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BRINGING TWENTY-FIRST CENTURY LAW PRACTICE
INTO THE CLASSROOM

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Stepping back into the classroom with two decades of practice experience can be both a blessing and a curse. Many of us have experienced continuing legal education or other presentations where the “war story” amounts to little more than the speaker communicating “look how great/cool/innovative I am.” I knew enough from years of running my former firm’s associates’ litigation training program that I needed to do much more than that. Since venturing back into academia as a visiting assistant professor, I’ve found my practice experience is most useful when it informs and gives meaning to the work we are doing in the classroom. Two examples are illustrative.

Clarity and Concision

My students hear me say repeatedly that their two “north stars” are clarity and concision. We discuss summaries and headings as two “tools in the toolbox” legal writers can use to help their audience understand and assess the information provided.

I explain to my students what I learned in practice: a good summary—a digestible sentence or paragraph that clearly and succinctly informs the reader of a memo or brief’s main point—is invaluable. Long wind-ups and other suspense-building strategies are not necessary. Give your audience the punch line first. I like to note that an executive summary is no longer limited to lengthy documents or formal papers. Including an executive summary or

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“headline” in key e-mails, for example, provides the reader with the most salient information in only a few seconds. Headings similarly allow the reader to find and digest information more easily and quickly. Like hyperlinks—an analogy students quickly grasp—headings show the reader where they can find more information about a specific issue, and hopefully, the author’s view on the particular topic.

In explaining to students why clarity and concision are so important, I endeavor to situate twenty-first century law practice in the larger societal context of the digital information revolution. Most Americans are drowning in more information than can possibly be absorbed by any one person in a lifetime. The “technological revolution of computers, the Internet, and mobile telephony,” which began in the 1970s,² matured into the Information Age by the twenty-first century. Over 200 billion e-mails are sent each day.³ Ninety percent of data in existence “has been collected in just the last two years. Last year alone, more personal data was harvested than in the previous 5,000 years of human history.”⁴ Given this reality, I emphasize how new legal writers can distinguish themselves to more senior attorneys and clients by distilling the deluge of information into digestible e-mails, memos, and briefs. Judges and their clerks, daunted by overflowing dockets, similarly appreciate filings which appropriately narrow issues down to their critical components.

By framing legal writing strategies and techniques within the realities of the modern workplace, I hope to move students’ conceptions of clarity and concision beyond “because Professor

² Jeffrey Sachs, *The Price of Civilization: Reawakening American Virtue and Prosperity* 85 (2011).

³ Samuel Gibbs, *How did email grow from messages between academics to a global epidemic?*, *The Guardian*, March 7, 2016, <https://www.theguardian.com/technology/2016/mar/07/email-ray-tomlinson-history>.

⁴ Court Stroud, *What You Need To Know About Big Data, Stripped Of All The Gobbledygook*, *Forbes*, Apr. 27, 2018, <https://www.forbes.com/sites/courtstroud/2018/04/27/what-you-need-to-know-about-big-data-stripped-of-all-the-gobbledygook/#2e2b1d251a75>.

Repici told us to.” Instead, my students properly view clarity and concision as essential tools of the high-functioning practitioner.

Finding Teachable Moments

Flexibility and adaptability are as valuable in the classroom as the courtroom. Another area where a long practice history has proven useful in teaching is the ability to adapt unanticipated developments into teachable moments.

For example, in mid-2021, with vaccines available and lowering case counts, many of my students and I had hoped for a return to pre-COVID normalcy. Enter Delta and Omicron, and suddenly the second half of 2021 felt eerily like the year before. We begrudgingly accepted the reinstatement of mask requirements, with the view that they were a necessary measure that unavoidably detracted from the learning process.

Thanks to the adaptation skills I sharpened in practice, however, I was able to turn this disappointing setback into a teachable moment. When I was an associate, my mentor had emphasized the importance of keeping my voice up in court. Later, surrounded by more senior lawyers during a multiparty trial, I began examining a key witness. My voice eked out the first question. Fortunately, the judge asked me to speak a little louder, reminding me of my mentor’s advice. After that successful examination, the lesson stuck with me. So, faced with the less-than-ideal masking requirement in classes, I shared this experience with my students. I offered that masks were a reminder of the importance of speaking audibly in class and in practice, an essential lesson and habit they could take with them long after the mask requirements are gone.

Conclusion

Returning to my law school two decades after I graduated has been and continues to be a wonderful experience. My extensive practice experience has helped me better communicate the

importance of fundamental legal concepts with my students, provide them practical, real-world examples, and better prepare them for the realities of practicing in the twenty-first century.