

Legal Profession Class

(Professor Henderson)

Assignment for Week #2 (January 17-18).

Next week we will be “thin slicing” the Schiller interview. (I will explain the term “thin slicing” in class.) This exercise focuses on the competencies discussed in Chapter 1. Therefore, there is no additional reading needed specifically for Week #2 class discussion. You should have already completed it. However, you need to carefully read Chapter 2 next week in order to complete the group work required for Week #3.

Here is your Legal Professions to-do list for next week:

1. In your Practice Group, complete the exercise below (by Tuesday)
2. Carefully read Chapter 2 of the Course Packet
3. Read all your OnCourse messages to be on the look-out for updates

Schiller Thin Slicing Exercise:

John Schiller is an unusual lawyer in at least one respect. A very wealthy client, David Jacobs, gave Indiana Law \$1.5 million gift to endow a named professorship in legal ethics in John’s honor. Perhaps Schiller is a good test case to evaluate the relative importance of the various traits, skills, and competencies discussed in Chapter 1.

Each Practice Group will be assigned one of four lists:

- The Fromm Six (attached to your syllabus)
- The Spence Eight (Table 1 in Chapter 1 of the Course Packet)
- The Berkeley Effective Lawyering Factors (attached)
- The Seven Valuable Intellectual Traits (Section 1.6 of the Course Packet)

Before class on Tuesday, January 17, meet in your Practice Groups and identify the six BEST examples from the Schiller interview that map onto your assigned list. Your written work product, done for the Group as a whole, should include (a) the trait / skill / competency you have identified, (b) its location in the interview (e.g., “Passion in Scene 8 @ 42:23 when he says”). There is no need to explain why the excerpt your Group identified mapped onto that specific trait / skill / competency – someone from your Group will have to do that during class. In addition, you are looking for the best examples. Therefore, it is okay to repeat specific traits, skills, or competencies. For example, you can list passion, listening, or intellectual courage more than once.

Finally, identify one passage that your Group believes may warrant class discussion. Briefly explain why (briefly means no more than three sentences). Please email me your assignment by 7:30 am on Tuesday (wihender@indiana.edu).



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Fromm Six

SELF AWARENESS – Having a highly developed sense of self. Being self-aware means knowing your values, goals, likes, dislikes, needs, drives, strengths and weaknesses, and their effect on your behavior. Possessing this competence means knowing accurately which emotions you are feeling and how to manage them toward effective performance and a healthy balance in your life. If self-aware, you also will have a sense of perspective about yourself, seeking and learning from feedback and constructive criticism from others.

ACTIVE LISTENING – The ability to fully comprehend information presented by others through careful monitoring of words spoken, voice inflections, para-linguistic statements, and non-verbal cues. Although that seems obvious enough, the number of lawyers and law students who are poor listeners suggests the need for better development of this skill. This skill requires intense concentration and discipline. Smart technology devices have developed a very quick mode of “listening” to others. Preoccupation with these devices makes it very challenging to give proper weight and attention to face-to-face interactions. Exhibiting weak listening skills with our colleagues/classmates/clients might also mean that they will not really get to the point of telling us what they really meant to say. Thus, we miss the whole import of what the message was to be.

QUESTIONING – The art and skill of knowing when and how to ask for information. Questions can be of various types, each type having different goals. Inquiries can be broad or narrow, non-leading to leading. They can follow a direct funnel or an inverted funnel approach. A questioner can probe to follow up primary questions and to remedy inadequate responses. Probes can range from encouraging more talk to asking for elaboration on a point to even being silent. Developing this skill also requires controlling one’s own need to talk and control the conversation.

EMPATHY – Sensing and perceiving what others are feeling, being able to take their perspective, and cultivating a rapport and connection. To do the latter effectively, you must then communicate that understanding back to the other person by articulating accurately those feelings. That person then will know that you have listened accurately, that you understand, and that you care. Basic trust and respect can then ensue.

COMMUNICATING/PRESENTING –The ability to assertively present compelling arguments respectfully and sell one’s ideas to others. It also means knowing how to speak clearly and with a style that promotes accurate and complete listening. As a professional, communicating means to persuade and influence effectively within an interaction without damaging the potential relationship. Being able to express strong feelings and emotions appropriately in a manner that does not derail the communication message is also important.

RESILIENCE –The ability to deal with difficult situations calmly and cope effectively with stress; to be capable of bouncing back from or adjusting to challenges and change; to be able to learn from your failures, rejections, feedback and criticism, as well as disappointments beyond your control. Being resilient and stress hardy also implies an optimistic and positive outlook, one that enables you to absorb the impact of the event, recover within a reasonable amount of time, and to incorporate relevant lessons from the event.

Seven Valuable Intellectual Traits (June 1996),

Foundation for Critical Thinking

1. **Intellectual Humility:** Having a consciousness of the limits of one's knowledge, including a sensitivity to circumstances in which one's native egocentrism is likely to function self-deceptively; sensitivity to bias, prejudice and limitations of one's viewpoint. Intellectual humility depends on recognizing that one should not claim more than one actually knows. It does not imply spinelessness or submissiveness. It implies the lack of intellectual pretentiousness, boastfulness, or conceit, combined with insight into the logical foundations, or lack of such foundations, of one's beliefs.

2. **Intellectual Courage:** Having a consciousness of the need to face and fairly address ideas, beliefs or viewpoints toward which we have strong negative emotions and to which we have not given a serious hearing. This courage is connected with the recognition that ideas considered dangerous or absurd are sometimes rationally justified (in whole or in part) and that conclusions and beliefs inculcated in us are sometimes false or misleading. To determine for ourselves which is which, we must not passively and uncritically "accept" what we have "learned." Intellectual courage comes into play here, because inevitably we will come to see some truth in some ideas considered dangerous and absurd, and distortion or falsity in some ideas strongly held in our social group. We need courage to be true to our own thinking in such circumstances. The penalties for nonconformity can be severe.

3. **Intellectual Empathy:** Having a consciousness of the need to imaginatively put oneself in the place of others in order to genuinely understand them, which requires the consciousness of our egocentric tendency to identify truth with our immediate perceptions of long-standing thought or belief. This trait correlates with the ability to reconstruct accurately the viewpoints and reasoning of others and to reason from premises, assumptions, and ideas other than our own. This trait also correlates with the willingness to remember occasions when we were wrong in the past despite an intense conviction that we were right, and with the ability to imagine our being similarly deceived in a case-at-hand.

4. **Intellectual Integrity:** Recognition of the need to be true to one's own thinking; to be consistent in the intellectual standards one applies; to hold one's self to the same rigorous standards of evidence and proof to which one holds one's antagonists; to practice what one advocates for others; and to honestly admit discrepancies and inconsistencies in one's own thought and action.

5. **Intellectual Perseverance:** Having a consciousness of the need to use intellectual insights and truths in spite of difficulties, obstacles, and frustrations; firm adherence to rational principles despite the irrational opposition of others; a sense of the need to struggle with confusion and unsettled questions over an extended period of time to achieve deeper understanding or insight.

6. **Faith In Reason:** Confidence that, in the long run, one's own higher interests and those of humankind at large will be best served by giving the freest play to reason, by encouraging people to come to their own conclusions by developing their own rational faculties; faith that, with proper encouragement and cultivation, people can learn to think for themselves, to form rational viewpoints, draw reasonable conclusions, think coherently and logically, persuade each other by reason and become reasonable persons, despite the deep-seated obstacles in the native character of the human mind and in society as we know it.

7. **Fairmindedness:** Having a consciousness of the need to treat all viewpoints alike, without reference to one's own feelings or vested interests, or the feelings or vested interests of one's friends, community or nation; implies adherence to intellectual standards without reference to one's own advantage or the advantage of one's group.

Eight Spence Factors

Predictors of Success at Work and in Life

Adapted from Lyle and Signe Spence, *Competence at Work* (1993)

1. **Achievement Orientation.** The desire to attain standards of excellence and do better, improve performance.
2. **Initiative.** Acting to attain goals and solve or avoid problems before being forced by events.
3. **Information Seeking.** Digging deeper for information.
4. **Conceptual Thinking.** Making sense of data and using theories and algorithms to solve problems.
5. **Interpersonal Understanding.** Hearing the motives and feelings of diverse others.
6. **Self-Confidence.** A person's belief in his or her own efficacy, or ability to achieve goals.
7. **Impact and Influence.** A person's ability to persuade others to his or her viewpoint.
8. **Collaborativeness.** Working effectively with others to achieve common goals.



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26 LAWYERING EFFECTIVENESS FACTORS

Marjorie M. Shultz and Sheldon Zedeck

1. Analysis and Reasoning: Uses analytical skills, logic, and reasoning to approach problems and to formulate conclusions and advice.
2. Creativity/Innovation: Thinks “outside the box,” develops innovative approaches and solutions.
3. Problem Solving: Effectively identifies problems and derives appropriate solutions.
4. Practical Judgment: Determines effective and realistic approaches to problems.
5. Providing Advice & Counsel & Building Relationships with Clients: Able to develop relationships with clients that address client’s needs.
6. Fact Finding: Able to identify relevant facts and issues in case.
7. Researching the Law: Utilizes appropriate sources and strategies to identify issues and derive solutions.
8. Speaking: Orally communicates issues in an articulate manner consistent with issue and audience being addressed.
9. Writing: Writes clearly, efficiently and persuasively.
10. Listening: Accurately perceives what is being said both directly and subtly.
11. Influencing & Advocating: Persuades others of position and wins support.
12. Questioning & Interviewing: Obtains needed information from others to pursue issue/case.
13. Negotiation Skills: Resolves disputes to the satisfaction of all concerned.
14. Strategic Planning: Plans and strategizes to address present and future issues and goals.
15. Organizing and Managing (Own) Work: Generates well-organized methods and work products.
16. Organizing and Managing Others (Staff/Colleagues): Organizes and manages others’ work to accomplish goals.
17. Evaluation, Development, and Mentoring: Manages, trains and instructs others to realize their full potential.
18. Developing Relationships within the Legal Profession: Establish quality relationships with others to work toward goals.
19. Networking and Business Development: Develops productive business relationships and helps meet the unit’s financial goals.
20. Community Involvement and Service: Contributes legal skills to the community.
21. Integrity & Honesty: Has core values and beliefs; acts with integrity and honesty.
22. Stress Management: Effectively manages pressure or stress.
23. Passion & Engagement: Demonstrates interest in law for its own merits.
24. Diligence: Committed to and responsible in achieving goals and completing tasks.
25. Self-Development: Attends to and initiates self development.
26. Able to See the World Through the Eyes of Others: Understands positions, views, objectives, and goals of others.

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