

conviction to enhance student understanding of substantive materials.

The simulations were used to teach corporations and securities regulation. In the corporations law unit students are required to take part in a directors' and a shareholders' meeting. The students are instructed to create a corporation and consider the social responsibility issues and financial problems. Some students act as shareholders and some as the incumbent management of the company, whilst another group attempts to overthrow the incumbent management.

An example of a social responsibility issue in one simulation involved a proposal to cease trading with South Africa (due to Apartheid), even though half of the company's business was with the South African government. In this exercise the separation of ownership and control of a company is highlighted.

As well as a simulation of a public company, a simulation of a closely held corporation is used. This simulation requires the students to interview other students who are playing the role of clients coming for advice on the best choice of business association for their purposes. This simulation also raises professional responsibility issues, in particular whether one lawyer can represent all three clients in the proposed association. Drafting simulations are used in the context of the close corporation by requiring students to determine if an irrevocable proxy is needed under the various statutes and, if so, to draft one.

The securities regulation simulations require students to conduct a due diligence investigation. A real-life prospectus form is used to indicate to students how certain parts should be altered in the light of the due diligence laws.

Long cases are dealt with in a quasi-simulation style. Students are assigned to either the plaintiff's side of the case or the defendant's and the remaining students sit in judgement. Written assignments are set. However, no grade is given until after the final exam has been sat. The combination of the exam and the written assignments determines the final grade. The simulations per-se are therefore not graded, but used solely as a tool for enhancing student learning.

**Learning and learning-to-learn by doing: simulating corporate practice in law school**

K S Okamoto

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Legal academics generally hold law practice and legal practitioners in disdain, especially corporate lawyers. Law professors shun corporate practice because it is not a 'serious subject', as it is not the stuff of legal science and theory which can be articulated using generally recognised legal paradigms.

What is therefore needed is a theory of professional expertise which explains why a senior partner is a better lawyer than a first-year graduate and how the first-year associate acquires the knowledge to become the senior partner. Continuous learning is the core of such legal expertise.

In law schools, students are often given the rules of recognition, that is, they are told what the rules are and how to use them. However, such rules offer little opportunity to develop the skills of situational problem-solving and intuitive innovation which characterise corporate legal expertise, and which come from experience, from learning by doing. Such doing creates an experiential base of learning and each experience adds to the next. Law students should be taught about legal practice through experience by presentation and demonstration in the form of simulations. Simulations provide a transitional experience in which students may apply theoretical knowledge within a context of practical relevance.

The author describes his Advanced Corporate Practice course, which is centred on a hypothetical leveraged buy out transaction. The goals in developing the course were to provide a simulated practice context to apply theoretical models to corporate practice, to give students an opportunity to examine corporate law from a problem solving perspective, to introduce students to teamwork and lawyering and to illuminate ethical and 'human' problems in client representation and teamwork respectively.

To set the mood of the class the early sessions included a talk from a corporate lawyer and a trip to a large law firm. The class then moved on to a simulation. The class was split into four groups, two representing the seller and two the buyer of a company. The tasks were to review a draft agreement and discuss issues and proposed

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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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