grading perspective. I hope to get the class to that point at some time in the future, but what I do is take the information that I know they should have discovered in the interviews and post the pertinent information that drives what they have to put into their operating agreement, which makes grading a little bit easier from

my perspective. What is not graded? I do not grade the client meeting. So I am not going to go in the rooms and interrupt the client meeting. I just feel like that would be really disruptive for me to pop into a client meeting for five minutes and observe. I think it would throw them off their game. So there is a certain element of trust. You have to trust that your students are doing the right thing. I am going to go with that. Every time they walk back into the classroom after this event, there is nothing that leads me to believe that they are not doing what is being asked of them. They almost always take the full hour to do the interview. They might trickle in five minutes early. Maybe seven minutes early, but not much more than that. I also do not grade the client conference call. So for a couple of reasons—again, I want them really being focused on being a lawyer and practicing those skills, but I do not want them worried about saying the wrong thing because the client is the professor. That is not really where I want their focus to be. So I do not have a graded element for either of the simulations. Now do I think it happens indirectly through the agendas? I do because the agendas tell me that they are prepped for that in-person meeting and that they are prepped for the client conference call.

Alright, so with that said, we are going to try this exercise, instead of just having me talk about it. So when you walked in the room you either got a yellow sheet or you got a white sheet. So find somebody who has a different colored sheet than you. I tried to sort of keep you together. So the yellow sheet is the client. The white sheet is the attorney. Please feel free to move around. So take a couple of minutes. Read the information you have. Read your information, and then the person who is the lawyer interview your client a little bit.

So obviously what you have in front of you is very much abbreviated. I will also tell you the lawyer teams do not get help with the questions from me in the classroom setting. They have to come up with their own questions. I gave the lawyers the potential questions just to help the exercise along. So the students do not actually know the answers—they do not get that information. So I would be interested in hearing your thoughts just from your limited experience with this shortened version of a simulation and know what you think.

Question As a teacher of similar things so I have quite a perspective of having done some of this because one of the things that I thought was interesting is the questions that I needed to ask as a lawyer. And one of the things that I knew to do was to basically ignore the questions when I first met with the clients and ask open-ended questions, and what I found by doing that is that a lot of my questions got answered. I am actually curious and wanted to follow-up with you and ask how do the students, without knowing to do that, how do you use that as a teaching tool?

Answer So one of the things we do before they do the first client interview is talk about client interviewing skills and talk about ways to elicit information. The students do not actually get that list of questions from me. I did that for this exercise. So to your point, one of the things that I see

with the agenda that goes to the client – not the detailed one that comes to me – is I see very much more an open-ended discussion and I hear from the students that based on what we learned in the classroom and how things go in the interview, even if they did not quite know it at first, they realized that those open-ended questions opened the door. Now, on the flip side, what I also hear from students is sometimes how you close that door when the client has been talking too long and you need to move them on. So one of the things we also do when they come back after the client interviews, we also talk about things like that and that skill set as well. So some of the things that cropped up in their client interviews, we come back together as a class and talk about what worked well, what might we have done to pull the clients back on track and to keep moving forward.

Question Thank you.

Answer Rachel?

Rachel So I am Rachel Arnow-Richman. I am a professor at Denver Law. So one of the things that I noticed and an observation I had and I have done simulated interviews as well in my classes—it is interesting to me how much you can do with very few facts. I am on the lawyer side here so obviously it is a rich background and a few facts but in terms of the list of questions that you gave us to guide us, we are really talking about sort of two points. The question of capitalization and the question of decision-making.

Answer Yes that is true.

Rachel So I think one take away is just with a very focused set of issues you can do a lot in terms of this skills experience.

No, I agree. So first of all, let me say I am happy to share my fact scenarios, my additional facts. Please just send me an email and I will dump them to you as Word documents if you think you want to take them and you might modify them. You can use the underlying facts and use them for different types of scenarios. So I am more than happy to do that. There is nothing proprietary about them. My nephews might feel differently, but I did change their last name

Let me talk about some of the lessons that I learned to answer some of those questions. Ask the students for input. You know, I get some of the best ideas from the students who just went through this class and are willing to tell me what might make this a richer or a better experience from the student perspective. I am not sitting in that client interview room. So I do not get to have that insider knowledge. One of the ways I can get that insight is to ask the students for feedback. The other way I get it is when they trickle back into the room after the interviews, and I just sort of am there listening to them and

hearing what they are saying as they are talking amongst themselves while everyone else is starting to come back. I learn a lot of information that way, and also, a little bit from our deconstruction. “What happened in your interview that you really struggled with or that you did not know what to do or how to move forward?” The individual client facts that came from the very first class, I think it was one of the best things I did. So you got a little bit of exposure to that. You got some extra facts about David. I realize it was probably a little too much in our timeframe. To give you a sense, one of things that crops up with Ashley and Jake is there is a real dichotomy about the willingness to admit an outsider into this new business if they need additional capital. Jake is absolutely not interested. Ashley is like, “Oh yeah I want to do it.” And then, in addition to the question of, are they willing, is whether they want to pass it on to their kids or not.

With the brothers, one of the things you do not see, the youngest brother’s biggest concern is that his two older brothers are going to gang up on him and he wants some super-majority voting rights. So bringing in, adding in that flare is good, because, first of all, the other two brothers or Ashley or Jake do not know it. And all of a sudden they are sitting in the room, and they are like, “holy crap, what just happened?” “We thought we had our basic facts. We had our additional facts. We thought we were on the same page. And all of a sudden the clients are not on the same page.” That is reality. That is what happens in a client interview. So creating that disagreement among the clients is important, and then also, the students acting as lawyers need to ask, “how do we deal with that?” Because now the lawyers are sitting in the room with these two people going into business together and there is some disagreement going on in the room.

Another piece of advice from my students is that they told me to be tougher on the conference calls. I was too nice. I made it too easy. I am like, “Well I can fix that.” So the second time around I definitely was a little bit tougher. I brought in some zingers. I will also tell you the students think I should add in a few more zingers to the individual facts to maybe allow one of these new potential business people to sort of erupt if something comes up during the meeting. So think about whether you really want to create that. So I have to think about that because I do not want to go too far and get too crazy. I want to keep some boundaries around it. Make sure your scenarios are different. If the students are playing both the lawyers and clients, you need some differentiation, because you do not want them to learn so much as the client that they know everything that they need to know as the lawyer. So that is part of why I have that 50/50. You are going to have deadlock issues. You have got friendship. You have got spouses. You have got children. You have those issues versus, you know, you have three brothers going into business together who have families. You have got the youngest brother, who is worried about sort of the two older brothers ganging up on him so try and create some of those differences so that they cannot learn so much by filling both roles. I also tell the clients to make the lawyers work for the information. You have the additional facts. Do not just readily share it. Make them ask you good questions. Make them work for the information. I also require the clients—and granted I am not in the room—but I require them to be prepared to ask at

least two or three questions of their lawyers so that it is a give and take. I do not think I have to mandate that. I think for the most part it happens naturally.

Conference calls are exhausting. The first time I did it I did four hours straight. I walked 20,000 steps inside my home, because my neighbors were doing construction and I could not go outside because it was too noisy. So I have learned to do them in blocks by client. So in the morning, I am Ashley and Jake. In the afternoon or after a break, I am the Silver Brothers. I get on the client conference call and I decide to be either Ashley or Jake. I change it up. I tell them who I am. I say that the other person or the other two brothers could not be here. "We had a chance to talk. We went over your agenda. I am going to do my best to answer your questions. We would like you to share the notes from this meeting with the other two." So that brings a little bit of change for me since I'm doing eight or ten conference calls, because you get to change things up a little bit for yourself if you take that approach.

The students like it. It is a lot of work. I think if you take a step back and you think about everything I said we would do in this one-credit class, you will find that it is a lot of work. I tell them that upfront. I give them time to make the decision to say this class is one credit, so that they can determine whether it is going to be too much work. They might say, "I cannot take this on." So it is not something that I hide the ball about and wait till the first day of class when they are past add/drop date, because we are already a couple weeks into the semester. Maybe I should, but we are already a couple weeks into the semester, so I am pretty up-front. I am also pretty up-front that I have really high expectations about this. So they need to be engaged and be involved. Overall, I think it has been a very good experience. I really enjoyed it. I think, to Rachel's point, you do not need a lot of facts or information if you want to do something like this. I have made it a little bit more robust because it builds throughout this course and it leads into the operating agreement. In reality it has just helped me know what are going to be the provisions of the operating agreement, but you can keep it simple and still have it be successful. Alright, do we want to do questions at the very end?

- Speaker We should do questions I would suggest because we are different enough.
- Answer So any other questions or thoughts?
- Question When you say conference call, literally a conference call or how do you do that?
- Answer Conference call. Yes, call in number 1-800 and they have a code. So at the law school, we have the ability to setup a conference call. So I have the exact same number. So I allow about 5 minutes in between calls. I am very clear with them. When we hit minute 21, I am hanging up on you. Well, actually I do not hang up on them. They have to hang up because I stay on the call for the next group to call in. But no, I have them do it as if it was a conference call. I have had students book conference rooms where they are working to come together and do the call. Sometimes students just do it. So it sort of works out as

the way you would. Sometimes students all want to be in a room together as a lawyer team and do the call. Sometimes they are calling in from different places. I do not really know other than knowing how many beeps come into the call.

Question I was just going to ask you if—I guess in all of them the clients or another—if there is another representative? So I was wondering if you ever have any LLC scenarios with the brothers and one brother is alone who starts to ask questions about that brother’s situation specifically which then raises who is the client and sort of

Answer We do and I did not talk about everything we do in class but one of the things that I cover in class are the ethics of representing small businesses and this issue of who is the client. So yes we touch on those concerns.

Question —and also because handling that is difficult

Answer Yes and we talk about that and it is one of the things that if it crops up during the interview we can talk a little bit more about it when we come back together.

Question Hi. First, I think what you are doing is great. It is interesting having the students play a real client. I find, though, that sometimes because they know some law, when I role play like you do on the conference calls I try to block the law out so if they use some legal term I will try to pretend I am a client and say what does that mean. So I know it would be hard to do that all the way through this process but maybe pick one team to try out interviewing one client from the class or something who is a complete outsider who has not been to law school?

Answer I like that idea. Thank you.

Question Does everyone on the team get to do the interview in each scenario?

Answer They work as a team. So if you are the Silver Brothers as the client then you are a three lawyer team. So those three lawyers walk into the room together to interview Ashley and Jake and have to share the floor.

Question So three lawyers will interview the client?

Answer Right, so they will have three lawyers in the room interviewing Ashley and Jake and then the reverse will be true. So Ashley and Jake are a two person lawyer team interviewing the three Silver Brothers.

Question So it is a multi-person interview?

Answer Ys. It is a multi-person interview partially because just trying to manage how to make it work.

- Question Yeah.
- Answer And I think it also teaches them that you know law is a collaboration and many times there are multiple lawyers in the room. There is a partner or a senior associate and junior associate in the room with a client and they have to learn how to manage that.
- Question I have a question kind of on the grading. When you do a lot of group projects, do you use a curve for everybody? You said you did not do that. You did individual. So are the agendas also an individual grade?
- Answer No. The agendas are a group grade. So everybody in the group gets that grade, and it is worth 15 points out of 100.
- Question So the only thing that is individual is the draft?
- Answer The only individual grade is the operating agreement. The operating agreement is worth 85 points. I will be quite honest; I am not too harsh on the agendas for that reason, but also you know for the most part I have not run into many issues with the agenda. The biggest issue I run into quite frankly is sending an agenda to a client that is way too much information versus one that is not enough.
- Question It is overwhelming.
- Answer Right, overwhelming. I have not run into an agenda not really being professional or adhering to that concept. So I am probably a little bit more lenient on those 15 points because it is a group grade but again, they get to self-select for the most part and so have a say in their group members. I mean most students know the answer to: “do I want to work in a group with these others, this other person, or these other two people?” Anything else? Well thank my co-presenters for letting me have some extra time.
- Shelley Oh no. It was fun. I want everyone to know that Carl’s first question to me when I was the lawyer was what are your fees?
- Answer Karl also had my oldest nephew who was a stoner if I overheard correctly.

MAKING THE LARGE CLASS MORE EXPERIENTIAL USING VIDEO

Karl Okamoto & Shelley Dunck

Karl Okamoto

Okay, so I have been teaching Business Organizations for many years. Of course, for many years, and until recently, I have been doing it the usual way. I used Cline and Ramsay or Gordon Smith’s book. Classic. Start at the

beginning. Talk about partnership, agency partnership, limited liability and then go through. I gave fifteen minutes to LLCs, which seems the norm, as criminal as that is and that is what I did. I did it the normal way, right? We read cases. We talked about *Smith v. Van Gorkom*, a lot and stuff like that. But then I—by the way if you are from my generation, this sounds like I am trying to use a euphemism for a four letter word, but that is not what I am doing. I am referring of course to flipping the classroom. That new pedagogy discussion. But then a few years ago, I started focusing on the fact that more and more were being told that this is actually what employers want us to teach. That these are the kinds of skills—that it is a given—that graduates will know what a limited liability company is. It is a given they will know what different corporate law doctrine is, but what's not being successfully conveyed to our students and what they are not learning in my Business Organizations class are these kinds of soft skills. That was a bummer, right, because this is what they really want from us. This is why we are failing them, and yet, I did not see any of this kind of stuff in popular textbooks like the one that I was using. I was befuddled. “How do I get this kind of soft skills, second order meta-skill type of content into my Business Organizations class?”

Well, fortunately there is a lot of discussion out in the world about how these kinds of things can be taught. They are in fact learnable. They are in fact skills that are susceptible to being conveyed, and this is a book that just came out a couple weeks ago. It is really excellent, and it sort of summarizes this literature on the science and expertise. It says something that I think we all know intuitively: that the way to learn those kinds of meta-skills is not by the traditional substantive doctrine method where podium teacher lectures on a given subject, but rather that you have to learn by doing. To learn how to problem solve, you have to learn in context, in role, by having some sort of hands on experience. Ideally, not only do you do it by learning by doing, but also you have the benefit of learning by doing while you are standing next to, or at the elbow of, some master, some expert, who provides you with guidance and feedback along the way. Right? Does this not sound familiar to those of us who were lawyers a while ago? This is sort of what it looked like to be an associate in a law firm. I was lucky enough to work with Andy. I do not want to setup the idea that he is older than I am because he is not. So Andy and I got the benefit of learning from some really old dude at some firm and you know this was the way it worked but it is not working that way and more and more it is being put on us to somehow figure out how we can do it in the classroom.

So the question was how can we add sort of apprentice-style learning into a 60-, 70-, 80-, 100-person large lecture hall type of class, right? Because the way we have been doing it in law school—to the extent that we have been—is by doing things like what Stacy described, which is great right? We have been inserting more and more hands-on learning in small class environments, but when you get to twenty and twenty-four, as Stacy has reminded us, it gets really painful to deliver that kind of education. It is a very high cost from an instructor commitment point of view, and that sort of seems to me to be the limit. I mean a good clinic has to stop at eight, right? A good simulation class, if you get past twenty, it is really, really hard. You just cannot do the kind of feedback and kind of grading and kind of assessment that is required. So, if

that is in fact the math—and we are already being told that we cost too much—how are we going to fix legal education if this is what it has to look like and has to be done cheaper? We have to find a way to fill a room like this and have it be a place where this kind of learning can occur or else it does not work, right? Well, the traditional answer was of course the Socratic method. We can fill a room and have people learn by doing by embarrassing them in front of their friends. That is sort of a learning by doing. But I think actually the answer might lie in something that we all have in our pocket, right? Is there a way to use technology, a phone for example, as a way of scaling up experiential learning in a large class environment?

So I am going to show you my experiment with that. I teach Business Organizations and it is divided into fourteen units, as I said. Topical units like limited liability, for example, and every unit has the same pattern. I assign a video which is basically a forty-five minutes to an hour lecture divided up into smaller snippets, where I have recorded myself doing what I used to do in the classroom, which is delivering the podium-based information. I say to my students, “The lecture is everything I think you need to know substantively on the topic,” right? “It is my free bar preparation course to you,” and they love it. They love it because instead of having to take notes while I am talking, they have this canned thing that they can refer to and watch over and over again, and it is highly digestible. They probably are watching it while they are texting with their friends or whatever. So it works. But that is the first thing they get in every unit. They get this canned lecture. Then I give them three what are called aprinade, and I do not know what it is called anymore, but these video exercises where they are given a fact pattern that is not dissimilar to the kinds of situations Stacy shared one, but it is a smaller one where they have a video—and I am going to show you an example—where they are meeting a hypothetical client. There are three of them and three situations that are sort of parroting that for the particular topic I am talking about. So a client saying, “I want to incorporate to protect myself from liability in the context of teaching limited liability.” I am going to show you an example of that.

In those exercises, video exercises, each student is then asked to assume the role of the lawyer. So the exercise they are watching asks in a make believe interview with a client where the end of the interview asks, “Well, . . . what should we do? How would I do this?” . . . Whatever the question is. Then the student is told that they have to open up their camera and record themselves as if they were sitting in the room with a client, or on the phone with a client, and answer whatever the question was. They then [send it] once they are happy with it and they say, “fine, it is done, hit go.” It uploads that video to the platform, and then it is represented to their peers. Everyone is asked to watch two or three of your peer’s answers. They do a rubric. They grade their peers. That then gets submitted back, and then I use the selections from the student submissions as basically the fodder for class discussions. So the feedback part of this gets done in the classroom, and it is basically me commenting on what I saw the class do through their submissions of their responsive videos. So that is basically how I try to clip Business Organizations, and insert some experiential activity in a large class environment and do so in a scalable way that does not destroy my Sunday afternoons since I will never do that. I am not like Stacy. She is too generous.

But let me show you what I mean, because I just described it. I will give you a few snippets. So this is the first video, which is the video where I lay it out alright, and I really genuinely try to tell them everything that I think they need to know substantively on a topic. Right, so there is no hiding the ball. There is no tricky law professor stuff, right? This is my version of the hornbook. What's that book called? Cram-book or whatever. So I am just giving you a quick selection, so you can see what it might look like. So this is just a snippet. There is one for each unit.

[Video Transcript]

Hey if you can you think back to our discussion of agency and partnership, one of the things you will note is that one of the consequences of having other people do things that you would otherwise be doing [unintelligible] our ability to work by using agents or by involving yourself with partners is that you create exposure for yourself for the things that those agents or those partners do.

Now what does limited liability mean? This is a concept that is often misunderstood so it is worth focusing on it for a second and making sure everyone understands what we need. I think the best way to do that is to think of our box. The box being the limited liability entity—either a Limited Partnership, an LLC, or a Corporation—and think of the relationship to that box of the person who is providing some capital. Person who is an owner; an investor; a limited partner; a member or shareholder. What does it mean for that person, this entity, to have limited liability? Well think of an example where some third party is owed money. There is a claim by this third party against the entity for some amount of money and that full amount of money is not available for whatever reason from the entity. Can—here is the question—the third party now go after the owner individually just like we saw them do in the agency context or in the partnership context for what they are owed by the entity? The answer is, in limited liability, at the end of the day, the answer is no. The exposure of an owner, shareholder, member, [or] limited partner member to the debts of the entity to a third party or both for the obligation to the entity to the third parties make it tort or otherwise, are limited to whatever the value of - - {end video}

Alright, we get the idea. So have any of you ever seen Khan Academy? It is a software that kids use to learn math and it uses this sort of whiteboard-type stuff. So I ripped that off as a mode. I started of course originally as this talking head version where it was literally a recording of me at the podium giving my lecture with a slide behind me but I have found that this is much more entertaining. You can see the level at which I do it is very just lay it out. Painfully. Limited liability right from beginning to end. Students love this. They just love it. It is as if I gave them the great gift, right? So I start with that. Oh it is a four-credit course. We only meet three hours a week because I am giving them an hour credit for all the work they have to do outside of class including watching me give the lecture I would have otherwise given in class. But they much prefer this method. They much prefer watching my little hand

motion video than to having me. I got insulted at first, but I got over it. Now I am a rock star or I am a movie star. My hands are a movie star.

So, okay, but so why is that not good enough? Why do I not just stop there? This is like Coursera right. I should just sell these fourteen videos to students and say that is it. You know take my exam at the end. I guess I could do that, right? Some people do and they call that online learning, but I had a different idea. I said, "Okay, I noticed that amongst most law graduates they actually do not know the rule of limited liability." Most people actually think that if you incorporate and you drop a hammer on someone's head, you actually are not liable, because you have incorporated. They do not understand how limited liability actually works and, of course in my video, I explain how that is not the case. But still I have found that most of my students do not actually understand how limited liability works, right? That is because we do not ask them to apply what is a very straightforward concept to a real situation. They do not develop those extra meta-layers of understanding that allows them to convert the rule into real problem-solving skills. So okay let us teach them how to do that.

Alright, so, here. This is one of the three problems that my students are given using this platform to solve now that they know the rule.

Video Transcript

Well, I continue to run my blog with a greater focus on developing revenue-generating relationships with advertisers. I also want to share my experiences with blogging and social networking as a consultant to companies that wanted to learn how to approach bloggers and other social media outlets.

So the beauty of the whole thing is that I can do it online from home. I enjoy working at home but I want to be a legitimate business. People keep telling me.

Alright, that is irritating, but you get it. You get the idea, right? Actually, Hillary is my neighbor and she asked me this question for real over at a cocktail party. So I said, "Alright, let us record it, right?" I get asked this question literally every week by some small business person saying, "I want to incorporate and therefore I will never be exposed and then I do not really need to pay all this insurance and blah, blah, blah." I go "Oh that is not true." But my students all would say, "Yeah, \$99 on Legal Zoom, and we will fix it for you." Alright so this is one of the three. Now all of my students, all sixty of them open up their phone after having watched that video and answer. So they have to explain to the client what to do. So I will show you a few examples of student answers. Again, I sped these up. So what is cool is I get to see on the platform what my students are doing, and whether they are being lazy. Those are the three that are going to fail. And, the order in which they are presented is how they ranked.

Video Transcript

So there are a couple options that you have as you want to [unintelligible] and form an actual company but you still want to limit your liability. So there are [unintelligible] statutory entities that you

must register to have [unintelligible] partnership there is a little bit of paperwork involved but you are actually going to be either a limited partnership corporation or a limited liability company. Now in a limited partnership you do need to be careful because you actually have to act the way you are described. So you must—you cannot [unintelligible] day to day options. So if you are going to be the employee of the company and handling the day to day operations - -

I will skip ahead here. Can I please?

- - you can still be liable as a limited partner. So that is so you want to incorporate your business without employing any additional people and the reason you gave is because it would protect you from liability. Now corporations are not able to limit their personal liability which is probably something that your \$99 providers did not mention.

Nice plug.

- - which does means that a court can find you personally liable for the works committed by the corporation.

Alright that is good enough for that one. Okay here's another one.

It is a common misconception that you can escape liability by simply setting up an entity.

Yes. Alright, so why is this cool, right? The first two people had great understanding of details of black letter law. I understood what a limited partnership was. Right, she got that. She got that you cannot therefore use that if you are going to be really involved. She missed the big point. Completely missed the big point, but she learned a little detail. That is fine. She missed the forest for the trees. The second one focused on piercing the veil. Again, a relevant piece of black letter law doctrine that was part of my video. Missed the big point, right? Third person got it exactly right, but is reading off of her notes and would never get hired again, because she had no personality. So, but those are all three very valuable lessons to learn in my Business Organizations classes. It is not good enough just to learn the rule of limited liability. You have to learn the more sophisticated understanding of how it actually works and, by the way, it would be useful to learn that, if you are going to talk to clients about limited liability, you have to be way more interesting than she is. That is part of the benefit of inserting this kind of practice exercise in your big class. I get through the same coverage, because I make sure I cover it cause I do it in a video. I can prove to the dean that I mentioned every concept in that book cause I have fourteen videos that do that. I insert practiced-based learning into the large classroom. I have a very good understanding of where the class is at in terms of their understanding, because I have video of whether or not they understand subjects. I can sample that video and understand whether or not they have caught on to a concept or whether I have to readdress it in the three hours we have together and I have a chance for them to develop some of those meta-skills that everyone is complaining about not getting in law school.

Shelley Dunck

First of all, I used the same videos in class that Karl uses but I use them differently. I want to give you some background on a contract drafting and negotiating class at Loyola that I teach and then talk about the introduction of these videos, which I started last year, and the learning outcomes were achieved once I introduced the videos. So big picture, many law students, even at the third-year level, still do not always understand exactly what transactional lawyers do. What does it mean to be a transactional attorney? Personally, I think this is because transactional attorneys are underrepresented on television, and because first-year courses are still geared heavily towards litigation, the courtroom setting, and litigation focused legal writing, although I think that might be changing. I have heard of some special legal-writing opportunities in business, but where I teach it is all still primarily litigation focused. The brief, the appellate argument, all that.

The other interesting thing is that most students have not really looked at contracts. I teach third-year students. Many of them have never seen a contract other than their lease or maybe a rental car agreement, but they do not think of those in the same way. So it is kind of interesting. We know what transactional lawyers do, of course: a lot of business counseling, a lot of creating deliverables, a lot of writing, a lot of creating. We begin to discuss contracts as our deliverable, our negotiated deliverable. The focus of the class involves both what Tina Stark refers to as translation skills—translating business issues into contract concepts—and also understanding how to design a contract. How to structure it? What should it look like? How is it best read? There is a small negotiation component to my class which students enjoy, until they have to draft the outcome of that negotiation. It would be fantastic if they could have an opportunity to take a boot camp first.

Our class discussions and assignments involve reviewing, analyzing, and redrafting business contracts; and of course, the contracts compliance and enforcement component. I emphasize the business perspective a lot and I encourage creativity in my class. The objective is to have students leave the class with the ability to read, analyze and understand a contract. I do not expect them to actually be great draftsmen at the end of a one-semester class, but I hope that they recognize that drafting is something valuable to learn and that they will hone their skills as they get in more experience. I have taught the class for over ten years; I agree that twenty students is too many. I did that one semester, and it almost killed me. Sixteen students are even a lot for this class. For the first five years, I taught it using an asset purchase agreement that was about 35-to-40 pages long. The concepts just did not sink in particularly well. I think there was a lack of perspective sometimes with some of my students.

In addition to contract drafting and negotiation, I am the Director of the Business Law Clinic at Loyola. Our clients come in with all kinds of Legal Zoom-oriented templates, and/or agreements a friend has given them a template kind of contract. This type of product is used every day by small businesses all over, and they are terrible. We use these contracts as the basis of the contract class. Students are asked to review one of these contracts before

they come to class each week. We then discuss what the intent of the parties was, what provisions or wording worked, what did not work, what the parties were trying to achieve, and whether you would advise a client to enter into that agreement. Students are then asked to redraft the agreement for the next class in a way that focuses on their client's needs, limits their client's liability, and is enforceable. Finally we discuss ambiguity, risk and words we will never use in a contract like "mostly." Those are the kinds of things that we do in the class and hope that our student picks up on provisions that be ambiguous and those that might be able to be enforced. But that does not always happen. We always ask in class whether a lawyer wrote the agreement. Do you think a lawyer wrote it? How do you think this agreement got this way? What is going on? We spend a lot of time doing this type of analysis.

Then what happened is that Loyola University Chicago started participating in LawMeets competitions which, again, really your students will love and is incredible. Part of LawMeets is—say it for me—

Speaker:

It is called Practice. They changed the name.

Shelley Dunck:

Practice. We will call it practice. So by integrating the smaller, more accessible agreements with these really interesting videos, my students got it. The combination was like the secret sauce. I would assign the contract. They would watch a video like you saw in Karl's presentation on a specific contract drafting related concept, we would discuss it in real life in the practical way, and then maybe have a substantive lecture or discussion about the concept. Here's an example though. The Appernet library is robust, and it does not just relate to contracts. There are videos on intellectual property and bankruptcy. Really there are videos on every legal subject you can imagine. Even client counseling. Most of them are done by one person, Hillary, who role plays various clients, but it is never boring. So this is just an example of the video I selected, what the issue was and what the concept was. I use it a little differently than Karl, although I might try the video response. Each week we give our students the contract, a video, and I let them self-select a presentation partner. We assigned partners for presentations once and these kids, I thought, were going to have a nervous breakdown. I pulled names like out of a hat and that did not fly. So I let them self-select their groups of two. Each week two students come to class either with a PowerPoint or a Prezi presentation and they address the issue presented, they discuss how they would address the issues and what advice they would give to the client. Then they lead a discussion with the class. It does make me feel good when people do not actually participate in their discussions either, and they have to call on their classmates. Each week the students who are not presenting are required to submit a one-page analysis, and I have samples of those just so you can see the different approaches that students take to the same question, which to your point, is interesting.

So for some reason I also ask for a lot of feedback from my class because I want it to be interesting to the students and I want to make sure that they are learning. They really love the videos which, somehow, combined with

these smaller contract drafting assignments, seem to create “aha!” moments. We just had a really great involved class with a lot of discussion which is great because then they do not have to listen to me the entire time, you know, trying to engage them maybe on concepts that are difficult for them to access. Also the videos are no more than four minutes long and make the point that clients can provide a lot of information including facts in four minutes. Each video presents so many issues and creates a great backdrop for real issue spotting. They also foster many good discussions about how it would work in real life. Examples from just even what is going on in the world of business. Also there is that ethical piece that was mentioned. How do you consult? Who is the client? How would you handle a client like that? So all kinds of things could be addressed when the students can make it somehow real. But it was very successful, and I really appreciate Karl coming up with the concept. Using the videos resulted in deeper thinking, better perspective, and just really a better understanding of how clients really use the transactional lawyer—both in the arena of counseling and creating deliverables. So that is a different way to use these resources. Questions?

Question Do you allow the students to look, to like Google, for other form agreements?

Answer Sometimes. So I have a different way where there are some assignments that are kind of closed where you have to create the agreement yourself and every semester also I will have them draft one thing from scratch that does not exist in precedent form. But sometimes I do direct them to practical law just because it is such a great resource and I want them to know how to do that as well.

Question I struggle with that sometimes, because I find there is some really good precedent out there, especially in my area, then they sort of just turn off their brain and it is just a cut and paste.

Answer Right. It is a fill in the blank cut and paste.

Question Then it is not interesting.

Answer Right. But I always have one weird story from practice where someone has asked for an agreement that does not exist so we create it. So, yes.

Question Do you have them draft agreements for each scenario or do you do separate?

Answer No the agreement is separate. I use the videos just for the concept and the agreements are all my business law clients' really terrible and scary contracts that they bring in.

Question Does each lesson have the contract to draft or is it . . . ?

Answer The contracts are short. They are not long contracts. They are three or four-page service agreements. So yes, most of the time each concept has a contract that will at least address that concept as well as others.

- Question So I think I have some more questions, not really understanding how this is integrated in your class. These sample answers are written answers so. . .
- Answer Right. It is just a separate—it is just a way to teach a concept but then the contracts are separate.
- Question No, no, no, but these student answers, are these answers to that - -
- Answer To the video.
- Question They are answers to the video?
- Answer Yes.
- Question So does every student - -
- Answer Every student has to write the answers to the video if they are not presenting.
- Question Okay, and what do you do with that in terms of assessment and - -
- Answer Oh I do not grade. I am just trying to see if, one, are they doing the work? Are they understanding the concept? But I do not grade them.
- Question But how does it relate to the drafting exercise?
- Answer Oh whatever issue is addressed in the video—like what's the first one? An earn out or - -
- Question Representations and warranties.
- Answer Representations and warranties? So then that week's lecture would be representations and warranties, and the agreement that they would have to redraft would have a representations and warranties component.
- Question Got it, but it is not the contract from the client that you are seeing in the video?
- Answer No, no, no. I am just using that as way to get them to hear an issues differently, in a way that a client might ask you instead of me asking, and saying my client brought me this. Change it. I just cannot get my clients in the room. It would be interesting though.
- Question I have a question. As a side note, do you all ever talk to your students about how to explain to clients the dangers of doing your own contracts that like legal form sellers do, and how to persuasively explain that without being too technical?
- Answer So that is a business law clinic question. We have clients that come in all the time who have used an online service. Lawyers are very expensive and, if you do not have a lot of

money and someone tells you that you can do something for \$99, and it is like all buttoned up and looks beautiful, they think yes. So we do try to explain to them that they may not be getting everything they need. There is no nuisance. But lawyers are expensive and a client certainly cannot hire a lawyer for \$99. At a minimum, engaging counsel will cost \$1000, right? At a minimum for a small business. So but we try really hard.

Question I got a question for Carl. I am really fascinated about how you are able to scale this to the whole Business] Organizations course. I teach Business Organization's too in a four-credit hour required course, and in a one-hour lab in the lab course where we have twenty to thirty. So when you have sixty to seventy, you are having them all watch the uploads from that high number of students?

Answer No, so the way the platform works is you can decide how many videos of your peers you are required to watch.

Question So what are you usually?

Answer So I usually do two.

Question Two, okay.

Answer So they each watch two of their peers' submissions.

Question The math was not working for me. So now I get it. Now how do you then decide which ones that you are going to critique in class without them thinking "why are you always picking on me?"

Answer So I always watch the top three. I always watch the bottom three.

Question What's the top three and bottom three?

Answer So the peer review process, they fill out a rubric and that rubric actually generates a ranking.

Question They have done two each?

Answer Right. But those two—that means everyone has been seen at least twice by a peer and that generates a rank order. There is an algorithm that sorts them based on the peer review. So I am always curious to see whether the sense of the class is the same as mine. It rarely is, actually.

Question Do you do sixty of them?

Answer No. So I will look at the top three. I will look at the bottom three, and then I will sample, randomly in the middle, but it is quite interesting. There is usually a thematic progression. So I can tell what it is that has caused people to have a favorite, and it is a theme. It usually has something to do with presentation skill. The

more eloquent speaker is going to get voted up. Not necessarily the most correct speaker. I am sorry?

Question So when you select the two, do they come off the list and then only the rest are left for someone else to select from, or could someone not be reviewed?

Answer No, no. So I only review—I review after the students have all reviewed each other, right, and then I sample the submissions. So I do not review them all.

Question You missed the—she meant how do the students?

Question Yeah how do the students?

Question What if they all pick the same student?

Answer No, they cannot. They are randomly distributed. That is the beauty of the platform. The platform randomly - -

Question Okay. Okay.

Answer You cannot decide who you are going to see. You are shown two and it makes sure that everyone is seen even. If you set it at three, everyone gets to see it three times. If you set it at fifteen everyone gets—so actually the great challenge is writing rubrics that are actually usable. That is remarkably hard. But, yeah. Yeah. It is remarkably hard.

Question So if I could just follow-up on that sort of question from Carl about the flipped classroom model and my question is whether this is—I think you said there are fourteen lectures?

Answer Um hum.

Question So that is all? This is an entire course each week?

Answer Correct.

Question So I guess I have two questions. One was I wanted to know a little bit more about what is going on in the three hours that you do meet, and also, whether you have thoughts about whether this is something that can be done sort of periodically along with a more traditional format for someone who did not want to do fourteen modules like those, but maybe could try out two or three in a regular class?

Answer Yeah. For example, I think like LLCs are often the forgotten stepchild of subjects, criminal as that is, as I mentioned. But if you look at traditional case books, it gets very short-shrift because there are no cases. Very few. So but it is something we ought to cover so that would be a perfect sort of modularized subject matter. But yeah, no reason not to do it episodically, but students are remarkably like my kids. They enjoy rhythm. So messing

with the rhythm is costly. I get a lot of pushback about the whole idea but, once we are in the groove, they are fine with it. I would caution you against inserting this all of a sudden. It would be very unpopular.

Speaker Also at Loyola they teach Business Organizations and they flip it but they only do a twenty minute like free - -

Answer Video.

Speaker Yeah, so it is a little bit different.

Answer I am too long winded.

Question Carl, do they have reading as well?

Answer Yep. So I assign—I assign reading, which is often cases. So you have to read *Smith vs. Van Gorkom* in law school, I think. It is a great case. So I do not make them buy a case book. I put links to the published cases on my blackboard site and so there is no casebook. I do suggest where they can find reading if they want it. So I send them to Hamilton or whatever the crib-sheet thing is, and I send them to Practical Lawyer to Bloomberg if there is practiced-based commentary, or if there is a good article, I will paste it. Most of this stuff is available. That is what a case book is. It is a public domain with your foot between two boulders, right? So I just put it in a blackboard site.

Question Going back to the question—I forgot who asked it—is in the three hours that you have how do you - -

Answer Yeah sorry. So the wholly—the wholly untaught version of the exercise ends with a model answer. So most of the videos that we have in the library have in some expert—usually a lawyer, practicing lawyer – explain how they would have done it. So like in this multi-client thing we have a great video of a Morgan Lewis partner explaining how he cautions clients about joint representation issues. . . . So it is great. But I do not include those in my class version. I am the expert. What I do is I take whatever the sense of the class understanding is based on the videos on my three problems and I talk to that during class. That is the fault of [unintelligible] and if there is not enough material there, if I do not think I am going to be able to fill which I rarely have trouble with, I will add another exercise in class or some other problem to do. But often I find myself re-covering material from the video where people just do not get it. It takes a long time to get people to understand limited liability, believe it or not. Once you present the idea --so the idea of a separate personhood box is so foreign to most students. And you are looking at them like “wow, this is not that hard.” And they are looking at you like, “I do not get it. I do not get it.” You

just have to shake them and shake them and shake them. So it takes me a long time to get to that fundamental understanding. So I need my three hours of shaking them.

Question

Carl, when you are trying to teach the soft skills or you are critiquing the presentation part of it, do you show excerpts from the video?

Answer

So I do and I like embarrassing people. Now actually one of the things in Peak, which I thought was very helpful because it makes me feel like I am a confident parent, is you have to suffer a little to learn. Most students these days, they do not like that. So I am a curmudgeonly guy, right? So I do not mind embarrassing people a little bit and what I love about self-video, especially for law students, is they find it so stressful to record themselves because they are so afraid of looking stupid since they have been told all their lives that they are actually quite gifted and they are not, right? So the experience of the fear; it really has a powerful motivating force in making them try harder than they otherwise would. So they actually learn something which is pretty cool. That is so great. That is their favorite experience – those kinds of things, because they actually stepped out of their comfort zone and succeeded. That is a cool experience. I get to do it three times a week on video.