

# PROVIDING A DYNAMIC CLASSROOM EXPERIENCE

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## I. INTRODUCTION

Having completed thirty years of full-time teaching as a law professor, I realize that my view of teaching has significantly evolved. Ironically, I found that with each passing year I was investing more, not less, time into class preparations.

Teaching law—as opposed to other disciplines such as history, math, science, etc.—requires ongoing efforts to keep up with new developments. The law is always subject to change. A competent teacher is, of course, expected to incorporate new developments into lesson plans. Some areas of the law are more dynamic than others in terms of new developments. My assigned areas—Civil Procedure, Insurance, and Family Law—tend to be areas where significant changes occur on a regular basis. Simply keeping up with and incorporating the new developments accounts for a portion of the increased time needed for my class preparation. But this factor was minimal compared to the overall additional time that I was devoting.

A senior faculty member shared with me, decades ago, the concept that “a teacher is only as good as his last class.”<sup>1</sup> I found his observation annoying, but accurate. I knew when I had taught a “good class,” and I also knew when I had taught a class that fell short. The goal of teaching a good class was a personal objective, not an institutional one. I wanted to provide a “dynamic classroom experience” in each and every class I taught.

Providing a “dynamic classroom experience” has its challenges, which can be overwhelming in nature. The law school classroom consists of students who are above-average intelligence and not hesitant to challenge a professor. The challenge is exacerbated by other factors as well. Not all students come to class fully prepared with a “ready to learn” frame of mind. Students have varied backgrounds in education and in life experiences. There are also certain “personalities” that come to the forefront in the classroom setting. Additionally, students typically have access to extensive notes and other written materials from prior classes taught by the professor. How does one provide a “dynamic” classroom experience to such a diverse set of students and interests?

My intention with this article is to put forward those ingredients that I believe enhanced my ability to provide a dynamic classroom experience. These ingredients worked for me, but I acknowledge that there are other professors who provide dynamic classroom experiences through different approaches.

As was I was preparing for my final year of teaching, I decided that I would keep a journal of principles or beliefs—i.e. ingredients—that I have come to understand to be important in creating a dynamic class. I created a document on my computer and jotted down my thoughts whenever an inspirational moment occurred. I accumulated these thoughts throughout the course of the school year. Eventually, I pulled these thoughts together and have now arranged them into a meaningful context.

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1. Professor Charles Thatcher, University of South Dakota School of Law.

As a preliminary matter, I should state I have always felt it better to err on the side of being “over-prepared” rather than “under-prepared” for the classroom. Typically, I began my class preparations for the fall semester in early July. This was the pattern that I followed for my final year in the classroom, academic year 2014-15. As I began the process of gearing up for my last year of teaching, I made notes in my new journal. I made my first six entries on July 6 and 7, 2014—approximately six weeks before the start of classes. The final entry was made on April 22, 2015, during the final week of classes for the spring semester.

The discussion in this article is divided into three parts. The first deals with “key aspects of effective teaching.” The second section relates to “peripheral aspects of effective teaching.” Finally, the third section deals with other relevant observations.

## II. KEY INGREDIENTS FOR A “DYNAMIC CLASSROOM EXPERIENCE”

### A. RECOGNIZE AND DEAL WITH IMPEDIMENTS TO LEARNING

Having students present in class, with clear minds, goes a long way to establishing a solid learning environment. But, impediments to learning exist. I believe that a teacher should proactively seek to reduce or eliminate impediments.

#### *1. The Impediment of Prior Knowledge and Ego*

One of the greatest obstacles to the study of the law lies in the existence of previously acquired information. To best learn the law, as taught in law school, the student’s mind needs to be a “clean slate,” free of the impediment of accumulated information. The existence of this impediment is exacerbated by ego.

The former police officer will likely struggle in courses involving criminal law and criminal procedure. The accounting major may struggle with the income tax course. A student with a degree in paralegal studies may have difficulty with many courses. These students have formulated beliefs and knowledge and may be hesitant to present a “clean slate.” These students are more likely to receive new information with a view toward making it conform to the format and concepts already imbedded in their minds. They may be blind to important, unrealized concepts due to the fact that their prior life experience dealt with only one perspective. As compared to the type of learning necessary in law school, these students have a superficial or inadequate prior learning experience.

The successful student must overcome the notion that he or she already knows the subject matter or aspects of the subject matter. An understanding of the “impediment of prior knowledge” helps explain why a non-law major is an

excellent background for the study of law. A student with a music or theater degree is more likely to have a “clean slate” for learning the law—as opposed to a student with a criminal justice or political science degree.

An understanding of this phenomenon also helps explain why some students persistently pursue “rabbit trails” with their questions; many times such students are attempting to synthesize the new material in the context of their prior knowledge and have difficulty doing so. Instead of providing a “clean slate” for learning, they seek to mold the new material into a frame of reference that exists as a result of a prior learning experience. I believe it is important for the law professor to discuss the fact that a student’s “prior knowledge” may be an impediment to learning. The professor should proactively develop methods that present a new learning experience, unimpeded by existing frames of reference formed through the prior accumulation of knowledge and maintained by ego.

## *2. Enlightenment on Non-Relevant Legal Matters*

The primary method for studying law is the utilization of case law or judicial opinions. Frequently, the cases selected may involve sophisticated legal principles from areas of the law that are *not* the subject of study. This is especially true in Civil Procedure, where new law students are asked to study and brief cases from a wide range of disciplines. The objective is for these students to learn principles of Civil Procedure. The judicial opinions under study, however, involve disputes from a wide range of legal disciplines: contracts, motor vehicle negligence suits, anti-trust matters, medical malpractice, commercial law disputes, workers’ compensation, administrative actions, slander, libel, assault, and a wide variety of tort cases in general. In order to facilitate the discussion of the case as it relates to Civil Procedure, I frequently provided mini-lectures as to relevant substantive areas of the law that are present in the cases. This effectively brings all the students to a point of understanding of principles that would otherwise hinder their ability to conquer the procedural matters at hand.

## B. HISTORICAL CONTEXT

The law builds upon itself. In order to truly understand the law today, one must understand the law as it existed in its prior form, and then explore how and why it changed. Excessive focus on the minutia of historical details should be avoided. But, I am convinced that historical background is critical to understanding the law today. For example, I have come to appreciate the venerable case of *Pennoy v. Neff*.<sup>2</sup> Principles set forth in this opinion continue to carry forward as “the law” today. The need for a decision in this case was the

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2. 95 U.S. 714 (1877).

first time the United States Supreme Court could reach directly into state court and pronounce the rules for personal jurisdiction.<sup>3</sup> It is a historical masterpiece, written shortly after the Civil War. There is a minority movement among Civil Procedure Professors to exclude coverage of *Pennoyer v. Neff*. Obviously, I am not a fan of this movement. I do not know how a student could come to a meaningful understanding of the law of personal jurisdiction today without starting at the point of beginning *Pennoyer v. Neff*. Another example is the development of the Uniform Child Custody Jurisdiction Act (UCCJA), Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA), and Parental Kidnapping Prevention Act (PKPA). I believe that the key to understanding these jurisdictional schemes lies in understanding the historical backdrop of how the Full Faith and Credit Clause operates and its shortcomings in regard to custody decrees.

### C. TIMING

Timing is a key to the learning process. It is a matter of having the students' receptiveness "to receive new information" occur at the same time the teacher is "ready to convey" the information. I strive to maximize "timing," but I recognize that progress, not perfection, is as close as I can get. There will be students who are absent from class, and for them, there is no opportunity to perfect the "timing" aspect. Also, there will be students who are present but "not ready to receive new information." In the law school setting, unfortunately, the "readiness to learn" does not come for many students until final exams are close at hand. The task of creating a dynamic classroom experience involves an effort to foster an environment in which a maximum number of students are "ready to receive" the information that is to be "conveyed."

### D. COPING WITH PERSONALITIES AND EFFORTS TO DERAIL THE LESSON PLAN

Some students have a need to be heard and to be spontaneous during the classroom presentation. Sometimes this is good, but it may also be counterproductive to a logical and dynamic classroom presentation. Dealing with a student's inquiry or interruption is important because all eyes become focused on the situation.

I confess that I haven't always handled these situations in the best possible way. I have learned that such interruptions to the "lesson plan" are not predictable, and it is virtually impossible to anticipate when the interruptions will occur. Eventually, the underlying "silent majority" of students weighs in and the majority's consensus is that rabbit trails, while helpful occasionally, carry a high risk of derailing the learning process. I have learned, unfortunately, that the evolution of the "silent majority" viewpoint cannot be accelerated in the

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3. See generally *id.*

opening weeks of law school. It is an evolution that must occur naturally for each class.

In the meantime, the professor is required to cope with the personalities and attempts to derail the planned lesson in a manner that does not alienate the class as a whole. In so coping, I believe it is important to remember the wisdom of Stephen R. Covey, who observed:

I have found that the key to the ninety-nine is the one—particularly the one that is testing the patience and the good humor of the many. It is the love and the discipline of the one student, the one child, that communicates love for the others. It's how you treat the one that reveals how you regard the ninety-nine, because everyone is ultimately a one.<sup>4</sup>

#### E. STRIVING TO CREATE A NEW AND SPECIAL CLASSROOM EXPERIENCE

With the extensive advances in technology and video reproductions, it has become more and more difficult to create a “special experience” in the classroom. What used to be a special experience—the teacher’s possession of a rare video, DVD, or VHS tape—is now something that is routine and easily-accessible by students through the internet. A teacher is no longer able to easily create a “special teaching moment” through technology or outside aids. Nonetheless, I believe that a creative teacher can still create special experiences. I have always believed that my “lesson plan” could be improved, and that it is important to be on the lookout for ways to make those improvements. I was constantly making decisions to change how and what I taught and to improve every aspect of what transpired in the classroom. This included revising my thoughts as to introductory comments, graphics, overhead displays, etc. Nothing, in terms of my “lesson plan” for class preparation—absolutely nothing—was ever final until the actual presentation.

#### F. MAINTAINING THE GOAL OF A DYNAMIC CLASSROOM EXPERIENCE AS A PRIORITY

In my view, the most important thing that transpires in the law school—far more important than anything else—is what happens in the classroom. As a law professor, I am called to be a lawyer, a teacher, a scholar, and a public servant. I aspire to accomplish all of these things in an excellent manner. But, my greatest aspiration is to be a good teacher. In my way of thinking, creating a dynamic classroom learning experience is the most important thing that I can do.

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4. STEPHEN R. COVEY, *DAILY REFLECTIONS FOR HIGHLY EFFECTIVE PEOPLE: LIVING THE 7 HABITS OF HIGHLY EFFECTIVE PEOPLE EVERY DAY* 250 (1994)(entry for Sept. 6).

## G. MAXIMIZING PRODUCTIVE TIME IN THE CLASSROOM

We all have a natural resistance to the hard work involved in the study of law. I have it. Students have it. But, it is a task that must be done. It does not go away. I believe that my job is to maximize the productive value of the time allotted to me. I have found that I can enhance the productive value in a number of ways, including efforts to make the pre-class time entertaining with videos. I can also enhance productive value by reviewing and re-reading the assigned materials, even if I have previously read the same materials more than a dozen times in the past. Everything I do—all of my preparation—is geared toward using every second of every minute in a productive manner. This does not mean in a manner that is “crammed” with information to be shoved down the students’ throats, but in a manner that gets the students “engaged” in their efforts to understand the law. When I do this, I can see the engagement on their faces. And I can also see the lack of engagement on their faces when the class is not dynamic.

## H. QUALITY, NOT QUANTITY

I have found that to cover a small amount of material in a manner so as to foster a real understanding of it is better than to cover a large amount of material in a superficial fashion. I had a conversation with Professor Mike Roche<sup>5</sup> a few years ago, and he passed along some words that drive home this concept. He said: “It is more important that the *material gets through to the students* than for the *students to get through the material*.” Mike was able to articulate this concept wonderfully with these words—words that I have endeavored to keep at the forefront of my thoughts during class preparation throughout the years. There is a similar quote frequently attributed to Mother Teresa: “Not all of us can do great things; But we can do small things with great love.”<sup>6</sup> The point is, the quality of what I am doing in the classroom is more important than the quantity of material covered.

## I. TEACHING IS ALWAYS AND FOREVER

The teacher is always teaching, by his or her words and behavior, both in and out of the classroom. The opportunity for influence exists in all interactions with students. The wise teacher is aware of this. Furthermore, one should never underestimate the impact that good teaching can have in a law student’s life. The teacher may say something that the student carries with him or her for the

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5. Professor Emeritus, University of South Dakota, Dept. of Political Science.

6. From a saying by Mother Teresa, but it has been significantly altered, paraphrased, or is a personal interpretation of her authentic words. See *Quotes Falsely Attributed to Mother Teresa and Significantly Paraphrased Versions or Personal Interpretations of Statements That are Not Her Authentic Words*, MOTHER TERESA OF CALCUTTA CENTER, [http://www.motherteresa.org/08\\_info/Quotesf.html](http://www.motherteresa.org/08_info/Quotesf.html) (last updated July 19, 2010).



duration of his or her career and life. I still recall comments made by some of my law professors in the classroom. These comments, made over forty years ago, still guide me effectively in how I analyze legal issues and life in general today.

#### J. THE INTRODUCTORY SEGUE IS A TREMENDOUS TOOL

One of the best ways to start off a class session is by being personal and human in regard to the subject matter. My comments at the beginning of each class period play a vital role in terms of opening the students' minds and hearts. A personal perspective can create a positive learning environment and carry a lasting effect. My introductory comments may simply relate to memories from being a law student covering the same or similar material. The comments may also relate to a real world situation in which I was involved as an attorney or to an issue that the students are likely to have encountered. Over the years I carried with me comments made by some of my professors—comments of a personal nature, in which they gave me insights as to how to view the subject matter. The “introductory segue” is important for each class, but I have found it especially helpful with first-year law students.

#### K. BRIEF REVIEW OF MATERIAL, SETTING THE CONTEXT FOR DAY'S LESSON PLAN

The utilization of a brief review of the subject matter at the beginning of each class has a similar impact to the “introductory segue.” It does not take long to briefly outline what was previously discussed in class and how the new material fits into the scheme of things. Are we covering new material today, or is the material another aspect of a topic that we discussed in the previous class? One can quickly provide a brief outline on the chalkboard that shows the progression of study and how the day's material fits in.

#### L. HIGHLIGHT LANGUAGE ON DOCUMENTS DISPLAYED ON SCREEN

Utilization of highlighted PDF files on the overhead is the single greatest “teaching technique” I have found. I learned that if you ask students to open a rulebook during class, such a request is akin to asking them to stop and move a 100 pound object twenty yards. All the students may hear the request, but few act on it. On the other hand, if I am able to display the precise rule or statute on the overhead, with highlighted language, the students are forced to see it. This also works for emphasizing important language in the opinions found in the casebook. Utilizing this technique the last several years has resulted in an amazing improvement in my ability to “get through” to the students. It does take a significant amount of extra time in class preparation—yet, in my view, the extra time is worth it.

It is also important that the teacher have the ability to quickly and easily access the documents. It takes extra time to set the documents in the correct order and to practice going through them ahead of time. If the process is not smooth, then it becomes counterproductive.

#### M. MAINTAIN FOCUS ON STUDENTS WHO “ARE PRESENT”

There will be times when there are many absences from class. For example, a deadline for a writing assignment in one class tends to diminish attendance in other classes. When a teacher experiences a large number of absences, it can be discouraging. Also, there have been times when I felt overwhelmed with the number of e-mail messages advising that students will be absent from class. I have learned that it is important to keep my focus on the students who are, in fact, present in the classroom. These students have chosen to attend class and are entitled to the best class I can teach. It is also helpful to remember, somewhat paradoxically, that even if 100% of the students are in attendance, some of them may not be fully present, either mentally or emotionally. The point is that I need to be able to “deliver” to those who are present. Feedback over the years indicates that some students will remember exactly what you say in class and benefit from it. This is true regardless of whether there was 100% attendance or 50% attendance.

### III. PERIPHERAL ASPECTS FOR A DYNAMIC CLASSROOM PRESENTATION

#### A. PRE-CLASS VIDEOS

Over the years, I began exploring ways to utilize the students’ time “waiting” for class to start—not for the purpose of teaching, but for the purpose of entertaining and also “setting the stage” for the class. I remember that when I was a student I had little time to keep up with current news events. I discovered that late night comedians frequently talked about news items. As a result, I thought at a minimum I could show some entertaining video clips, which lighten the mood and assist the students in feeling connected with the real world.

I expanded the nature of the pre-class videos to include a broader range of items that brought pleasure into their lives: music videos, uplifting clips from *Glee*,<sup>7</sup> *The Voice*,<sup>8</sup> *America’s Got Talent*,<sup>9</sup> etc. I confess that in the beginning I thought that if I presented an “opening act” of this type of entertainment, the “opening act” would be better than my teaching. This gave me some pause. But, I soon found that the “opening act” also picked up my spirits and made me better able to step into “teaching” in a strong and confident way. In fact, the

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7. *Glee* (Fox).

8. *The Voice* (NBC).

9. *America’s Got Talent* (NBC).

“better” the pre-class video, the more confident I felt in starting the class. The more inspirational the pre-class video, the better for me and for the students. In my final years of teaching, I planned the videos to start as early as possible, timing them to end at the designated start time for the class.

The feedback was positive, confirming that today’s law students also have difficulty staying connected with current news items and entertainment trends. One of the advantages of showing video clips from late night comedians is that these students can at least feel a little bit “plugged in” to the real world while they are occupied with their studies.

The pre-class videos have also afforded me an opportunity to connect with various students on a more personal level. Clips like those of *Top Gun*,<sup>10</sup> *Glee*, *Rocky*,<sup>11</sup> current music videos, and older music videos, have all brought about a degree of bonding of common interests with students who came forward with an expression of approval or appreciation.

#### B. NOT SO QUICK WITH ANNOUNCEMENTS OF CLASS CANCELLATIONS

I have learned that one should not make announcements to students about class cancellations too early. An announcement made at the last minute, or close thereto, is frequently the best approach. Once the announcement is made, it becomes difficult, if not impossible, to withdraw or modify it.

Circumstances might change, but “changing course” after an announced cancellation is problematic. Students begin making their own plans as soon as a cancellation is announced. Also, in terms of “student appreciation,” I have found students tend to be more appreciative of “last-minute announcements” because they tend to appreciate the newfound freedom. A professor who cancels a class “at the last minute” is generally accorded much goodwill. A professor who cancels a class two weeks early and then attempts to reinstate the cancelled class is not accorded good will.

#### C. NEW TEACHERS SHOULD NOT SEEK TO MODEL THEIR BEST TEACHERS

When I first started teaching College Algebra at University of Missouri (Mizzou), I was told by an experienced math professor that many times new teachers attempt to “model” their teaching methods after a professor or teacher that greatly affected them—a professor that the new teacher believed was excellent. He said to “not” do this. He said that each one of us needs to perfect our own style. I believe this is excellent advice for a new teacher, even though I also believe that some of my best teaching was similar to some of the great teachers I had experienced. Nonetheless, I needed to create my own style.

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10. TOP GUN (Paramount Pictures 1986).

11. ROCKY (United Artists 1976).

#### D. OBSERVE OTHER PROFESSORS

When I started teaching in law school, Professor David Crump, the senior Civil Procedure Professor at South Texas College of Law, recommended that I sit in on his Civil Procedure class. I did so and I am very grateful that I did. It reminded me of what law school classes were like, and it gave me a realistic picture of what was ahead of me. Over the years, I occasionally observed other professors' classes and I always benefited from doing so. In retrospect, I wish I would have done this more frequently. Observing another professor's class can assist a teacher in seeing what techniques are "working" and what techniques are "not working" for the other professor.

#### E. REFERENCING THE COURT

There is a quirk of human nature that prompts virtually everyone to refer to a court as "they" when reciting. Courts should be referred to as "it" or possibly "he or she," but never "they." This is especially true of courts of appeals, which consist of at least three judges or justices. A court of appeals is still an "it." One can refer to the collection of individual members as "they," but not the court. For example, they (the individual judges or justices) agreed or disagreed on something. The court's decision, however, should be referred to as "its ruling." I have labored endlessly in attempting to drive this point home.

#### F. THE EARLY CLASS

Due to my utilization of the overhead projector with highlighted documents, and because I integrate pre-class videos into my teaching style, I prefer having unimpeded access to the classroom prior to the designated start time. For early classes, I have been able to get into the classroom thirty to fifty minutes early because no other classes were scheduled ahead of mine. I have also become fond of the "early to rise" routine and teaching early in the day. One result of doing it this way is summarized in an observation that I have frequently made: "The best thing about a 9 a.m. class is 10 a.m.—because you are done for the day!" This is assuming, of course, that you only have one class on that day.

#### G. A QUICK PICK-ME-UP

Whenever I come to school feeling down about something or feeling somewhat overwhelmed, I cheer myself up when I walk through the doors of the law school and think, "at least I'm not a law student anymore." When I *really* need cheering up, I think "and thank goodness I am not a first-year law student." I have occasionally shared these thoughts with students. It is a good way to start a class, bringing some laughter and smiles. Talking about this with the students also lets them know that life gets better.

## H. DIMINISH STRESS ELSEWHERE BY FOCUSING ON THE DYNAMIC CLASSROOM EXPERIENCE YOU SEEK TO CREATE

The more I focus on having a good class, the more I am able to put the proper perspective on issues and problems at school, in the world, and in my life. If I have the ability to teach a good class—impacting a receptive group of students—I know that I am doing something worthwhile. The stressors from non-teaching aspects of academia seem to have an inverse correlation with their importance to my teaching and to what transpires in the classroom. Faculty members can get carried away with issues related to curriculum, enrollment numbers, student disciplinary matters, budgetary matters, committee assignments, faculty recruiting, etc. Faculty meetings can easily turn into “doomsday” discussions. I have learned, however, that the seemingly “overwhelming” problems discussed at faculty meetings are only as overwhelming as I allow them to be. The more I focus on them, the less likely I am to be able to provide a “dynamic classroom experience.” On the other hand, the more I focus my efforts on creating a dynamic classroom experience, the better my world becomes.

I take comfort in the words of Henry Kissinger, who served as Secretary of State under two Presidents and was the 1973 winner of the Nobel Peace Prize. Kissinger also served as a member of the faculty at Harvard. In reflecting on the “stressors” of non-teaching aspects of academia, Kissinger said: “University politics are so vicious precisely because the stakes are so small.”<sup>12</sup>

## I. STUDENT AGENDAS

A professor may sincerely care for his students, wanting good things for them, hoping that their lives are going well, and hoping that they are having a good experience in law school. But, I have learned that this does not carry over into “caring for,” or endorsing, their agendas. As a result, some students may perceive that the professor does not care for them personally if the professor does not enthusiastically align himself with the student’s personal agenda. I believe it is important to remember that a professor cares for his students by attending to personal needs, accommodations, and inquiries regarding the subject matter—not by endorsing the student’s agenda.

## J. DISCRIMINATORY ASPECT

I love being a law professor. But, there is one discriminatory aspect to the job that is unsatisfactory to me. Students have the choice to “take” or to “avoid”

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12. This sentiment is also traceable to what is known as “Sayre’s law,” named after Wallace Stanley Sayre who is credited with saying: “In any dispute the intensity of feeling is inversely proportional to the value of the issues at stake.” As an example, he stated “[t]hat is why academic politics are so bitter.”

a professor in many situations, such as upper level electives. This is fine; but a professor does not have the choice to avoid teaching a disagreeable student who decides to enroll in his class. There are a handful of disagreeable students that I would have loved to have “excluded” from my classroom over the last several years.

#### K. FOUNTAIN OF YOUTH

One of the great things about teaching is that a teacher is surrounded by youth as well as youthful enterprises and motivations. It keeps me young, or at least “young at heart.” The ups and downs of practicing law thrust one into the real world—a world that is constantly dealing with reality and serious ramifications. As a law professor, I can be involved in real world issues, if I wish. Fortunately, I can monitor the extent of my involvement in the real world. One great reward of being a professor is that one is immersed in a fountain of youth.

There have been numerous opportunities to participate in intramural sports. I regularly put together an intramural swim team for years, and our team always won first place (it was nice to wear an “Intramural Champion” t-shirt occasionally). After watching the movie *Dodgeball*<sup>13</sup> in 2005, I approached Steve Mayer, USD’s Intramural Director, and requested that he create dodgeball as an intramural sport. Not only did Steve agree, but he also created a special league for law school play. We had several law school teams participating on a co-ed basis (with both women and men on each team). My team was not in the winner’s circle, but we had great fun.

The class of 2002 sponsored a “lip sync contest” during its 3rd year. My talents are very limited—I never participated in any kind of karaoke or musical contest, but I was delighted to be able to perform a lip sync. I rehearsed at great length with the song *(Ghost) Riders in the Sky* by Johnny Cash<sup>14</sup> and I won! There were other faculty members and many students participating. I was surprised myself that I won. A few months later, the class of 2002 asked me to provide lip sync entertainment for its graduation party and I was happy to do so. I expanded my repertoire to include numerous songs from the 60s—*The Reverend Mr. Black* by the Kingston Trio,<sup>15</sup> *Cara Mia* by Jay and the Americans,<sup>16</sup> *Silhouettes* by Herman’s Hermits,<sup>17</sup> and *Ring of Fire*, another

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13. DODGEBALL: A TRUE UNDERDOG STORY (20th Century Fox 2004).

14. JOHNNY CASH, *(Ghost) Riders in the Sky*, on SILVER (Columbia Records 1979).

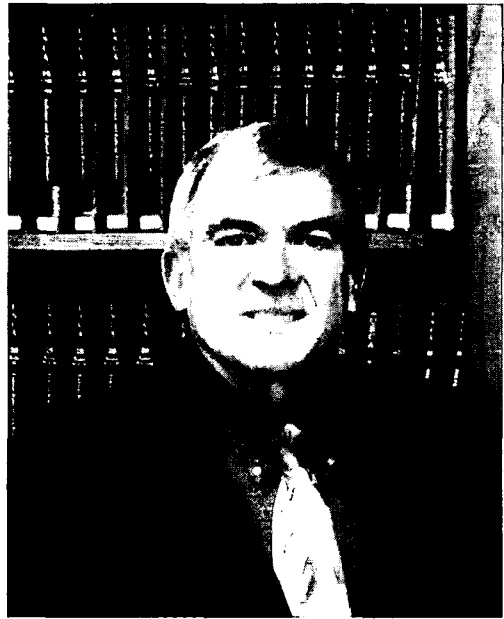
15. THE KINGSTON TRIO, *The Reverend Mr. Black*, on THE KINGSTON TRIO #16 (Capitol Records 1963).

16. JAY AND THE AMERICANS, *Cara Mia*, on BLOCKBUSTERS (United Artists Records 1965).

17. HERMAN’S HERMITS, *Silhouettes*, on HERMAN’S HERMITS ON TOUR (Columbia Records 1965).

Johnny Cash hit.<sup>18</sup> The graduation party performance was well received, and I cherish my videotape copy of the performance.

During my final year teaching, Professor Wendy Hess sparked schoolwide enthusiasm for Halloween. Most, if not all, faculty participated as well as most students. It was much fun. My chosen costume was Leonardo, the Teenage Mutant Ninja Turtle. I received tremendous positive input from students in all the classes. One thing led to another. Eventually a professional painting was made by Steve Goad, whose wife Lori was a first year student. The artwork, a large print made on metal as medium, was on display at the law school during my final months of teaching and is now with us in our new Arkansas home. A copy of the artwork is reproduced below, with permission from the artist. A copy of the “normal” photo utilized by the artist as a foundation is also set forth.



Dealing with students and participating in student and school activities on a university campus is a wonderful way to be employed. It is widely speculated that Juan Ponce de Leon searched for the “Fountain of Youth” in Florida in 1513.<sup>19</sup> I found it at USD School of Law in 1990.

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18. JOHNNY CASH, *Ring of Fire*, on RING OF FIRE: THE BEST OF JOHNNY CASH (Columbia Records 1963).

19. Jesse Greenspan, *The Myth of Ponce de Leon and the Fountain of Youth*, HISTORY (April 2, 2013), <http://www.history.com/news/the-myth-of-ponce-de-leon-and-the-fountain-of-youth>.

## L. LEARNING MORE ABOUT STUDENTS

Getting to know about students outside the law school setting can be a very positive experience and generate many rewards. I have been able to do this by hosting events such as *The West Wing*<sup>20</sup> and *The Newsroom*<sup>21</sup> video nights. On a broader scale, I have found that making music videos for an entire class was a wonderful way for me to get to know individual students and come to appreciate non-law school aspects of their lives. I find myself thinking about the fun photos, not related to law school, of students long after they were first-year law students. Whenever the name of a former student comes up, I immediately picture the student as previously seen in a funny or unusual photo from his or her Facebook profile.

Facebook has allowed me to connect with some students on areas of common interest. I have found that I may share enthusiasm for a musical group, a movie, or television show. This common interest makes it easy to strike up a friendly non-academic conversation in a hallway or elsewhere.

Through Facebook I have learned that many students have young children, and those children have needs. I am reminded of the difficulties that can be encountered in raising small children, especially for single parents. I have also learned of medical conditions of the students or close family members. This knowledge has allowed me to expand my thought process on things such as absences and tardiness. I have found that many professors tend to take absences and tardy arrivals personally. Some are quick to impose sanctions when absences or tardy arrivals exceed the professor's tolerance level. I confess that I also did this in my first two to three years of teaching. But, when I learned more about the students involved, I frequently found there were some hardships involved, and it gave me better appreciation for the students' difficulties. Learning more about the lives of the students is always beneficial.

## M. STOCKHOLM SYNDROME<sup>22</sup>

I have come to appreciate the "Stockholm Syndrome" which occurred in the Spring Semester for the first-year law students in my Civil Procedure class. On evaluation forms, students invariably describe me as "changing" during their second semester of law school. Perhaps I do change a bit. From my perspective, however, it is the general nature of the entire class of students that changes after the first semester and not me. Previously hostile and openly aggressive students become manageable and docile, for the most part, during their second semester

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20. *The West Wing* (NBC).

21. *The Newsroom* (HBO).

22. "Stockholm syndrome" describes the psychological phenomenon which occurs when hostages develop positive feelings for their abductors. The term has its origin in a 1973 bank robbery in Stockholm, Sweden when several bank employees were held hostage for six days and became emotionally attached to the bank robbers. See Kathryn Wescott, *What is Stockholm Syndrome?*, B.B.C. NEWS MAGAZINE (Aug. 22, 2013), <http://www.bbc.com/news/magazine-22447726>.



of law school. This allowed me to efficiently cover a substantial amount of material each class period.

#### N. FILLING THE CLASS TIME

In the early days, it was a chore to “fill the time” in the classroom, but after teaching the subject matter a couple of times, this was not a problem. In actuality, I found myself frequently falling short of the anticipated coverage for each class. But, that is okay. I love the job of teaching. I devote almost all of my working time and energy to class preparation. I want to make the class period as meaningful and exciting as possible. Most of the time, it is a continuous challenge for me to make the time in the classroom as meaningful as possible and I am continually searching for ways to improve on that. Filling the allotted class time is a privilege, not a chore.

#### O. STUDENT DISAPPOINTMENT WITH END OF CLASS

A noble goal is to have a class period that holds the attention of the students. One truly satisfying aspect of teaching is presenting an educational experience that holds the students’ attention the full time—the type of situation where the students are hanging on your words, following a logical progression of events or principles that bring relevance and meaning to how the real world operates. This is far better than dealing with a group of students who are watching the clock, anxiously awaiting the end of class. One of the most rewarding feelings that I can experience—and have been lucky enough to experience on many occasions—is observing that students are surprised—sometimes even disappointed—when the end of the hour is up and it is time for class to be dismissed.

### IV. OTHER RELEVANT OBSERVATIONS

#### A. BEWARE THE SUMMER INTERN BEARING QUESTIONS

I have learned that law firms save very complex questions (insurance, civil procedure, or family law) for summer externs or interns. Frequently, when the summer intern gets the question, he or she contacts me for an answer. Just like clockwork, I found this happening every summer. When this happens, I recommend simply recognizing the difficulty of the question presented, offering some guidance, and not becoming overly invested in finding the answer—unless, of course, the professor wishes to do so.

## B. LEARNING FROM MISTAKES—MISTAKES BY YOU AND BY OTHERS

Everyone makes mistakes. A mistake can be the impetus for positive change, and the sooner one is able “to learn” from a mistake, the better. It is also nice that we have the opportunity to learn from others’ mistakes. This applies to many things in life, not just teaching law. Being cognizant of what is happening around you and being cognizant of all mistakes—yours and those made by others—presents the opportunity for continual improvement.

## C. REAL GOAL MAY NOT BE WHAT IS PERCEIVED

One lesson that I have continually learned in life is that many times the “goal” in front of me—the one as to which I am endeavoring with my best efforts and hope—is frequently not the real goal that God has in store for me. But if I continue to put forward my best effort, I find that I am working toward a different purpose that brings fulfillment to me. Sometimes the goal that I perceive is, in fact, the goal for me. But, many times, it isn’t. Doing my best along the way is very important, and, having done my best, I know that I have done what I was supposed to do.

## V. RETIREMENT SONG

I was chatting with Judge Kathleen Trandahl a few months ago. We discussed my upcoming retirement, and she asked me what my “retirement song” would be. This question, asked in a casual and friendly manner, put me into a quandary. It was as if she asked me: “What is the meaning of life?” I finally said I would have to reflect on the question and that I would come up with an answer for her at a later date.

I have been reflecting on her question for a few months now, and I believe I can give an answer. My retirement song is, *Don’t Stop Believin’*.<sup>23</sup> There are several reasons.

I utilized the rendition of this song, from the pilot episode of *Glee*, as one of my initial forays into pre-class time period in Civil Procedure. It was well received. It happened on the day that we took up *Pennoyer v. Neff* and the student reciting on the case, Kristi Jones, did an excellent job in her recitation. After class, I complimented Kristi on her excellent recitation. Kristi told me that the *Glee* video clip actually got her pumped up and gave her extra confidence in preparing to recite on the most difficult case in the Civil Procedure course.<sup>24</sup>

This song became somewhat of an anthem for that year’s Civil Procedure class—and, for me. For a period of time, I adopted it as the ring tone for my cell

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23. GLEE CAST, *Don’t Stop Believin’*, on GLEE: THE MUSIC, VOL. 1 (Columbia Records 2009)(original by JOURNEY, *Don’t Stop Believin’*, on ESCAPE (Columbia Records 1981)).

24. Kristi was subsequently selected for the Moot Court Board and served as SBA President during her third year in law school.

phone. The ring tone adoption was a decision that prompted considerable discussion and teasing by our children and their spouses—which continues to this day. Given the historical context of this song *vis-à-vis* Civil Procedure and my decision to utilize pre-class videos, it is an appropriate choice for my “retirement song.”

More fundamentally, this song captures the spirit of my retirement. In my work as a law professor, I have pushed heavily for reform in certain areas. The two primary areas of focus for me have been ERISA reform and reform in South Dakota law concerning the adoption of unilateral no-fault divorce as a basis for reduction in the incidence of domestic violence. My efforts have not been successful, but I have at least set forth a dialogue that continues today. I may never see the reform that I have promoted, but I am hopeful that I have inspired others to carry it forward and that their efforts may someday succeed. But, my work and my career cannot be pigeon-holed to just these two areas. There are countless other areas where I have suggested reform in my classroom teaching—areas such as preservation of the “incontestability clause,” protections in life and health insurance, and the elimination of “accidental death” insurance, which is mistakenly confused by much of the consuming public as normal life insurance. I also believe that I have been able to present a “mode of thinking” for students to adopt as future lawyers—a mode of thinking that encourages a real consideration of impact, unintended consequences, and intended consequences of various principles of law.

My decision to retire is not an abandonment of my goals and efforts. My decision to retire was made because it was time for me—for Claudia and me—to begin a new chapter in our lives. But, even in this new chapter (of retirement and relocation to a home and locality in Arkansas that we consider to be paradise), I have not given up hope as to the aspects of my career as a law professor, which kept me motivated over the last thirty years. So, Judge Trandahl, the answer to your question—a question that was far more profound than you might have intended—is *Don't Stop Believin'*.