



Formation of Professional Identity

Towards an Intentional Pedagogy

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Chart for Conference



	What is Known	Models & Resources	Research Agenda
Learning Outcomes			
Curriculum			
Pedagogies			
Assessment			

Review of the Reading



Professionalism
(Behaviors)

Professional
Identity
(Responsibility)

Professional Identity Formation



- ❖ You can't "teach" it
 - (we can teach the "floor" – that's the Ethics class)
 - But PI is about where you are "above the floor"
- ❖ We have to create "situations" in which formation can occur
- ❖ A proposal: GSFPI
 1. An Exercise or Writing Assignment
 2. Identification of an ethical quandary by the student
 3. A reflection by the student on their decision
 4. Some form of feedback and response



Discovery Practicum

Discovery Law

- ❖ “Whole-course Simulation”
- ❖ Mock Litigation
- ❖ Students in Role
- ❖ Preparing documents each week
- ❖ Confronted with ethical quandaries
- ❖ Must make their own decisions
- ❖ Share that with me privately in a memo
- ❖ I respond with comments and a rubric
- ❖ (More detail this afternoon 2:15 & 3:30)

Learning Outcomes



- **Recognize** and apply the twelve Federal Rules of Civil Procedure that pertain to discovery
- **Recognize** how and when to use the most common litigation documents
- **Prepare** such documents in a simulated litigation
- **Interpret** discovery responses from opposing counsel
- **Develop** and adjust litigation strategy based on what you have learned
- **Identify** and consider ethical dilemmas that arise in the discovery context
- **Consider** the complexities of, and developing law surrounding, electronic discovery
- **Synthesize** your case knowledge at specific points in the litigation
- **Take** and defend a deposition
- **Compare** options and negotiate a settlement with opposing counsel
- **Agree** upon terms for a settlement agreement, and draft it collaboratively.
- **Use** these opportunities to think intentionally about the formation of your professional identity.

- ❖ New teaching materials
 - Lean back vs. Lean forward
- ❖ Online quizzes
- ❖ Class:
 - Lecture, discussion, workshop
 - Learn the tools, then discuss how to apply them
- ❖ Then: DO it

DOing Civil Litigation



- Two unequal parties:
 - Snowboarder vs. Drug Company
- Plaintiff and Defendant counsel pairs
- 8 Witnesses (2 experts) each student plays a role
- Each student gets part of the file
- Uses Discovery Tools to learn the rest of the case
- Prepares / serves Int., Doc. Req., Req. to Admit
- Answers each from opposing counsel
- Conducts a Deposition (with a student court rep.)
- Settles the case

Assessment of Formation of PI



- ❖ With each discovery document: Memo to me
- ❖ Approach, Strategy, Ethical issues, Reflection
- ❖ I look for Identification of the ethical issue
- ❖ And I look at the Reflection on the issue
 - Thoughtfully addressed
 - Clearly expressed
 - With depth
 - Showing *formation* of the student's PI

Ethics/Reflection (20%)



- 1 Identification of ethical issues is poor or lacking (such as objecting to answer a legitimately focused question). Document and memo seems mechanical and lacks reflection.
- 2 A few ethical identification errors made. Document and memo show some thoughtful reflection.
- 3 Only one or two ethical identification errors made in the document and memo. Some thoughtful reflection and clarity of purpose is shown in the document.
- 4 No ethical identification concerns, and the document and accompanying memo show significant thoughtful reflection in preparing the document.
- 5 This is a student who is becoming confident with discovery, identifies all ethical grey areas, and uses the simulation to reflect with depth and clarity on decisions made while balancing the various competing concerns.

Model Exercise

❖ Learning Outcome:

- To experience a *mock* GSFPI
- Try to pretend to be a student!

❖ Please review the exercise

- Identify an ethical issue
- Make a decision as to how you would resolve it
- Reflect on that decision
- *Discussion*

Some Sample Reflections



“The central ethical dilemma of discovery came into sharp focus during this exercise. I felt torn responding to several of the interrogatories. For each, I tried to imagine standing in front of a judge explaining the choice that I made.”

Some Sample Reflections



“Another document I was concerned about producing was the medical record created after the heart attack....In the end, I decided that because this is a highly relevant document I am confident defendants would be able to ultimately obtain, I decided to produce it now. Also, I reasoned that if I objected and then was forced to produce the document, I would be signaling to opposing counsel that the document contained information harmful to my client.”

Some Sample Reflections



“Overall, I feel comfortable that these choices strike a fair balance between duty to court and duty to client.”

“I do not want to hide the ball, and would not be able to sleep at night if I was actively hiding information that was clearly discoverable and responsive to their request.”



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