

INTERVIEWING, COUNSELING AND NEGOTIATION (FALL 2019)

Professor Keith W. Rizzardi

Assignments posted on <http://www.keithinking.com>

REQUIRED READING MATERIAL:

David Binder et. al., *Lawyers as Counselors, A Client-Centered Approach* (4th Edition) ISBN: 9781640203907

- KWR: this will be supplemented by handouts and role play exercises.

An additional fee (approx. \$12) will be collected for handouts.

Larry L. Teply, *Legal Negotiation in a Nutshell*

- KWR: this is a free resource from the STU Law Library subscription services (use link to West Academic Study Aids)

Roger Fisher & William Ury, *Getting to Yes* (buy or available free online)

ABOUT OUR CLASS: Using readings, lectures and videos, applied in class discussions, role play exercises (in class) and simulations (outside of class), and through careful written self-assessment and reflection, students develop some important skills of lawyering.

Interviewing: a formal meeting at which someone is asked questions.

Counseling: advice given especially as a result of consultation.

Negotiation: discussion aimed at reaching an agreement.

GRADING & EXAMS: Student grades are calculated and curved pursuant to school policy, based on a maximum of 105 points:

Your ICN Experience Folder, (70 points) including the following:

- A comprehensive course outline of key concepts, submit for grading during the class (5 points) and at the end (20 points).
- *Attorney Notes*, including one set of notes taken before (typed) and during (handwritten or typed) the Bell, Henry or Avery exercise (3 points), and a second set of notes taken before (typed) and during (handwritten or typed) the Simmons, Dunlop or Dons exercise (6 points).
- *Reflection Papers:* two 250 word “reflection papers” (12 points) discussing your experience with two of the first three exercises (Bell, Henry or Avery), and two 500 word reflection papers (24 points) discussing your experience with two of the last three exercises (Simmons, Dunlop or Dons). The well-written evaluation should identify strengths and weaknesses of your performance in the attorney role, apply concepts from the class, contain specific examples, and offer honest insights.

Quick 10-minute quizzes, (21 points) with fill-in-the-blank, true/false or multiple choice questions, given at the start of class. Four quizzes are 7 points each, lowest score dropped. Questions come *directly* from readings.

Attendance: perfect attendance (4 points), excused absences (2 points), any unexcused absence (zero points).

Class participation: substantial positive effects on classroom discussions and activities can earn up to 4 points.

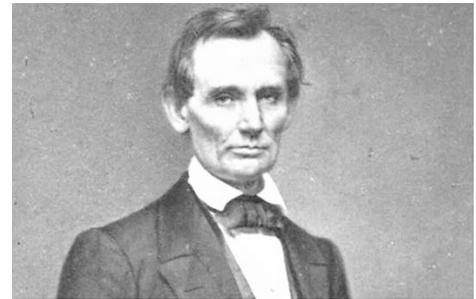
Daily gunning is not necessary, but quality contributions will be noticed.

Peer surveys: students will anonymously evaluate their peers by identifying the best interviewer they encountered, and the best negotiator they faced. Repeated peer mentions can earn students up to 4 points.

ON ATTENDANCE AND PARTICIPATION: This class strives to be fun. However, the benefit of each role play experience depends upon the participants being present, prepared and engaged in the exercise. Classes meet once each week. Readings are not difficult. No excuses. If you will miss a class, please notify the professor in advance.

ANONYMOUS GRADING: Be sure to have your AGN, and use it for all assignments.

DISABILITY ACCOMMODATIONS: If you have a disability, and need to seek accommodation, please contact our Dean of Students, John Hernandez, jhernandez@stu.edu as soon as possible. Be advised that the in-class multiple choice question and fill-in-the-blank quizzes already include extra time and no accommodations will be necessary.



Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser — in fees, expenses, and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough.

-- A. Lincoln, *Notes from a Law Lecture*

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PRINCIPLES OF STUDENT PROFESSIONALISM

Law professors generally aspire to teach students in a manner that achieves three goals, including:
 (A) thinking like a professional by recognizing relevant legal principles and competing arguments;
 (B) performing like a professional by using oral or written communication in a persuasive manner;
 (C) acting with integrity, by advocating positions within the boundaries of the facts and law. *See, e.g. Carnegie Report*
 To help professors reach these goals, students must be part of the process, before, during and after class.

Please do not waste class time with the "IS THIS ON THE QUIZ?" question. Learning is about more than tests. If it is in the readings, or the lectures, then yes, it could be on the examination. Let's be honest: if I tell you what is on the exam, then that will be the only thing you will study. Try these four paths to academic success instead:

1. **Preparedness.** Students should read the syllabus (updated on <http://www.keithinking.com>) and required materials before each class – using the **current** textbook and materials. (“Hey judge, can I use old case law?”)
2. **Participation.** Attendance will be taken in class, and all students should plan to participate. Students sign a seating chart, and rows may be “hot” for each class. Be timely for class and avoid leaving and disrupting others. (No, do not ask permission to use the rest room, but note that my classes often take a short break at the midpoint.)
3. **Focus.** Create your own notes and outlines to learn the subject. Take notes before, during and after class. Electronically-oriented students are encouraged to use a tablet with a stylus, not a keyboard. Scholarship suggests that typing often creates a “scribe” effect that reduces learning. *See, e.g. <http://nymag.com/scienceofus/2016/05/heres-more-evidence-laptops-and-classrooms-are-a-bad-mix.html>*
4. **Self-assessment.** After each class, self-assess. Try to identify the things you still do not know. Combine lecture notes with pre-prepared notes, and pursue long-term memory.

LEARNING OUTCOMES:

LEARNING OUTCOMES RE: APPLICATION OF CONCEPTS

- ABA Standard 302(a): knowledge & understanding of substantive & procedural law*
ABA Standard 302(b): Legal analysis & reasoning, legal research, problem-solving & written/oral communication in the legal context
ABA Standard 302(d) Other professional skills needed for competent & ethical participation as a member of the legal profession
- *STU Learning Outcome 1: Students will demonstrate knowledge and understanding of the law and the American legal system.*
 - *STU Learning Outcome 2: Students will demonstrate competency in issue spotting, analytical & problem-solving skills*
 - *STU Learning Outcome 4: Students will communicate effectively and with civility*
 - *STU Learning Outcome 5: Students will demonstrate competency in legal practice skills.*

Using readings, lectures and videos, applied in class discussions, role play exercises, and written essay questions, students learn and apply theory and techniques of interviewing, client counseling, and negotiation through interactive and self-directed exercises.

Students review procedural requirements related to confidentiality, disclosures, discovery, offers of judgment, plea bargains and settlements.

LEARNING OUTCOMES RE: INTERNALIZATION OF CONCEPTS

- ABA Standard 302(c): Exercise of proper professional & ethical responsibilities to clients and the legal system*
- *STU Learning Outcome 3: Students will demonstrate competency in research.*
 - *STU Learning Outcome 6: Students will exercise proper professional & ethical responsibility to clients & legal system.*
 - *STU Learning Outcome 7: Students will demonstrate knowledge and awareness of their larger moral and ethical responsibility to society.*

Students engage in competent preparation for simulated exercises, research non-legal factual matters, and prepare for complex situations and negotiations.

Students debate nuances and applicability of concepts related to interviewing, counseling and negotiation with each other, behaving in an appropriate civil and professional manner.

Students evaluate their own behaviors, and those of peers, to identify best practices.

CONTINUOUS COURSE IMPROVEMENT GOALS

Professor analyzes class performance, takes notes on negotiation debriefings, and amends syllabus in response to the evaluations & feedback above.