

**BLUEPRINT FOR TEACHING SKILLS IN
PRACTICUM AND SEMINAR COURSES USING TECHNOLOGY**

By Andrea L. Johnson¹

“The win-win situation,” states one partner in a major firm, “is thinking about technology.... not as an end in and of itself, [but] to train students in law.”²

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² Gene Koo, Berkman Center for Internet & Society at Harvard Law School, *New Skills, New Learning: Legal Education And The Promise Of Technology*, p 19 (Mar. 2007).

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I. Introduction

Natural and man-made disasters, such as the October 2007 wild fires in San Diego, California and more recently Hurricanes Gustav and Ike in Houston, Texas, forced mandatory evacuation of millions and the cancellation of law school classes for days.³ Making up the lost class time and providing instruction to displaced students at the law schools where I was teaching, forced the administration and faculty to devise creative ways to deliver and receive classroom instruction.

To avoid the burden of scheduling make-up classes, I podcast the lectures for both classes using a digital audio recorder that cost under \$50.00. Podcasting is similar to the dictaphone of days past, except that the recorder creates MP3 or WMA files, which allows the recording to be heard on a variety of handheld devices. I also posted an accompanying Power Point (PPT) presentation on the course webpage.

When classes resumed, I set up Elluminate webconferencing sessions for students who were unable to attend class. Elluminate is a virtual classroom environment that provides two-way audio, video, and text, and is accessible over the Internet.⁴ From the classroom at school, I logged onto a website, where I could upload PPT slides to a whiteboard and communicate using a headset and microphone with students who were at remote sites. The remote students could be heard by the other students in the classroom and could post questions, as they would if they were present. After class, links to the recorded session were posted on the course webpage.

The idea to use podcasting and webconferencing had come the year before, when multiple wild fires spread throughout San Diego county, forcing mandatory

³ Hurricane Ike forced the school to cancel classes a day before the storm was scheduled to hit. This was to enable persons subject to forced evacuation to leave targeted areas, and others to ready preparations for the storm. For days after the storms devastation, streets were unpassable and areas inaccessible from fallen trees and power lines, broken glass, and loss of power. The City of Houston imposed a mandatory curfew on residents and restricted access to affected areas around the law school, both of which again forced cancellation of classes and a reduced schedule.

⁴ The Elluminate platform gives students access to a whiteboard, breakout groups, and enables two-way audio and text; the ability to view Power Point slides, graphics, and limited two-way video (tied to bandwidth and type of connection); and application sharing, polling, file transfer and recording and archive retrieval.

evacuations. Persons were isolated, unable to travel due to the spread of the fires and poor air quality. Classes were cancelled for nearly a week. Just like during the recent hurricanes, students were very anxious about how they would make up all of the classes.

Instead of teaching in the classroom , I conducted a live, webconference session from home using a laptop, headset and microphone, over a wireless broadband internet connection. A recording of the session was made and posted on the course web page, which was accessible to all students from the Internet.

The administration and the students were appreciative of how technology could accommodate their teaching and learning needs. The anxiety caused by the disruption from both of these disasters seemed to be tempered by the reality that students would not be penalized for not being able to physically attend classes in the traditional manner.

Effective use of technology is not limited to a crisis but has become a popular alternative for students. The high cost of legal education requires that many juggle work and family responsibilities, while attending law school. For some, attending a traditional law school is impractical. As such, trying to get their degree through online programs at accredited law schools becomes the only option.

In a 2002 survey of 153 law schools, only 49 offered real time distance education courses, and 15 offered asynchronous distance education courses.⁵ By the next academic year, the numbers had almost doubled to 82 and 23, respectively.⁶ Today, most distance education courses provide some blend of synchronous technology, using video and web conferencing, and asynchronous technology, such as discussion lists, videotapes, podcasts, online course books such as Café Scribe, and

⁵ Dean David Parlett, *Distance Learning: Loosening the Ties that Bind*, <http://www.aale.org/international2004/Papers/parlett.pdf> (last visited Mar. 13, 2008) ABA Section of Legal Education and Admissions to the Bar, Curriculum Committee, at 3; cited in Daniel C. Powell, *Five Recommendations to Law Schools Offering Legal Instruction over the Internet*, 11 J. Tech. L & Pol'y 285, 288 (2006).

⁶ *Id.*

interactive course materials developed by faculty or third party vendors/publishers, such as Cyber Workbooks⁷ or CALI lessons.⁸

How to balance the responsibility of teaching and learning, with the reality of work and home life force professors and students alike, to make hard choices about “attendance” in class that don’t sacrifice the quality of instruction or learning. The use of technology like podcasting and webconferencing have made multi-tasking much easier, but have also forced a reexamination of the classroom experience.

Whether using technology for make-up classes or to connect students across time and distance, the benefits of technology cannot be denied; but have done little to assuage criticism that the “dynamics” of the live classroom experience cannot be effectively achieved using technology.⁹ The criticism revolves around the ability of distance education to simulate the same level of interactivity as the live classroom. Many believe that separation of time and space lacks the pedagogical intimacy that diminishes student performance and engagement in the learning process.¹⁰

Critics also believe that distance education prevents immediate feedback between teacher and student. This makes it difficult, if not impossible, for the teacher to gauge the progress and understanding of his or her students, or for students to call for help as the teacher moves from one topic or problem to another.¹¹

⁷See www.cyberworkbooks.com (last visited Mar. 21, 2008).

⁸ Synchronous distance learning is live and accessible from anywhere. Asynchronous technology is not live, but allows instruction sessions to be accessed any time and from anywhere (e.g., across time zones). Thus, the chief distinction between instruction with asynchronous technology and traditional instruction is the lack of “face time,” or “real time interactivity” with faculty. With asynchronous instruction, lectures and course materials are sent to students through recorded, one-way content such as videotapes, PPT slides, and textbooks. Synchronous instruction, on the other hand, using Elluminate or Concord’s web conferencing platform, can maximize different levels of interactivity between faculty and students.

⁹THE HISTORY OF LEGAL EDUCATION IN THE UNITED STATES; Ruta K. Stropus, *Mend it, Bend It, and Extend it: The Fates of Traditional Law School Methodology in the 21st Century*, 27 Loy. U Chi. L.J 449 451-55 (1996).

¹⁰ Richard Carlson & Andrea Johnson, *Blue Print for Distance Education: Interim Report* (2008) (on file with the author).

¹¹ *Id.*

Finally, skeptics believe distance education prevents synchronous collaboration and discussion between teacher and student or among students in classroom problem solving.¹² As a result, some conclude that schools like Concord Law School (“Concord”), the first fully online law school that is part of a regionally accredited university, Kaplan University,¹³ should not be embraced by legal education, and that distance learning generally should be viewed with extreme caution and used only when traditional classroom instruction is unavailable.

“[M]uch skepticism remains about the ability of distance education technology to offer law schools and law students a sufficiently interactive pedagogy. Concord Law School is a scary idea both because of what it does, and what it does not offer legal education.”¹⁴

Part of the problem is attributed to the lack of wide scale empirical evidence on how learning occurs in the live classroom generally, and more specifically, on the effectiveness of technology in legal education.¹⁵ This article seeks to demystify this conundrum by critically examining the classroom experience through a Classroom Assessment Study (“Classroom Study” or “Study”), a concept in higher education that focuses on collecting frequent feedback from students about how they learn and respond to different teaching techniques to help students learn more effectively.¹⁶

Since 2006 I have conducted a Classroom Study with 126 students¹⁷ in

¹² *Id.*

¹³ Concord's authority to grant academic degrees previously came from the California Bureau of Private Postsecondary and Vocational Education (BPPVE). As of January 1, 2008, state law shifts that authority to the California Committee of Bar Examiners (CBE). Kaplan University is accredited by the Higher Learning Commission of the North Central Association (HLC), one of the regional accreditation bodies in the United States. See <http://www.ncahigherlearningcommission.org>. Concord law students are required to take and pass provisional bar exams (called “baby bars”) after completion of a certain number of credits in order to proceed through the curriculum and may sit for and be admitted to practice only in the State of California. Letter from Dean Barry Currier (Dec. 2007).

¹⁴ Powell, *supra* note 5 at 311.

¹⁵ Joan MacLeod Heminway, *Caught in (or on) the Web: A Review of Course Management Systems for Legal Education*, 16 Albany J of Science & Tech 265, 268 note 8 (2006) citing articles written from 1999-2000.

¹⁶ Gerald Hess and Steven Friedland, *Techniques For Teaching Law*, 261 (Carolina Academic Press 1999). Classroom Assessment is different from other types of assessment, such as student assessment, i.e., assigning a grade to students; program quality assessment, i.e., assessment conducted by the institution or an accreditation body; or student evaluation of teachers and courses, usually given at the end of the term. *Id.* at 261-262.

¹⁷ The author acknowledges the sample student population of the classes was small and thus the margin of error potentially high. However, inasmuch as the results could be duplicated in different settings over a period of time

multiple sections of a practicum course in Business Planning and a seminar course in Telecommunications at California Western School of Law (CWSL) and Concord Law School.¹⁸ The focus of the Classroom Study is to deconstruct the classroom experience by identifying, comparing, and evaluating the components of effective student learning in the regular classroom and the virtual, online classroom. Relying upon ABA Standard 306 for distance education and other learning outcomes recommended in studies for law school graduates, the goal of the Classroom Study is to evaluate the course materials and the classroom experience to validate or refute basic theories about the effectiveness of distance education.

The preliminary findings of the Classroom Study show that where adequate levels of interaction and contact hours between students and the professor exist, there is no significant difference in the quality or nature of the classroom experience online and in a traditional classroom. However, students' perceptions, expectations and fears related to technology often preclude them from participating in online courses when they believe it will affect their interaction with the professor or comprehension of the material. Where adequate support exists, students perceive that they can successfully master a variety of skill sets. Finally, developing on-line courses does require better organization and structure around the pedagogical goals than may occur in the traditional classroom, but technology enables the instructor to appeal to the different ways in which students learn.¹⁹

The next section will discuss the scope and methodology for conducting the Classroom Study and the American Bar Association's (ABA) minimal requirements for distance learning courses. The third section identifies the skill sets students must learn to become effective lawyers, according to the MacCrate Report, Carnegie Foundation,

suggest that the conclusions drawn are nevertheless reasonable indicators of student perceptions and preferences. The author plans to continue the Study with students at different schools and geographical areas to further validate the findings.

¹⁸ The Study began in the Fall of 2006 teaching Business Planning to two sections. During the Spring of 2007 Telecommunications was taught entirely online; and then again during the Fall of 2007. Business Planning was taught during the Summer of 2007 at Concord, and then again to CWSL students during the Fall of 2007.

¹⁹ Hess & Friedland, *supra* note 16 at 13; John Sonsteng, "A Legal Education Renaissance," 34 Wm Mitchell L. Rev. 303, 390-411 (2007)

and Berkman Center for Internet & Society, and how these skills were integrated into the Classroom Study. These reports confirm that there is a direct correlation between an effective classroom experience, developing of a skill set that will be needed for practicing lawyers, and the nature and type of interaction between faculty and students. The last section summarizes the preliminary findings of the Classroom Study related to course content, student preparation for class, and skill mastery. This article will conclude that technology can be effective to promote student learning and is an inevitable complement to traditional classroom instruction.

It is important to emphasize that I don't advocate that technology should replace or be a substitute for traditional classroom instruction. Moreover I acknowledge that the fear of technology is a challenge for both faculty and students.²⁰ Distance education is most attractive to students who value the convenience offered by technology.²¹ There is also no attempt to promote any particular type or approach to using technology as I firmly believe each professor should use the pedagogy appropriate to the subject matter and/or effective to his or her particular teaching style.²² Finally, there is no suggestion that any institution should impose specific standards upon faculty beyond the ABA standards or interfere with classroom autonomy.²³ Instead, this article is intended to provide guidance to those who are interested in distance education and want to ensure their course offerings are consistent with ABA Standard 306 and effective teaching methods.

II. Background

A. Scope and Methodology of the Classroom Study

Classroom Assessment is based upon six characteristics that will improve teaching and learning: (1) learner-centered, by focusing on observing and improving learning, not teaching; (2) teacher directed, meaning that the professor decides what

²⁰ Heminway, *supra* note 15 at 279. Moreover, among the Study's respondents, 33% indicated they did not elect to take the course online because of their lack of comfort with the technology.

²¹ Ninety-one percent of respondents felt convenience was the primary benefit of online learning.

²² Heminway, *supra* note 15 at 278.

²³ Some faculty are concerned they will lose academic freedom using technology. *Id.* at 279.

and how to assess student learning, and then what to do with that information; (3) mutually beneficial, by actively engaging students and the professor in the process of learning and teaching through self-assessment; (4) developmental, so that the focus is on students' success in learning identifiable outcomes, rather than grading; (5) course specific, in identifying techniques that appeal to the different ways in which students learn; and 6) on-going, so that modifications can be made by students and faculty as the course progresses.²⁴ The preliminary findings from the Study's first two years provide the baseline for comparing students in future courses.

There were two phases of the Study. Phase 1 began in the Fall of 2006 at CWSL and focused on how students prepared and studied for class, the effectiveness of the online course materials to stimulate learning, and the best way to deliver course content and facilitate small group interaction online.²⁵ An integral part of this phase was identifying the type of activities that tend to promote interaction and learning in the classroom setting and the skill sets and learning outcomes to be expected.²⁶

²⁴ Hess & Friedland, *supra* note 16 at 263. Sonsteng, *supra* note 19 at 390, citing education theorist Malcolm Knowles on the characteristics of adult learning that complements the characteristics of the Classroom Assessment Study.

²⁵ Instruction for both courses was provided online and in a live classroom. During the first half of the semester, instruction was provided in a traditional classroom. During the last half of the term the class met in a computer lab, where everyone was physically present, but PPT slides were projected onto a screen from within the Elluminate platform. This was done initially to get students comfortable with web conferencing. After about two weeks, students could log in to class from anywhere. For two of the negotiation assignments, students were asked to volunteer to participate exclusively online to negotiate their agreement in breakout rooms and make their presentations to the other students online. Other students could alternate between accessing the course online and appearing in a regular classroom. The author sought to determine whether online breakout groups could be effective to simulate small group interaction in the classroom.

²⁶ CWSL course materials included (1) PowerPoint (PPT) slides that accompanied live lectures; (2) CWB, which provided students with online module text lessons and assessed their comprehension, analysis and application of basic concepts through objective and short answer questions; (3) case problems where students created PPT presentations to answer assigned problems; and (4) a course webpage with the syllabus, reference materials, podcasts, PPT slides, and reading materials. Thomson-West licensed Dwight Drake's *Representing Closely-Help Enterprises* as the primary textbook converted for online delivery via CWB, and the professor added case studies and questions and answers. Students paid a license fee for CWB access, which they bought through the Bookstore. Interaction among CWSL students was facilitated through in-class exercises, small group discussions, and oral presentations.

Phase 2 focused on the nature and quality of interaction between faculty and students and skill competency among students.²⁷ Phase 2 measured the effectiveness of student learning while engaged in self-directed learning through an online workbook called *Cyber Workbooks (CWB)*, and teamwork and collaboration through a series of small group and drafting exercises. The objectives of this phase were to conduct comparisons between learning in virtual and regular classrooms, focusing on (1) faculty and student interaction; (2) interactions among students in small group exercises; (3) learning habits and competency over the course of a term; (4) student reactions to different methods of interaction using technology; and (5) student performance. There were two control groups of students in Business Planning: one group was taught exclusively in the regular classroom at CWSL²⁸ and one group was taught entirely online at Concord.²⁹ There were other sections where students could alternate

²⁷ During the Summer and Fall of 2007, the author taught Business Planning courses at Concord and at CWSL to three different groups of upper division students. Both the Concord and CWSL courses used the same course materials, but canned lectures accompanied PPT slides at Concord, as opposed to live lectures at CWSL. At Concord, in lieu of in-class presentations, students answered short essay questions (i.e., open-book, open-note quizzes) and worked in teams and small groups in two of the drafting exercises.

²⁸ During the Fall of 2007, 32 CWSL students enrolled in Business Planning over 14-weeks with no advance notice that an online option would be offered.²⁸ Part of the impetus for offering the online option was that the classroom could not accommodate the number of students who had enrolled and/or were wait listed. Of these 32 CWSL Business Planning students, only 4 volunteered to take the class entirely online. Participation by students was voluntary, and each student completed pre- and post-term surveys intended to solicit their views on their experience, what they learned and how well they believed they learned the course material.

²⁹ During a 28-week term at Concord, a class of 14 Business Planning students were entirely online with no face-to-face interaction and minimal oral communication, except in limited circumstances, and then only by telephone or audio conference. There were eight 75-minute, live sessions in which students could engage with the professor and each other in real time through text messaging in Concord's virtual classroom. Concord also uses a web conferencing platform, which is proprietary and has some of the same features, e.g., whiteboard, recording, and two-way text messaging features. However, the platform did not permit audio or video interaction, application sharing, or file transfer features. It indicates that audio interaction will soon be added. During the Study, two-way audio was achieved via teleconferencing. Post-term surveys were completed by 6 of the 14 students. Office hours are provided via email and professors may contact students by telephone.

instruction in the regular classroom or online.³⁰ Students completed two sets of surveys, either at the beginning or middle of the term, and then at the end.³¹

The chart below summarizes the breakdown of courses, enrollment and focus of the surveys.

CLASSROOM ASSESSMENT STUDY						
Phase 1 Course	Term	No. of students		Survey	Course Delivery	Focus
		Total	Survey			
Bus Plan Sec 1& 2	Fall 2006	43 ³²	36/29	Mid/Post	½ class ½ online (hybrid)	Course content & study habits
Phase 2						
Bus Plan Concord³³	Summer 2007	15	6	Post	Online only	Study habits & changes; Skill mastery
Bus Plan Sec 1	Fall 2007	28	27	Pre/Post	Class	Technology views & changes; Skill mastery
Bus Plan Sec 2	Fall 2007	4	4	Pre/Post	Online	Technology views & study habits & changes; Skill mastery
Telecom³⁴	Fall 2007	19	14	Post	Alt at will	Study habits & changes; Skill mastery
Total		109	87			

³⁰ Because the number of students in any one class was relatively small, responses from all online students have been combined when comparing student responses in the live classroom.

³¹ Telecommunications Law is a seminar course that also has similar levels of difficulty, interaction, and enrollment limits, but was taught as a hybrid online course, meaning students could alternate between being online or in the regular class throughout the term. Telecommunications law students completed only post-term surveys.

³² There were two sections of Business Planning, each with 19 and 24 students, met after each other. Students could attend either class live or online. The goal was to try to measure the sections collectively and individually.

³³ This was a 28-week course beginning July, 2007. CWSL courses were 14 weeks. All courses were 3-credit courses.

³⁴ During the Fall of 2007, 19 CWSL students in Telecommunications Law chose to participate either online or in a live classroom. Course materials included live lectures accompanied by PPT slides, which were posted for student access; reading materials linked to a course webpage (using Front Page); and CWB modules that provided the foundational materials, along with objective questions and instant feedback. The only difference between the Business Planning and Telecommunications Law courses was that the Telecommunications students could opt to take the class online or live throughout the term. Fourteen of the 19 enrolled students completed post-term surveys focused on student learning.

B. ABA Requirements for Distance Learning in Legal Education

ABA Standard 302 requires traditional law school curricula to include, the following components: (1) substantive law; (2) legal analysis and reasoning, legal research, problem solving and oral communication; (3) writing in a legal context; (4) other professional values and skills; (5) opportunities for real-life practice; and (6) small group work.³⁵ Moreover, ABA Standard 303 requires adherence to sound academic standards and periodic monitoring of student academic performance.

The ABA defines “distance education” as “an educational process characterized by the separation, in time or place, between instructor and student. It includes courses offered principally by means of: (1) technological transmission, including Internet, open broadcast, closed circuit, cable, microwave, or satellite transmission; (2) audio or computer conferencing; (3) video cassettes or discs; or (4) correspondence.”³⁶ ABA requirements focus on three general areas: (1) developing a plan for distance education that is subject to periodic ABA review and examination;³⁷ (2) restrictions on the type of courses and maximum number of J.D. credits that may be offered; and (3) the nature and extent of interactivity and monitoring of student progress throughout the term. The ABA generally requires the academic content, method of course delivery, and method of evaluating student performance be approved as part of the school’s regular curriculum approval process.³⁸ This means distance education should include

³⁵ See ABA Academic Standards, www.abanet.org/legaled/standards/20072008StandardsWebContent/Chapter%203.pdf (last visited Feb 28, 2008).

³⁶ ABA Standard 306(a) <http://www.abanet.org/legaled/distanceeducation/Standard306.doc> (last visited Feb. 28, 2008).

³⁷ CWSL is developing a distance learning plan for offering J.D. courses for credit that requires approval by the Associate Dean and/or faculty through the regular curriculum review process. In addition, the CWSL plan contemplates that J.D. courses may be offered to three schools affiliated with it under the Consortium for Innovation in Legal Education (CILE), including William-Mitchell College of Law (WMCL), New England School of Law, and South Texas College of Law. Currently, CWSL is experimenting by offering Community Property, Remedies, and Telecommunications Law to CWSL and CILE students using Elluminate. In each instance, the course was approved by the regular curriculum committee at each CILE institution. Students interested in taking the courses online have been unable to attend live classes due to special-needs circumstances, or are participating in out-of-town externship programs.

³⁸ ABA Standard 306(a).

the same elements of rigor, interaction and feedback contemplated in the regular law curriculum. To that extent, distance education should simulate to the greatest extent a live classroom experience.

ABA Standard 306 requires institutions providing more than an incidental number of distance learning courses to develop a distance learning plan to be periodically reviewed by the ABA Council for Standards Review Committee (Committee),³⁹ and to annually report on the distance learning courses being offered.⁴⁰ The plan's purpose is to educate the Committee on what institutions are doing in the area of distance education, and to verify that distance learning courses meet specific requirements related to interaction, support, and training. As a result, institutional plans should survey the effectiveness of the technology used to determine the quality of the classes, and any additional needs required to ensure that students have an effective classroom experience. Interpretation 306-2 contemplates that the plan should be included as part of an institution's Self-Study and given to any visiting site team.⁴¹

ABA Interpretation 306-5 requires that faculty have access to the necessary resources, equipment, training and technical support to conduct effective distance learning courses.⁴² The institution should also "establish mechanisms to assure that faculty who teach distance education courses and students who enroll in them have the skills and access to the technology necessary to enable them to participate effectively."⁴³ Such training may be provided in-house or by outside vendors. At CWSL, distance learning training consists of a two-hour live training with an experienced instructor and a 10-minute mock lecture by the interested faculty. In

³⁹ Interpretation 306-8A provides, "law school that offers more than an incidental amount of credit for distance education shall adopt a written plan for distance education at the law school and shall periodically review the educational effectiveness of its distance education courses and programs.

⁴⁰ Interpretation 306 -1 provides, "To allow the Council and the Standards Review Committee to review and adjust this Standard, law schools shall report each year on the distance education courses that they offer."

⁴¹ ABA Interpretation 306-2 provides, "Distance education presents special opportunities and unique challenges for the maintenance of educational quality. Distance education accordingly requires particular attention from the law school and by site visit teams and the Accreditation Committee."

⁴² Interpretation 306-5 provides "Law schools shall have the technological capacity, staff, information resources, and facilities required to provide the support needed for instructors and students involved in distance education at the school."

⁴³ ABA Interpretation 306-6.

addition, unlimited training on the web conferencing platform is available through the commercial vendor and sponsor of the site in the form of live, canned lectures, .pdf files, and PPT slides.

ABA Standard 306 also permits a law school to award up to 12 credits⁴⁴ toward a J.D. degree for study in upper division classes through distance education.⁴⁵ Moreover, no more than four credits for distance education courses may be awarded to a student in any one semester,⁴⁶ and it is up to the teaching faculty to justify the number of hours to be awarded for each course.⁴⁷ Students must also complete a minimum of 28 credits to be eligible to take a distance learning course. This means that first year courses cannot be taught through distance learning.⁴⁸

Under CWSL's proposed Plan, ABA requirements are met through a two-step process.⁴⁹ First, interested faculty must complete an application form providing information about how the course will be taught, the type of pedagogy to be used, opportunities for interaction in and out of the classroom, and other critical information to satisfy ABA requirements. Applications are submitted to the Associate Dean, who may

⁴⁴ "Credits" mean semester hour credits. ABA Interpretation 304-5 relates to courses taken after the student has matriculated and does not apply to courses taken prior to admission.

⁴⁵ "New Standard 306(d) allows a law school to award an individual student no more than twelve credits toward the J.D. degree for "distance education" courses.. Interpretation 306-3 allows a distance education component to a non-distance education course so long as at least two-thirds of the credits for a course rests upon regularly scheduled classroom instruction sessions. Such courses are not considered "distance education courses" and the limitations previously discussed do not apply to such courses. Other Interpretations assure that law schools provide adequate technical and staff support for their distance education courses and that faculty who teach using distance education technology are well prepared to employ that technology effectively. Section of Legal Education and Admission to the Bar, American Bar Association, *Commentary on the Changes to the Standards for the Approval of Law Schools and Rules of Procedure and the Work of the Standards Review Committee* (2001-2002) p 3.

⁴⁶ ABA Standard 306(d).

⁴⁷ ABA Interpretation 306-7 provides, "Faculty approval of credit for a distance education course shall include a specific explanation of how the course credit was determined. Credit shall be awarded in a manner consistent with the requirement of Interpretation 304-5 that requires 700 minutes of instruction for each credit awarded."

⁴⁸ Under new Standard 306(e), "[n]o student shall enroll in courses qualifying for credit under this Standard until that student has completed instruction equivalent to 28 credit hours toward the J.D. degree" (basically the first year of law school).

⁴⁹ Ideally, interested faculty members should request to teach an online course at least six to eight months in advance of the course offering to enable it to be included as part of the regular registration process and to be advertised as a distance learning course. Only non-proctored exam courses may be offered, unless the student agrees to return to campus to take a proctored exam. In selecting course offerings, CWSL gives preference to undersubscribed courses or courses not otherwise being offered at another affiliated school to avoid competition among faculty who teach the same course.

approve existing courses for online instruction without further faculty approval. New distance learning course offerings, however, are forwarded to the Curriculum Committee for approval, and then recommended to the full faculty. The second step requires interested students to petition the Associate Dean as they would to visit one of the CILE schools for a term or year. The petition enables the Associate Dean and Registrar to track students to ensure they have neither exceeded the 4-credit limit in any given semester, nor the maximum 12-credit limit.

Finally, ABA Rule 306(c) provides that “A law school may award credit for distance education and may count that credit toward the 45,000 minutes of instruction required by Standard 304(b)⁵⁰ if: (1) there is ample interaction with the instructor and other students both inside and outside the formal structure of the course throughout its duration; and (2) there is ample monitoring of student effort and accomplishment as the course progresses.”⁵¹ This suggests that there should be some direct correlation between the minutes of instruction provided, the number of credits offered, and the amount of interactivity with, and feedback to students.

There are no specific rules regarding the minimum number of contact hours between faculty and students, or any formula for the blend of synchronous and asynchronous methods that can be used for instruction.⁵² Under ABA Interpretation 306-3, “courses in which two-thirds or more of the course instruction consists of regular classroom instruction shall not be treated as ‘distance education’ for purposes of the standards, even where a substantial portion of the course has an online component.”⁵³

⁵⁰ For purposes of these Standards, there are 700 minutes of instruction for every credit hour awarded toward a J.D. degree.

⁵¹ Monitoring of distance learning courses should minimally ensure that (1) technology is used to maximize opportunities for interaction; (2) there is adequate feedback to students from the professor; and (3) sufficient training and instruction are provided to all participants.

⁵² The Standards do not prohibit any instructor from accessing the Internet or using presentational software such as PPT in class. Under the Standards as they currently exist, an instructor may establish a course website, or lead an on-line discussion group as a supplement to class sessions.” Section of Legal Education and Admission to the Bar, American Bar Association, *Commentary on the Changes to the Standards for the Approval of Law Schools and Rules of Procedure and the Work of the Standards Review Committee* (2001-2002) p. 3.

⁵³ Interpretation 306-3 provides, “Courses in which two-thirds or more of the course instruction consists of regular classroom instruction shall not be treated as “distance education” for purposes of Standards 306(d) and (e) even

However, saying what distance learning is not provides little guidance regarding best practices.

The only real guidance comes from Interpretation 306-4, which provides that “[l]aw schools shall take steps to provide students in distance education courses opportunities to interact with instructors that equal or exceed the opportunities for such interaction with instructors in a traditional classroom setting.” As a practical matter, this leaves open a wide range of options. This is particularly true where canned lectures are being used for instruction.⁵⁴

III. Skills Required to be an Effective Lawyer

Over the past sixteen years, the legal profession and law schools have struggled to bridge the gap between what is required to be a successful lawyer and what is being taught in law school. In 1992 the American Bar Association published “Legal Education and Professional Development – An Educational Continuum,” (“Mac Crate Report”),⁵⁵ the first comprehensive approach to identify skills necessary to prepare and maintain a level of competency in the practice of law. Since then, law schools have slowly adopted changes to the law school curriculum to address this issue, such as integrating more clinical-based and practice-oriented skills into the curriculum. Several law schools offer transition courses that focus specifically on the practice of law.⁵⁶

though they also include substantial on-line interaction or other common components of “distance education” courses so long as such instruction complies with the provisions of subsections (1) and (2) of Standard 306(c).”

⁵⁴ Concord Law School uses canned lectures to instruct students on basic concepts. To supplement the canned instruction, Concord requires a minimum number of live class interactions, (e.g., a 3-credit course requires 6-8, 75-minute live classes) where students can hear the professor, but can only communicate back via text. There is no two-way audio, although Concord will soon introduce two-way audio into some of its courses, as was done when I taught Business Planning. To conduct negotiations, students set up conference calls through FreeConferenceCall.com www.freeconferencecall.com, a free conference call service where participants are connected by dialing into a preassigned number. Other fee-based services are also available, such as Ready Talk. Under Concord’s regulations, the live classes satisfy the ABA interaction requirement.

⁵⁵ See MacCrate Report, <http://www.abanet.org/legaled/publications/onlinepubs/maccrate.html> (last visited Feb. 28, 2008).

⁵⁶ WMCL offers students a legal practicum course where students engage in simulated learning experiences. Syracuse University College of Law offers a General Counsel Transition course. Northeastern University offers a

Unfortunately, the legal profession continues to suffer from criticism about the lack of moral and professional consciousness and responsibility, and the lack of uniform standards regarding required skill sets for young lawyers entering the practice. Some blame the complexity of legal education and the process of educating students to “think” like a lawyer.⁵⁷ Others, however, believe the “autonomy of the classroom” gives law professors who have never practiced little incentive to change the nature or manner in which they teach a particular subject,⁵⁸ and that law schools lack the commitment to prepare students for practice.⁵⁹ Traditional methods of instruction, such as lecture and the Socratic Method, have tended to make the learning process passive and linear in that the source of knowledge is the professor, who imparts this knowledge to students.⁶⁰ Moreover, summative assessment, i.e., using a final exam at the end of the term, has failed to give either the student or faculty much information about whether and what students were actually learning. As a result, the gap between legal education and practice remains.⁶¹

In recent years, several publications have attempted to respond to recommendations made by the Mac Crate Report.⁶² Among them are three highly regarded groups: the Carnegie Foundation for the Advancement of Teaching, which has conducted studies and published assessments of the legal profession (hereinafter “Carnegie Foundation Study”); the Berkman Center for Internet & Society at Harvard Law School, which conducted a study on technology preparedness of young lawyers (hereinafter “Berkman Study”); and the Clinical Legal Education Association, which

course entitled, Cooperative Legal Education for supervised work experiences. College of William & Mary’s Marshall-Wythe School of Law offers a course in law office management. Sonsteng, *supra* note 19 at note 654.

⁵⁷ William Sullivan et al., The Carnegie Foundation for the Advancement of Teaching, *Educating Lawyers: Preparation for the Profession of Law* 4 (Jossey-Bass 2007).

⁵⁸ Koo, *supra* note 2 at 16. There was no clear consensus on who should be teaching practical skills training. There was skepticism that professors who lacked significant practice experience could competently teach such skills competently.

⁵⁹ See Stuckey et al., *Best Practices for Legal Education: A Vision and a Road Map* (CLEA 2007) at 7, 16-18.

⁶⁰ Heminway, *supra* note 15 at 271, citing various authorities focusing on the pedagogy of lecturing. Ruta K. Stropus, *Mend it, Bend It, and Extend it: The Fates of Traditional Law School Methodology in the 21st Century*, 27 *Loy. U Chi. L.J.* 449, 451-55 (1996).

⁶¹ Koo, *supra* note 2 at 12; Sullivan et al., *supra* note 57 at 16-24 .

⁶² See Roger S. Haydock et al., *Lawyering: Practice And Planning* (West Publishing Co. 1996); Hess & Friedland, *supra* note 16; Stuckey et al., *supra* note 59.

offers best practices for developing skills required to be an effective lawyer (hereinafter “CLEA”). I sought to incorporate these best practices and principles from higher education studies, which are readily adaptable to legal education.⁶³ This section will explore their efforts in identifying the skill sets and “best practices” to be used in the process of teaching and learning in the classroom, particularly when integrating technology.

A. Mac Crate Report

The Mac Crate Report found that the skills law graduates must master include the ability to (1) develop and evaluate strategies for solving a problem or accomplishing an objective;⁶⁴ (2) analyze and apply legal rules and principles;⁶⁵ (3) plan, direct and (if necessary) participate in a factual investigation;⁶⁶ (4) develop effective communication skills;⁶⁷ (5) counsel clients about the decisions or course of action;⁶⁸ (6) prepare and conduct a negotiation session;⁶⁹ and (7) work effectively with others. Of course, it is contemplated that some of these required skills would necessarily include other skills. By identifying a core set of skills and values, it was reasoned there would be a greater nexus between what is taught in the classroom and what is required to practice.

⁶³ Hess & Friedland, *supra* note 16, citing *Seven Principles for Good Practice in Undergraduate Education*, cited in American Association for Higher Education Bulletin (Mar. 1987) which include (1) encouraging student-faculty contact; (2) encouraging cooperation among students; (3) encouraging active learning; (4) giving prompt feedback; (5) emphasizing time on task; (6) communicating high expectations; and (7) respecting diverse talents and ways of learning. See also, Stuckey, *supra* note 59.

⁶⁴ Stuckey et al., *supra* note 59. FUNDAMENTAL LAWYERING SKILLS: Skill §1 problem solving involves the ability to identify and diagnose the problem, generating alternative solutions and strategies; developing a plan of action; implementing the plan; and keeping the planning process open to new information.

⁶⁵ *Id.* Skill §2 analyzing legal rules and principles, a lawyer should be familiar with identifying and formulating legal issues; formulating relevant legal theories; elaborating legal theories; evaluating legal theories; and criticizing and synthesizing legal argumentation.

⁶⁶ *Id.* Skill §4 requires that a lawyer be involved in determining the need for factual investigation; planning a factual investigation; implementing the investigative strategy; memorializing and organizing information in an accessible form; deciding whether to conclude the process of fact-gathering; and evaluating the information that has been gathered.

⁶⁷ *Id.* Skill §5 requires that a lawyer assess the perspective of the recipient of the communication; and using effective methods of communication.

⁶⁸ *Id.* Skill §6 requires that a lawyer establish a counsel relationship that respects the nature and bounds of a lawyer’s role; gather information relevant to the decision to be made; analyze the decision to be made; counsel about the decision to be made; and ascertain and implement the client’s decision.

⁶⁹ *Id.* Skill §7 requires that a lawyer to be able to prepare for negotiation; conduct a negotiation session; and counsel about the terms obtained from the other side in the negotiation and implementing the client’s decision.

However, the Committee recognized that many faculty have no idea what they are trying to accomplish.⁷⁰

Seminar, practicum and clinical-based courses provide opportunities for more practice training. Seminar courses generally have limited enrollment of up to 30 students, and students write a scholarly paper of minimally 20 pages with footnotes, in lieu of a final examination.⁷¹ Seminar courses are designed to permit more discussion and interaction with the professor. Similarly, practicum courses have limited enrollment (typically 20 – 25 students),⁷² are practice-oriented and presumably highly interactive, and emphasize legal problem solving “with particular emphasis on the development of oral and written advocacy, analysis or drafting skills.”⁷³ These courses provide students with practical, hands-on training, and are designed to focus on skill development, as well as comprehension and application of substantive material. Student assessment may include simulations, oral and written assignments. For the above reasons, Business Planning and Telecommunications Law courses were ideal models for the classroom study because there is an expectation of small enrollments to facilitate a higher degree of interactivity between and among faculty and students.⁷⁴

There are several learning styles that will be reflected in the classroom experience, characterized by (1) personality models or basic characteristics of the learners; (2) information processing models that focus on how students acquire and process information; (3) social interaction models that focus on how students behave in a classroom, and (4) instructional preferences that focus on the preferred teaching and

⁷⁰ *Id.* “...fifty years ago, Karl Llewellyn could confidently state, “No faculty, and I believe, not one percent of instructors, knows what is or they are really trying to educate for.”

⁷¹ A Seminar course provides in depth examination of a subject matter, where faculty and students engage in class discussion and interaction. Student assessment usually involves writing a scholarly writing paper and/or oral presentations. Enrollment is usually limited to 30 students. CWSL Student Handbook, Academic Policy 2.01(B).

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Traditionally, practicum and seminar courses at most institutions such as CWSL have enrollment caps of 20-30 students to ensure they have a stimulating learning experience. The course was oversubscribed by less than 10 students; not enough to justify a new section, but enough that some accommodation would be desired by students, assuming room and scheduling could be resolved. The Administration approved up to 7 students to take the course online. We stayed in the same assigned room, and the 7 would meet at the same time as the live class, but would participate on-line, from anywhere they had a preferably high speed Internet connection.

learning models of the professor.⁷⁵ This article focuses on the latter two models for the Classroom Study: social interaction and instructional preference.

While there are no absolute truths about what makes teaching effective, there is consensus among academicians in higher education that a key component to effective teaching is to focus on the student as an active learner, or learner centric.⁷⁶ Students who are passive learners are not actively engaged in the process of learning. When the degree of interactivity increases among students, either through small group discussions, group drafting exercises, or through feedback given by faculty to students on written and oral assignments, students seem to have a greater capacity to retain the knowledge and then apply it to new and different situations.⁷⁷ This requires faculty commitment to find different ways of interacting with students to stimulate thought and interest.

B. Carnegie Foundation

The Carnegie Foundation reassessed what it means to “think like a lawyer.”⁷⁸ During the 1999-2000 academic year, the research team visited sixteen diverse American and Canadian public and private law schools.⁷⁹ The focus of the study was to identify the specific strengths of legal education and distinct forms of teaching practice skills. They observed that the Socratic Method⁸⁰ and case-dialogues were used almost exclusively during the first year of law school, and also predominated the second and third years, coupled with elective courses utilizing a seminar-format.⁸¹ While these

⁷⁵ Hess & Friedland, *supra* note 16 at 8.

⁷⁶ *Id.* at 15-16. Heminway, *supra* note 15 at 273-274, 279 citing numerous law review articles discussing engaging students in active learning.

⁷⁷ Stuckey, *supra* note 59 at 132; Songsteng, *supra* note 23 at 397 .

⁷⁸ Sullivan et al., *supra* note 57 at 5-7.

⁷⁹ This was a 2-year study that included geographically diverse, freestanding and university-based law schools, one historically black, two Canadian laws schools that are distinctive in their attention to Native Americans and Free Nation persons. *Id.* at 3.

⁸⁰ The Socratic Method is a type of interaction where the professor and student engage in a dialogue about the law using established legal reasoning elements and techniques. The Socratic Method was overwhelmingly viewed by students in this study as the least effective way in which they learned, and therefore, was not used. Only 7% of the respondents the live classroom preferred the Socratic Method for instruction. There remains much debate on the efficacy of the Socratic Method. See Heminway, *supra* note 15 at 272 note 24.

⁸¹ *Id.*

traditional methods are “signature pedagogies” for teaching the foundations of legal thinking, they were inadequate to engage students with the type of skills required for law practice.⁸² Researchers noted that learning professional knowledge and skill “in role” is a distinct pedagogical genre and relies more upon clinical practice and simulation.

Among four key observations highlighted by the team are that there is limited pedagogy used by faculty in teaching students critical legal skills, such as reasoning, analysis, and problem solving.⁸³ Second, the team found the case-dialogue method of teaching has valuable strengths, but also unintended consequences hindering integration of moral and ethical concerns. It is an overused pedagogy resulting in unbalanced learning.⁸⁴ This speaks to integrating ethical issues into practical problems.⁸⁵ Third, clinical education at most institutions has been treated as the “stepchild” of formal legal education.⁸⁶ Unfortunately, this is an institutional problem that cannot be addressed until the majority of faculty appreciate the value of integrating clinical skills into core courses. Finally, assessment of student learning remains underdeveloped.⁸⁷

The Carnegie Foundation recommended that faculty and institutions consider a more integrated 3-part curriculum model that includes (1) a knowledge base by teaching legal doctrine and analysis; (2) practical application of this knowledge base; and (3) exploring and identifying fundamental values of the legal profession.⁸⁸ These three parts are referred to as apprenticeships. The first apprenticeship focuses on developing intellectual or cognitive thinking, and impacts how students think about the law.⁸⁹ The second apprenticeship focuses on the practice of applying these principles, using different pedagogies, such as case problems and simulations.⁹⁰ The third

⁸² Koo, *supra* note 2 at 12, citing Carnegie Foundation Report, Sullivan et al., *supra* note 57 at 56.

⁸³ CLEA offers useful guidelines to address this. See Section D below.

⁸⁴ *Id.* 77. See also Stuckey et al. *supra* note 59 at 9, 235-260.

⁸⁵ Sullivan et al., *supra* note 57 at 8.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ Sullivan et al., *supra* note 57 at 8.

⁸⁹ *Id.* at 27.

⁹⁰ *Id.*

apprenticeship focuses on developing the value system through which students identify and embrace their purpose and role in the profession.

Together, law students are “introduced to the meaning of an integrated practice of all dimensions of the profession, grounded in the professional’s fundamental purposes.”⁹¹ This is a holistic approach to law teaching designed to prepare students to use the skill sets they learn to successfully practice with integrity and a moral value base.⁹² The goal is to help students understand that the knowledge, skill and judgment of a successful lawyer are interdependent.⁹³

Curricula should also be designed for interdisciplinary study so students and faculty weave together disparate kinds of knowledge and skill.⁹⁴ The benefits that accrue from these recommendations subject the classroom experience to a level of critical scrutiny that enables law professors to apply to their teaching and their students’ learning the kind of skill and intellectual attention they routinely bring to their legal scholarship.⁹⁵

Research has suggested that “learning happens best when an expert is able to model performance in such a way that the learner can imitate the performance while the expert provides feedback to guide the learner in making the activity his or her own.”⁹⁶ This reflects a more expert-apprenticeship relationship, where the role of the professor is transformed from being the source of knowledge to a coach for students in a dynamic learning process where practical skills are the focus.⁹⁷

During the Classroom Study, these apprenticeships were incorporated into Business Planning through building blocks of learning, requiring students to first comprehend ethical, basic business law and tax principles; understand the nuances of negotiating with multiple parties who have different and sometimes mutually exclusive

⁹¹ *Id.*

⁹² *Id.* at 31.

⁹³ *Id.* at 82.

⁹⁴ *Id.* at 9.

⁹⁵ *Id.* at 11.

⁹⁶ *Id.* at 26.

⁹⁷ *Id.*

interests; and then applying these principles to draft a single document that reflects the consensus of a win-win strategy.

For example, within the first weeks of instruction, the CWSL Business Planning students are asked to draft a retainer letter agreement that articulates the basic terms of legal representation without giving legal advice; disclose potential conflicts in sufficient detail to satisfy the requirements necessary to obtain informed consent without violating confidential information given in private facts to counsel during the initial meetings; and be persuasive enough to convince the individuals to agree to allow counsel to represent the entity, rather than multiple individuals.⁹⁸ Drafts of their agreements are critiqued and returned to students to be modified for inclusion in a student portfolio. This process was duplicated for each of the other three drafting exercises. By the end of the term, students not only have received feedback on the practical realities of what they were asked to do, but are required to integrate faculty feedback and deliver a final work product that can later be used as a writing sample for a job, or in practice.

C. Berkman Center for Internet & Society

The Berkman Center at Harvard Law School conducted interviews and surveys with 142 lawyers, professors, administrators and technologists to explore interesting features of law practice, legal education and technology (hereinafter “Berkman Study.”)⁹⁹ The research findings confirmed that law schools are not ensuring that all new lawyers possess the necessary practice skills.¹⁰⁰ However, as it relates to technology, researchers found that new lawyers do have a basic competency in

⁹⁸ Students received a recorded tape and transcript of the client interview and then private facts related specifically to their clients needs.

⁹⁹ Koo, *supra* note 2 at 1. Researchers interviewed focus group comprised of New York attorneys, law school deans and faculty, and individual interviews with a variety of law professors, practicing attorneys, clinical educators, training and professional development attorneys at major law firms, continuing legal education providers and technologist. Surveys on the impact and opportunities of technology on the practice were conducted by LexisNexis using web-based software and disseminated via email.

¹⁰⁰ *Id.* at 12.

technology skills.¹⁰¹ This would seem to support the use of technology in classrooms as a training tool and to facilitate group interaction.¹⁰²

Researchers observed that technology has changed the nature of legal practice, where lawyers tend to work more in teams across geographical areas.¹⁰³ Moreover, lawyers tend to rely heavily on technology primarily for communication via email and conference calls, and collaborative tools for in-person meetings. The majority of respondent firms used technology to conduct efficient communication (87%), analyze and group documents (70%), document retention and preservation (68%), improve business practices (57%), and help reduce client costs (57%).¹⁰⁴

While the majority of technology usage in practice involves basic technology skills, there was general consensus among interviewees that professors rarely promote teamwork,¹⁰⁵ and underemphasize skills-oriented education, except in specialty programs such as clinics, internships, and specialized classes.¹⁰⁶ Respondents did note that simulations, such as negotiations, client interviewing and counseling, do provide law students with authentic practice skills through practice and coaching.¹⁰⁷ However, many professors lack the experience or skills to conduct simulations, and many law schools lack the infrastructure, experience, or resources to engage in

¹⁰¹ *Id.* at 9.

¹⁰² It is worth noting that only 6% of respondents used video or web conferencing in practice.

¹⁰³ *Id.* at 8. Among the respondents, 78% of respondents indicated that they belonged to one or more teams; and 19% participated in more than 5 teams. While the participation varied according to the size of the firm, at least 66% indicated that at least one member was located outside of the office.

¹⁰⁴ *Id.* at 8.

¹⁰⁵ See George Kuh, et al, *Engaging Legal Education: Moving Beyond The Status Quo, Law School Survey of Student Engagement, 2006 Annual Survey Results*

http://lssse.iub.edu/2006_Annual_Report/pdf/LSSSE_2006_Annual_Report.pdf (last visited March 30, 2008)

Among 64 schools with 24,000 students, 88% of law students do not frequently work together with other students on projects during class. *Id.* at 13 .

¹⁰⁶ *Id.* at 15-16.

¹⁰⁷ At CWSL, Business Planning satisfies the advanced skills training requirement for transactional practice because students engage in team work, simulations, negotiations and role playing. Students are required to draft four different documents, tracking a small computer software company from inception through reorganization. Students individually draft a retainer agreement; work in teams of two and small groups to negotiate two different agreements and then draft a single document reflecting their consensus; and finally, can elect to work individually, in teams or small groups to draft a client memorandum explaining a complex transaction. This is consistent with the recommendations from the Berkman Study that technology be utilized to create more effective simulations by facilitating communication, modeling and data-gathering. *Id.* at 21

simulations.¹⁰⁸ Unfortunately, unless they get it during law school, it is unlikely that new lawyers will have access to in-practice training opportunities, except in large firms.¹⁰⁹

During the Study, technology eased the physical constraints of the classroom, in the same way as collaboration in law practice. For example, in traditional classrooms small group discussions require groups to leave or move to opposite ends of the classroom to find a private area to meet and confer. The professor must walk to each group to answer questions, make suggestions, or monitor student interaction. Each individual is responsible for taking notes, or there is a single note taker who must type up the notes and share them with others after class. It is usually very difficult to collaborate in class on drafting exercises because everyone is unable to see, or input comments on the same document.

In the online classroom, students are assigned to breakout rooms where they can engage in two-way discussions, and share a whiteboard that is proprietary to the group, meaning, no one else but the members can view it or input text onto it, which may be saved for later review. The professor can easily move between groups to monitor or answer questions without leaving his or her seat. In a small, online class, it takes little initial set-up time to create breakout rooms and make sure students are in the right groups. The only limitation of the technology is being able to see everyone during a negotiation to pick up nuances from body language. The tradeoff is access to the whiteboard that facilitates collaboration and note taking, making the discussions in the breakout groups more efficient than small group discussions in the classroom.¹¹⁰

D. Clinical Legal Education Association's Best Practices

In 2001 CLEA assembled a group of scholars to develop over a six-year period a Statement of Best Practices for Legal Education (hereinafter "CLEA Best Practices").

¹⁰⁸ George Kuh, *supra* note 105 at 15.

¹⁰⁹ *Id.* at 16-17. The findings show that there is unequal access to training programs that support the transition from law school to practice. *Id.* at 14.

¹¹⁰ As the class size becomes larger, the logistics can become cumbersome. The Telecommunications Law students preferred live small group interaction over the breakout rooms, in part because the author was challenged in a class of 19 students to make sure students got to the correct group. There are also limitations with some students online and others in a live class to clearly hear the discussion and know who is talking.

CLEA Best Practices reflect a consensus about the legal education components necessary to prepare students for practicing law. Of relevance to this Study are recommendations on setting goals for instruction, course delivery, and assessing student learning.

CLEA's Best Practices suggest that institutions should focus on "context-based education." The basic thesis is that "[s]tudents cannot become effective legal problem-solvers unless they have opportunities to engage in problem-solving activities in hypotheticals or real legal contexts."¹¹¹ Context-based instruction helps students understand what they are learning and provides an anchor for later recall, when they transfer what they learn in class to new applications in practice.¹¹² Taking a renewed look at the skill sets in upper division courses may offset the tendency among law students to disengage in law school, losing interest and being more passive in the classroom.¹¹³

To be effective, professors should articulate the desired learning outcomes upfront including what students should know, understand and be able to do.¹¹⁴ Activities need to be assigned and students assessed throughout the term on their ability to demonstrate competency in those particular outcomes. CLEA's Best Practices recommend that faculty have high expectations of students, encourage collaboration among students, and engage students in the process of learning. The learning process should also include multiple methods of instruction, and regular and prompt feedback, a point echoed by other studies.¹¹⁵ Finally, the program of instruction should help improve students' self-directed learning.

A key assumption of the Classroom Study mirrors CLEA's recommendations that course goals and learning outcomes be specific and identifiable, followed by frequent faculty feedback to students on skill mastery so it may be reintegrated into the learning

¹¹¹ Stuckey et al., *supra* note 59 at 141.

¹¹² *Id.* at 141.

¹¹³ Kuh, *supra* note 105 at 3, 6-9.

¹¹⁴ Stuckey et al., *supra* note 59 at 55.

¹¹⁵ *Id.* at 132.

process. For example, the learning outcomes for courses in the Study focused on developing higher order cognitive skills¹¹⁶ such as applied reasoning¹¹⁷ and creative problem solving,¹¹⁸ as well as other skills such as oral presentation, negotiation, and drafting. These skills were built upon such basic skills as reading comprehension and critical thinking. The general goals of the course and learning outcomes were identified in the course syllabi,¹¹⁹ and specific learning outcomes for each module and lesson were included at the beginning of CWB modules.

To facilitate feedback, CLEA recommends that effective assessment needs to identify the goals of each assessment, and then measure whether students have learned what is being taught.¹²⁰ In addition, there should be multiple methods of assessing student learning.¹²¹ CLEA Best Practices suggests using formative assessment,¹²² because it permits self-reflection to integrate feedback from the professor back into the learning process.¹²³

There were three levels of learning focused on in the Study to help students develop skill competency: (1) basic comprehension and analysis of substantive

¹¹⁶ Higher order cognitive skills relies upon a building block approach which presumes that more difficult skills will be learned only after fundamental skills are mastered. In this study, the foundational skills were reading comprehension and critical and analytical thinking.

¹¹⁷ Applied reasoning builds upon the basic principles and relevant facts in one or more case studies or problems that can be subsequently applied in a new or practical situation to develop solutions and alternatives. Applied reasoning focuses on the ability to use learned material in new and concrete situations by using concepts, rules, theories and laws. The key is transfer of knowledge. See Grant Wiggins & Jay McTighe, *Understanding by Design* (Association for Supervision and Curriculum Development 1998); and Lucy Chesser Jacobs & Clinton I. Chase, *Developing and Using Tests Effectively* (Jossey-Bass Publishers 1992).

¹¹⁸ Lucy Chesser Jacobs et. al, *supra* note 128. Creative problem solving is a step-by-step process of defining a problem, searching for information, testing hypotheses with the understanding that there are a limited number of solutions. Creative problem solving involves a synthesis of parts to form a new whole; and evaluation to judge the value of the material provided for a specific purpose, using defined criteria. The keys are to combine parts and make judgments. *Id.* E.A. Jones et al., *Identifying College Graduates' Essential Skills in Reading and Problem-Solving: Perspectives of Faculty, Employers and Policymakers*. (Contract No. R117G10037/CDFA84.117G) University Park, PA: U.S. Department of Education/OERI (1997); The NPEC Sourcebook on Assessment, Volume 1: Definitions and Assessment Methods for Critical Thinking, Problem Solving, and Writing," U.S. Department of Education <http://nces.ed.gov/pubs2000/2000195.pdf> (last visited Mar. 2000).

¹¹⁹ See Appendix.

¹²⁰ Stuckey et al., *supra* note 59 at 241.

¹²¹ *Id.* at 253.

¹²² *Id.* at 237, 255.

¹²³ Sullivan et al, *supra* note 57 at 164, 255.

concepts through the lectures and PPT slides; (2) self-directed learning to reinforce basic comprehension and analytical thinking through the CWB modules and the in-class problems; and (3) applied learning and problem solving through the problems, small group discussions, simulations, negotiations and drafting exercises.¹²⁴

On the first level, students engage in self-directed learning through assigned CWB-module lessons that provided the foundational material, followed by objective and short answer questions with immediate feedback via canned answers. CWB modules engage students in self-directed learning by reinforcing basic principles learned in class, providing remediation where needed, and allowing students to measure their competency through self-paced objective and short answer questions. The CWB pedagogy is based upon Bloom's Taxonomy,¹²⁵ allowing faculty to integrate case studies and objective and short answer questions into the course content.¹²⁶ The CWB platform includes software that identifies, measures and tracks learning outcomes to allow faculty to more effectively assess and quantify student learning.¹²⁷

¹²⁴ All CWSL students in Business Planning and Telecommunications Law received oral and written feedback. There were three types of graded assignments in Business Planning: CWB questions, oral presentations or short essay questions, and drafting assignments. Each graded assignment focused upon a level of learning necessary to go to the next level. Assignments were staggered throughout the semester so students had ample opportunity to receive and incorporate feedback into the next assignments. The Classroom Study sought to assess whether this process increased retention and enhanced learning.

¹²⁵ Bloom's Taxonomy identifies four educational objectives: 1) Knowledge, recollection of ideas; 2) Comprehension, grasping meaning and intent; 3) Application, use knowledge to solve a problem; and 4) Analysis, break down material into constituent parts. Hess & Friedland, *supra* note 16 at 294.

¹²⁶ Stuckey, et al, *supra* note 59 at 161. See also www.cyberworkbooks.com (last visited Mar. 17, 2008).

¹²⁷ The platform was developed under grants from NASA Lewis Research Center, NASA Ames Research Center, and the Carnegie Foundation for the Advancement to Teaching. The goal was to allow faculty to better organize and integrate their own materials, e.g., problems, case studies, PPT slides, tutorials, etc., into the course, to supplement or replace the required text. Faculty can publish their materials, and receive a modest royalty for their work, provided the cost did not exceed the average cost of a printed textbook, supplement, or other materials traditionally required of students. Faculty had to agree to be bound by the institution's policies and review procedures related to curriculum development and compensation. Some institutions, e.g., California State, Northridge, require approval from the faculty senate, and are resistant to allowing faculty to receive compensation greater than 5 % of the cost for developing course materials. Other institutions, e.g., UCSD, CWSL, and Concord Law School, treat the CWB Workbook as they would other books, which are handled through the Bookstore. The Bookstores receive an administrative fee for collecting payment and distributing envelopes with user name and passwords, or simply collecting the payment, and students receive their user name and password via email.

On the second level, students are assessed on their ability to apply the basic concepts – utilizing reading comprehension, critical thinking, and applied reasoning – to answer a question or outline a strategy to address a series of issues. Students are instructed by the professor through 45-75-minute, real time or canned substantive lectures with PPT slides that summarize basic concepts and the legal principles or issues to be addressed during the written exercises. Students ask questions in real time or through email. They also make presentations with PPT slides to explain to the client the answer to the problem and answer questions from the professor, playing the role of the client. Students receive oral feedback during the presentation.

On the third level, students negotiate and draft a series of documents on which they receive written feedback. This is the highest level of learning advanced skills in applied reasoning, and problem solving through negotiation, and drafting exercises.¹²⁸

IV. Scope of Survey Research and Findings

Classroom assessment makes two basic pedagogical assumptions about correlations between learning and teaching, and the nature and quality of interaction and feedback among and between faculty and students.¹²⁹ Most importantly, classroom assessment presumes that there is a direct correlation between teaching and the quality of student learning, so the way to improve student learning is to make adjustments in how one teaches.¹³⁰ The premise was that technology should not dictate, but facilitate the teaching methodology. The challenge was in how to effectively integrate the

¹²⁸ I sought to simulate each of these levels for the online Concord students, who could communicate primarily via email or web conferencing, with limited audio function. Although this restricted the students' ability to conduct live, oral presentations, students were given five 1-hour, open-book short-answer quizzes that focused specifically on the substantive issues in the case study that they would have to address in the drafting exercises. Both the oral presentations and quizzes are assigned the same number of points. Students are then given feedback prior to the beginning of each drafting exercise. Only one of the drafting exercises in the Concord class was done with the team and group format because of the logistical difficulty of scheduling real-time discussions outside of the lectures. The overwhelming majority of Concord students recommended there be more opportunities for team and group interaction earlier in the term.¹²⁸ During the Summer of 2008 at least two of the Concord drafting exercises are being done in real time using audio conferencing to enable students to work together in groups and teams.

¹²⁹ *Id.* at 262

¹³⁰ *Id.*

technology with the specific pedagogy. This required more up-front planning, but did result in better organization and presentation of the material.

The second pedagogical assumption was that the more opportunities for interaction and feedback, the greater the likelihood of comprehension and mastery of skills. To be effective, there needed to be a correlation between each activity, the learning outcome, and the assessment measure. This required creating a profile of the typical student at a traditional law school, and their attitudes and expectations of learning in the classroom. These attitudes and expectations were then compared to online students and students in hybrid courses. Ultimately, the goal was to compare and validate whether students could effectively learn online in the same way they learned in a classroom.

A. Student Expectations from the Classroom Experience

The preliminary findings of the Classroom Study reveal that all students have similar expectations and concerns regarding the quality and nature of interaction between and among the faculty and students in the classroom. Seventy-eight percent of the CWSL students in the Fall 07 Business Planning class expected to have interaction with the professor, 63% expected that interaction to be face-to-face, and 52% expected to have face-to-face interaction with *other* students in the classroom. The online students had similar expectations related to teaching. This would support the pedagogical requirement of ABA Standard 306 that online learning has ample opportunities of interaction that meet or exceed the interaction in a classroom.

What was surprising was that students at a traditional law school are likely to be apprehensive about using technology or taking an online course, even though most students have been exposed to technology in college. During the first week of the Fall of 2007, Business Planning students were introduced to the technology and then asked to volunteer to take the class exclusively online. Of thirty-one students, only four volunteered to participate in the class exclusively online. Two of the four students had

taken a course online before or participated in audio or video conferencing, but none had tried web conferencing.

The following chart profiles the traditional law student and his or her attitudes about technology and the classroom experience.

Profile of Traditional Law Student in a Practicum Course (Small Enrollment with Maximum Interaction)		
Characteristic or Attitude	Student Responses	Results
Use of Technology and Online Learning (out of 27 students)	<ul style="list-style-type: none"> ➤ Not volunteer because not comfortable ➤ Not conducive to learning style 	33% 22%
Previous Use of Technology (out of 32 students)	<ul style="list-style-type: none"> ➤ Taken an Online course ➤ Audio conferencing ➤ Video conferencing 	28% 41% 31%
Benefit of Online Learning (out of 28 students)	<ul style="list-style-type: none"> ➤ Convenience 	93%
Expectations of Classroom Experience (out of 27 students)	<ul style="list-style-type: none"> ➤ Interaction with Professor ➤ Interaction with students 	78% 53%
Concerns with Technology (out of 30 students)	<ul style="list-style-type: none"> ➤ Access to Professor ➤ Comprehension of materials ➤ Lack of Training 	43% 47% 37%
Preferred Method of Instruction (out of 31 students)	<ul style="list-style-type: none"> ➤ Lecture w/ Power Point slides ➤ Discussion ➤ Written exercises ➤ Problems 	61% 61% 26% 26%
Participation in Class (out of 31 students)	<ul style="list-style-type: none"> ➤ Sometimes 	68%

The top four reasons given by students for not volunteering to take the class online were (1) a lack of comfort with the technology (33%); (2) taking the course online was not conducive to their learning style (22%); (3) it was not convenient for their class schedule (19%); and (4) students preferred a live class or were concerned about their grade (15%).¹³¹ Not surprising, none of these concerns were expressed by the Concord students, who were taking all of their law school courses online.

Generally, most students prefer class sizes of between 11-50 students,¹³² and small groups of up to 4 students.¹³³ Students¹³⁴ also prefer lecture (61%) and class

¹³¹ Students could select more than one reason to respond to the question.

¹³² Fifty-eight percent of the Fall 2007 Business Planning students preferred class sizes of 11-20 students; 32% preferred class sizes of 21-50 students, and only 11% preferred class sizes of over 50 students.

¹³³ Ninety-seven percent of the Fall 2007 Business Planning students preferred teams of 2 members, 87% preferred groups of 3-4, and only 13% preferred groups of 5-10 members. Eighty-three percent of Concord students and

discussions (61%), over the Socratic Method of instruction (6%) and quizzes (13%).¹³⁵ These student responses confirm the findings of the Mac Crate Report, Carnegie Study, and CLEA Best Practices that faculty should embrace more nontraditional methods of instruction to engage students in lieu of or to complement traditional methods, which should then enhance learning.

Three preliminary conclusions about technology use in the classroom can be drawn from the Classroom Study. First, students generally prefer the live class to online classes, except when it is convenient for them to use technology. Second, students have less resistance to using technology to engage with other students, or where they feel comfortable that the technology will not diminish the expected interaction with the professor. Third, students' general reluctance to use technology may be attributable to the quality of their previous experience or to their lack of exposure to the technology.¹³⁶

The author did draw some correlations between the impact of technology and student learning. First, the quality of students' experience with technology did not seem to substantially impact their willingness to change their attitudes about technology and use of online course materials after being exposed to technology in the course. Students in all of the classes experienced varying degrees of technical difficulty during the term: 67% of the Telecommunications students; 45% of the CWSL Business Planning students; and 33% of the Concord students. Most of the technical problems were technical glitches or failure to follow instructions.¹³⁷ Despite having issues,

79% of the CWSL Telecommunications students preferred teams of 2 or groups of 3-4 members. Moreover, there was similar breakdown in preference of class sizes, with 58% of the Fall 2007 Business Planning students preferring class sizes of up to 20 students, and 32% preferring class sizes of up to 50 students.

¹³⁴ All four online students in Business Planning also preferred lecturing.

¹³⁵ Twenty-six percent equally preferred answering problems and completing written assignments to learn the concepts, and 23% preferred preparing and making presentations.

¹³⁶ This would suggest that the quality of students' previous experience with technology impacts on their willingness to use it in law school. Unfortunately, students' prior experience with technology varies and is not readily quantifiable. More research is required to quantify those variables.

¹³⁷ Some CWSL students had trouble getting their microphone to work on Elluminate; Concord students could not always access their email, canned lectures or resource materials; and some students had technical difficulty answering some of the CWB questions.

students universally felt that they received a prompt response from technical support to resolve any technical issues,¹³⁸ which minimized the disruption in the learning process.

Second, it is clear that convenience was the primary benefit for most students taking a course online (93%), followed by developing additional skills (46%). Though students have the same expectations, their experience may cause them to perceive a tradeoff in taking a course online. If the need or desire is strong enough, the convenience of taking a course online may overcome their resistance.

Third, in comparing attitudes of students who were exclusively online,¹³⁹ in a live class, and in a hybrid class, I observed that resistance to technology was greater among students who had to commit to being online exclusively, rather than among students who had the option of being online. For example, Business Planning students were exposed during the Fall 2006 term to both live and online classrooms. Halfway into the term, the majority of students (63%) volunteered to conduct their small group sessions exclusively online. By the end of the term in both courses, nearly all of the students were online outside of the class most of the time.

Voluntary participation in online courses also seemed to impact students' willingness to change their attitudes related to technology. Although students committed to the live classroom were less willing to change their attitude about taking an online course than students who had the option, they were more willing to use online course content. Only 37% of students in the regular classroom indicated they were willing to use some form of technology as part of their instruction, even though 59% of the Fall 2007 Business Planning students indicated they would be willing to use online content again. By contrast, almost all of the Fall 2007 Telecommunications students (93%), and all of the Concord students, indicated they would use online content or some technology (86%) again. Thus, it is recommended that online courses be optional and

¹³⁸ Students were instructed to send an email to the professor or contact tech support via email or by phone. Seventy-seven percent of Business Planning students, and 100% of the Telecommunications and Concord students, responded affirmatively that telephone and email tech support proved to be adequate to respond to issues.

¹³⁹ The online students included CWSL students who volunteered to take the course online, and elected in another course the option of being online or in a regular classroom. There were also Concord students who could only take the course online.

that students be given advanced knowledge and the ability to choose whether to participate.

B. Comparing Student Learning Styles and Study Habits

The Study showed few differences in study habits and learning styles between students who take online courses and courses in a regular classroom. All students spent at least one hour studying for the class and the majority of students spent 3-4 hours preparing for class.¹⁴⁰ However, most students have preconceived notions of how they learn best, and are more likely to follow their own notions regarding studying, rather than following the professor's instructions.¹⁴¹

This was most apparent in the order in which students prepared for class and completed assignments. Whatever their method, all students changed some aspect of their learning style over the term.¹⁴² By term's end, 41% of students in the regular class had changed the manner in which they studied, compared to 38% of online students.¹⁴³

The following chart summarizes key comparisons between online students and students in the regular classroom.

¹⁴⁰ The majority of CWSL Business Planning students (52%) spent 3-4 hours preparing for class; only 32% of students spent 1-2 hours, and 19% of students spent over four hours preparing for class.

¹⁴¹ During the Fall of 2007, students were also advised to use the CWB lessons as a handbook, rather than as a casebook, and to use the lecture and PPT slides as the foundational material for understanding the basic concepts. They were also encouraged, but not required, to answer the CWB questions after the lecture. The Concord students were advised to answer the essay quiz questions after reviewing the canned lectures. Both Concord and CWSL students were given the option to answer the CWB questions before or after the lecture.

¹⁴² Half of the Concord and Telecom students, and 39% of the CWSL Business Planning students, changed the order in which they answered CWB questions, initially answering them before class, but later waiting until after lecture.

¹⁴³ Fifty percent of the online students changed their method of studying, as compared to 29% of the Telecommunications students.

Comparisons between Students in Regular Classroom and Online Class			
(Preliminary Findings as of 4/08)			
Perceptions	Student Response	Live Class (out of 27)	Online Students (Out of 24)*
Preferred Group Size	➤ Teams of 2	96%	83%
	➤ Groups of 3-4	85%	83%
	➤ Groups of 5-10	15%	12%
Willingness to Use by the End of Term	➤ Technology	37%	83%
	➤ Online content	59%	83%
Changed Manner of Studying	➤ Reliance on PPT slides	67%	71%
	➤ Order answer CWB problems	33%	50%
Participation in Class	➤ Increased over term	41%	46%
Achieved Goals of Exercise	➤ All of the time	23%	25%
	➤ Most of the Time	58%	42%
	➤ Some of the time	81%	58%
*Three classes comprised the online students			

The majority of all students (69%) relied more heavily on the PPT slides and class lecture to understand the basic concepts, than on the CWB lessons.¹⁴⁴ There were also changes in the order and manner in which they learned the material, e.g., taking notes before or during class (61%), doing the problems (39%), and preparing outlines (42%).¹⁴⁵ All students were willing to participate in the class discussions at least some of the time, which did not change during the term, although online students seemed to participate more as the semester progressed.¹⁴⁶

Unfortunately, the sample of online students is small and further study needs to be done to confirm these findings. It is reasonable to conclude that students overall felt satisfied that their expectations had been reached over the term. During Phase 2 of the Study (Fall of 2007), more than a majority of all students felt they achieved their goals at least some of the time. The only noticeable difference was that students in the regular classroom seemed more confident that they achieved their goals all or some of the

¹⁴⁴ Sixty-eight percent of the CWSL Business Planning students and Concord students, and 71% of the Telecommunications law students changed their reliance on the PPT slides.

¹⁴⁵ In terms of taking notes, in Business Planning, live class (59%), and Business Planning, online class (75%). Doing the problems: Business Planning, live class (37%), and Business Planning, online class (50%). Preparing outlines: Business Planning, live class (37%), and Business Planning, online class (75%).

¹⁴⁶ Sixty-three percent of live students participated in class some of the time. Willingness to change over the term varied slightly, with 29% of the regular classroom students, but 46% of online students.

time, than the online students.¹⁴⁷ It would be interesting to study further the level of student satisfaction with individual module lessons and exercises.

The conclusions from this part of the Study generally confirm that professors should include clear instructions, statements of learning outcomes, and goals and objectives for each activity. I's observations suggest that some students will appreciate and understand the process of learning that is taking place. However, most students will approach studying based upon their own notions of what works "best" for them. It is only through formative assessment that students have a greater likelihood that they can embrace different pedagogies of learning. Students may be learning in spite of themselves, or in different ways. The true benefit of including learning outcomes is to ensure better organization of course goals and to allow the professor to evaluate the effectiveness of his or her assessment of students. Without understanding what is intended to be taught, there is little chance of measuring how effective students achieve the learning outcomes. This makes reliable assessment a critical factor in having an effective classroom experience.

C. Course Content and Organization to Promote Learning

Phase I of the Classroom Study focused on how effectively course content was integrated into the organization and structure of the course. This meant focusing on the sequence of assignments, and the resource materials assigned and relied upon by students. The Study was particularly successful here for the Business Planning course, as the students' feedback on self-directed learning led to changes in the course's organization and structure, which enhanced learning.¹⁴⁸

The recommendations from Phase I reinforce what scholars suggest to be best practices in designing an online course. First, it is imperative that in addition to identifying learning outcomes, the professor needs to understand how the course

¹⁴⁷ Fifty-eight percent of online students felt they had achieved the goals of the exercise some of the time, 42% most of the time, and 25% all of the time.

¹⁴⁸ The Telecommunications Law course content did not have the same complexities as Business Planning and posed no problem for students. Students used CWB modules as their primary text, supplemented by assigned readings accessible from links on the course webpage.

content will be used to provide the foundation for learning. This is particularly critical because it allows some benchmark for later measuring success in teaching, as well as learning. It also permits adjustments in the organization and structure of the course that ensures that learning tracks faculty expectations.

During the Fall of 2006, Business Planning students were required to read through the CWB lessons and then answer the objective and short answer questions prior to coming to class or hearing the lecture. PPT slides were given to students after the lecture, and every lecture was recorded and posted on the course webpage. Students were also required to make individual presentations on problems after the lectures, but prior to the group drafting exercises. Midway into the semester, students were given midterm surveys.¹⁴⁹ The findings were incorporated into the second half of the Fall of 2006, where possible, or in the Fall of 2007.

The second recommendation is that for each learning outcome, there should be one or more methodology used to impart learning. Multiple opportunities for learning enable basic concepts to be reinforced in different ways to appeal to how students learn. Tutorials for remediation are particularly helpful in advanced courses that have pre- or co-requisites since it is impossible to ensure all students learned the same thing from different professors. For example, Business Planning students recommended that tutorials on business law basics and taxation be included in CWB modules prior to getting into substantive issues of each exercise. Students had different levels of exposure and comprehension of basic concepts from Business Organizations, a pre- or co-requisite for Business Planning.

The third recommendation is that online course content is more effective when course modules and lessons focus on only a couple of discreet concepts. It was very

¹⁴⁹ During Phase 1, CWSL Business Planning students completed mid-term surveys to determine how they use the course materials. The students were also asked which of the course materials they relied upon to answer CWB questions and prepare for in-class problems, and whether they completed CWB questions before or after they received the substantive lectures. Students then made recommendations of changes to the course materials to make them more effective. The changes regarding the sequence and order of course delivery were implemented during the second half of Phase 1; the organizational and structural changes were implemented during Phase 2 in the Fall of 2007.

apparent that the majority of students in Phase 1 had trouble grasping multiple concepts relying strictly upon CWB lessons. As with many course syllabi, CWB modules were divided into multiple parts and lessons that tract the chapters in the textbook.¹⁵⁰ The author lectured on one lesson per class. Sixty-nine percent of the Fall 2006 Business Planning students followed the instructions, read through the lessons and answered the questions before coming to class.

Students complained that the level of detail in the lessons was too much information for them to digest and comprehend before the class lecture. More than a majority of students suggested that having access to the PPT slides before class would enhance their comprehension a lot (65%) or some (27%). A majority of students wanted to answer the CWB questions after, and not before, they had the class lecture,¹⁵¹ because students never (51%) or only sometimes (44%) performed better without the benefit of the lecture. This was later confirmed by comparing their initial and later scores.

Students also recommended CWB modules be divided into smaller components so they could grasp the concepts better.¹⁵² In response, CWB modules were expanded from 4 to 14 modules. Students were also instructed to use CWB lessons as a handbook, not a textbook, which responded to the shift in focus to the class lectures.¹⁵³ Students could elect to answer CWB questions before or after lectures, and PPT slides were sent to them the night before class. As a result, student comprehension and performance was greatly enhanced.

¹⁵⁰ Thomson West licensed their textbook for inclusion on the condition that the chapters be kept in tact. After the survey findings, the publisher and author permitted the chapters to be broken into smaller components, so long as attribution was given at the end of each lesson.

¹⁵¹ Forty-four percent of students indicated that it would help a lot, and 48% indicated that it would help comprehension some. Moreover, the Classroom Study revealed that 22% of students reviewed the lessons, PPT slides and recorded lectures after the lecture.

¹⁵² More than a majority of students indicated that it would enhance learning some (31%) or a lot (66%).

¹⁵³ The author of the text advised the textbook be used more like a handbook than a casebook. He indicated that he gives students the PPT slides with the answers to the problems in advance. This information was not included in the teacher's handbook.

Students also had difficulty answering the problems presented in class. The problems were admittedly difficult, but were intended to gauge how well students could grasp complex problems. The author presumed that if students could answer a difficult problem, the negotiation and drafting exercises would be easier and comprehension would be greater. The problems were not changed,¹⁵⁴ but students were permitted to work in teams to answer the problems. Allowing teamwork, coupled with the organizational changes, i.e., giving students access to the PPT slides and lectures in advance, improved basic comprehension of the materials. Student anxiety and complaints diminished dramatically. There was also a significant decrease in the number of office hours spent helping students with their presentations, and student performance was significantly higher .

Finally, where formative assessment is used, it is imperative that faculty evaluate the effectiveness of the questions used to assess students. Many faculty are unfamiliar with how to write or evaluate the effectiveness of objective questions. Some faculty have a tendency to ask objective questions that only focus on basic comprehension. It is not unusual that in a series of questions, there may be some questions where the wording, the call of the question, or the correct choices may not be clear or may confuse students. Such questions need to be identified, reworded or eliminated. Classroom assessment can help faculty go through the process of self-evaluation using quantitative analysis, without being defensive or having to justify the effectiveness of their teaching.

The CWB platform has an administrative website allowing faculty to evaluate the difficulty of the questions to weed out bad questions.¹⁵⁵ The platform rates the difficulty

¹⁵⁴Dwight Drake indicated that he gives students the PPT slides and the answers to the problems a couple of hours before class so that student focus is on how to arrive at the answer.

¹⁵⁵ Student feedback was consistent with recommendations made by experts that there should only be one clearly correct option in multiple choice questions. See Hess & Friedland, *supra* note 16 at 303 (tips on creating multistate bar exam questions), citing L. Aiken, *Testing with Multiple Choice Items*, 20 J. Research and Development in Ed. 44 (1987); D. Dodd and L. Leal, *Answer Justifications: Removing the "Trick" from Multiple-Choice Questions*, 15 Teaching on Psych.37 (Feb 1988); and H. Gensler, *Valid Objective Test Construction*, 60 St. Johns L. Rev. 288 (1986). While recognizing the apparent difficulty in creating questions that test analytical ability and more than reading comprehension, these experts maintain that effective multiple choice questions can be used to test higher order

of questions based upon the number of students who correctly answered them. The Faculty Reports on Question Difficulty confirmed that the problem was with some of the questions, not the students. As a result, some questions were eliminated or reworded when correctly answered by less than 20% of the students, which significantly improved overall student scores.

D. Interaction and Skill Mastery

The ultimate goal of the Classroom Study is to assess the quality of the interaction between faculty and students to promote student learning. While the findings are preliminary, they do provide a benchmark to measure skills competency in later classes. As such, certain general observations can be made about student perceptions and what and how well they learned a particular skill.

Nearly all CWSL students in the live classroom for both courses felt the quality of interaction was considered very good when done face-to-face.¹⁵⁶ Similarly, students rated the written feedback as good or very good.¹⁵⁷ The following chart summarizes comparisons between online students and live class students.¹⁵⁸

Quality of Faculty and Student Interaction (Preliminary Findings as of 4/08)			
Activity	Quality of Interaction	Regular class (out of 27)	Online Students (Out of 24) *
Face-to-Face	Very Good	81%	58% for Hybrid Students**
	Good	15%	17% for Hybrid Students**
	Fair	4%	0%
Online	Very Good	7%	33%
	Good	30%	46%
	Fair	26%	21%
Email	Very Good	48%	42%
	Good	37%	46%
	Fair	7%	17%

thinking. *Id.* The CWB platform has the ability to allow faculty to evaluate the difficulty of questions to weed out bad questions, which is also recommended. *Id.* at 305.

¹⁵⁶Eighty-one percent and 79% of Business Planning and Telecommunications students, respectively, rated their face-to-face interaction as very good, 15% and 21%, respectively, rated it as good, and 4% rated it as only fair.

¹⁵⁷CWSL Business Planning students rated the written feedback as follows: very good (26%), good (52%), fair (19%) and poor (4%). Telecommunications Law had a similar spread: very good (36%), good (36%), fair (7%) and poor (7%). Concord students rated the written feedback higher, perhaps because they had more written feedback than the CWSL students: very good (33%), good (50%), fair (16%) and poor (0%)

¹⁵⁸Online students comprised a total class of 15 Concord law students, 4 online students in Business Planning, and 19 Telecommunications Law students.

Teleconference	Very Good Good Fair	22% 15% 7%	25% for Hybrid Students** 25% for Hybrid Students** 4% for Hybrid Students**
Written Feedback	Very Good Good Fair	26% 52% 19%	33% 42% 13%
			**Hybrid students could elect to be online or live

Some surprises appeared in students' rating of the online interaction. When technology was used, the quality of interaction from email, and being online, was only fair to good, with a few students rating it as poor. Many Business Planning students were generally resistant to using teleconferencing, but those who did, thought their interaction was good or very good.¹⁵⁹ Concord students – who had the opposite experience because this was the only opportunity they had to interact with each other – thought their teleconference interaction was very good (33%) or good (50%).

These findings confirm that many students, like faculty, still have a clear preference for the live classroom experience over online learning. However, there is a fundamental shift in students' attitudes when faced with having no access, although some will still be challenged by the technology. It is also clear students' concerns about interaction and grades will likely subside over time as the convenience of the technology is appreciated. While there are clear differences in attitude, there was little difference in the overall performance of online students versus those in a live classroom.

Student perceptions of learning were surveyed at three different levels: substantive, self-directed, and applied learning.¹⁶⁰ Students were asked to identify the skill or skills they learned while engaged in an assigned activity, and then identify the level of competency they believed they had mastered in that activity.

¹⁵⁹ In Business Planning, 22% of students rated it as very good; 15% rated it as good, and 7% rated it as fair, with nearly 44% reporting that they did not know because they did not use it. Three of the four online students rated teleconferencing as good or very good. Similarly, all but one of the Concord students rated their teleconference experience as good or very good. In Telecommunications Law, 64% of students did not know, but 14% of students rated their experience good or very good.

¹⁶⁰ Recall there were three levels of learning: (1) basic comprehension and analysis of substantive concepts through the lectures and PPT slides; (2) self-directed learning to reinforce basic comprehension, analytical thinking and applied reasoning through the CWB modules and the in-class problems; and (3) applied learning and problem solving through the problems, small group discussion, simulations, negotiations and then drafting exercises.

Students generally perceived that they developed good or very good mastery of all of the targeted skill sets over the course of the term, which included reading comprehension, critical thinking, applied reasoning, creative problem solving, oral presentation, negotiation, and drafting. There was general consistency among responses from all students in the skills they perceived they learned while engaged in the lectures and small group discussions.

The majority of all students identified basic comprehension as the skill set targeted for the lectures and PPT slides;¹⁶¹ and applied reasoning and problem solving for the small group discussions.¹⁶² Among the regular class students, between 30-48% felt they had learned two or more skills in any given activity. Where multiple skills were identified, students perceived better mastery of individual skills.

Students' development of higher order thinking skills such as applied reasoning and problem solving came through the class exercises, e.g., negotiations and presentations and small group discussions. Their perceived mastery of these skills was overall good to very good. Student responses were more evenly distributed among the various skills while engaged in CWB modules, class problems, and drafting exercises.

The chart below summarizes student perceptions of learning for each activity.

Student Perceptions of Learning (Preliminary Findings as of 4/08)			
Activity	Student Perceptions of Learning	Regular class (out of 31)	Online Students (Out of 22)*
Lectures	➤ Basic Comprehension	87%	86%
	➤ Critical Thinking	26%	32%
	➤ Applied Reasoning	10%	18%
	➤ Creative Problem Solving	19%	23%
Power Point Slides	➤ Basic Comprehension	84%	100%
	➤ Critical Thinking	35%	23%
	➤ Applied Reasoning	19%	18%
	➤ Creative Problem Solving	19%	14%
CWB (Self-directed learning)	➤ Basic Comprehension	58%	55%
	➤ Critical Thinking	29%	45%
	➤ Applied Reasoning	42%	55%
	➤ Creative Problem Solving	42%	36%

¹⁶¹ Eighty-seven percent of the regular classroom students and 79% of the online students selected basic comprehension for the lectures, and 84% and 92% respectively for the PPT slides.

¹⁶² Fifty-five percent of the regular classroom students and 70% of the online students selected applied reasoning for the small group discussions; and 68% and 58% respectively selected problem solving.

Small Group Discussions	➤ Basic Comprehension	26%	18%
	➤ Critical Thinking	42%	50%
	➤ Applied Reasoning	55%	77%
	➤ Creative Problem Solving	68%	64%
Class Exercises	➤ Basic Comprehension	45%	64%
	➤ Critical Thinking	45%	55%
	➤ Applied Reasoning	42%	64%
	➤ Creative Problem Solving	48%	55%
Drafting	➤ Basic Comprehension	29%	36%
	➤ Critical Thinking	13%	55%
	➤ Applied Reasoning	81%	59%
	➤ Creative Problem Solving	42%	50%
	<u>Top Two Selections</u>		*Combines 3 online classes

The most important finding was that without exception, by the end of the semester, all students, whether online or in a regular classroom, felt that they had at least a good level of competency on all of the identified skills.¹⁶³ It is difficult to determine whether changes in student responses occurred because students had different opinions about the skills, were more inclined to select multiple skills for some exercises than others, or actually had different experiences. One hypothesis that will be measured in future classes is that online students relied more heavily upon the course materials to offset less faculty to student interaction.

V. Conclusion

Technology can be an effective tool to enhance distance learning if the course is planned with an understanding of the outcomes; includes multiple levels of interaction and activities to engage student learning; and uses measurable assessment benchmarks. The goal of this Classroom Assessment was to take the first step to quantify learning in the law school classroom and then try to determine how much of it can be simulated in a virtual classroom. Based upon the findings, that goal was accomplished.

¹⁶³ More than a majority of students felt they learned basic comprehension of the concepts engaged in all of the exercises, where over 50% felt they learned basic comprehension from the CWB, lectures and the PPT slides. CWB seemed to stimulate development of other skills, such as critical thinking, applied reasoning, and creative problem solving. The top two skills were comprehension and critical thinking from the lectures and PPT. The interactive exercises produced higher order skills such as applied reasoning, and creative problem solving came from the small group discussions.

At the beginning of this Study there were three theories to be validated or refuted. Preliminary findings confirm there is a direct correlation between an effective classroom experience, the different ways in which students learn, and the nature and number of contact hours among the professor and other students. Second, where adequate levels of substance and interaction exist, there is no significant difference in the quality or nature of the online classroom experience, even though students have clear preferences in their use of technology. Finally, developing effective online learning courses does require better organization and structure around pedagogical goals, and is probably easier for faculty who already use handouts or PPT slides as part of their pedagogy.

By validating some basic theories of learning, and testing different abstractions about the potential for teaching skills in the virtual classroom, the Classroom Study should encourage some to consider the opportunities possible with technology. However, much more work is necessary to provide irrefutable empirical evidence about what and how learning takes place in the classroom. The findings from the Classroom Study have confirmed the findings from other studies that identify different pedagogies to enhance the quality of what is taught, and promote effective learning using technology.

These findings should allay some critics' perceptions about the "threat" of schools like Concord for what they bring to the market for legal education. Technology in legal education should always be a means to an end, never an end in and of itself. When used properly, however, technology can only enhance the quality of our teaching.

VI. APPENDIX: BUSINESS PLANNING AND SKILLS TRAINING: PRACTICUM

Organization of the Course

This course will follow the creation, operation and reorganization of a closely-held company called, Compu Devices. The course text is a CWB Workbook written by Dwight Drake on Business Planning, and integrates case study problems written by Andrea Johnson. The course will be divided up into fourteen modules. Students will work individually and in teams of two to represent different party interests in each of the modules. Assignments will be random, based upon student last names. Teams will also be asked to prepare a presentation to their client on a variety of topics, and lead the discussion on in-class problems that will be handed out.

Learning Outcomes

Throughout the term, students will be engaged in lecture and class discussion; self-directed learning using the Cyber Workbooks modules with immediate feedback; group negotiation and discussions; and oral taped presentations. Students will be expected to demonstrate a proficiency in written and oral skills; critical and analytical thinking; and applied reasoning. Students will also receive training in preparing for and conducting client negotiations and meetings.

Graded Assignments

Students will have individual, team and group grades based upon oral, written and reading assignments. Students be graded on the following course assignments:

Class Problems	5 points
Drafting Exercises	60 points
Retainer Agreement (individual)	15 points
Shareholder/Operating Agreement (group)	15 points
Employment Agreement (individual)	15 points
Client Memo re Reorganization (individual)	15 points
Cyber Workbooks (Q&A)	35 points
Extra Credit (Telecommuting Policy)	5 points
Total Points	<hr/> 105 points

Written Assignments

This is a practicum course and as such, the focus is to provide hands-on training for business lawyers in devising strategies, negotiating agreements, and drafting business documents. The assignments focus on oral, written, negotiation skills, and self-directed learning. This means that the assumption is that students will be motivated to do what is assigned in a timely manner. The lessons build upon each other so it is impractical to think there is an easy way to get through the course without doing the work.

Students will work individually, and in teams to negotiate and draft different types of documents used during the life of a business. First, students will draft a client retainer agreement for one of five owners of Compu Devices. Second, students will select the appropriate legal entity for the business, negotiate the terms, and draft the appropriate organizational documents to effect the selected business entity. Third, students will negotiate and draft an employment agreement for a key executive, and a policy statement to permit telecommuting (extra credit). Finally, students will negotiate and draft a client memo outlining the steps and legal and tax consequences for a reorganization of the entity.

Negotiations/Presentations

Students will be expected to conduct client meetings during which counsel will explain to the client (Professor Johnson) pertinent provisions of the agreement negotiated. Client meetings will be conducted in a round robin tag-team approach, meaning that a team of students will begin the presentation, a second team will pick up the presentation at a given point, followed by a third and fourth team. This means that all students will have to be prepared to discuss and explain to the client the substance of the terms negotiated and agreed upon.

Goals and Learning Outcomes for Course Modules
Cyber Workbook: Drake on Representing Closely-Held Entities

Module 1: Getting Started (Week 1)

This course module will cover the following areas:

1. How to use Westlaw's business forms and statutes to locate, research, and understand California business law and practice, and employment statutes;
2. What basic thinking skills business advisors need to have in assisting business clients; and
3. An overview of computers.

Students are expected to demonstrate the ability to:

1. Locate a document on Westlaw;
2. Understand skills used in evaluating client objectives, offering advice, and reaching a compromise to achieve win-win solutions; and
3. Distinguish between computer hardware and software.

Module 2: Lawyer's Role in Business Transactions (Week 2)

This course module will cover the following areas:

1. Role of the lawyer and ethical considerations in advising different types of business clients;
2. Strategies to resolve conflict issues in representing multiple business owners.
3. Interviewing techniques for business clients to solicit relevant information related to the scope of representation, use of experts, the attorney-client relationship, and conflict of interest questions;
4. How to analyze a case study problem; and
5. Critical terms that need to be included in a client retainer agreement.

Students are expected to demonstrate the ability to:

1. Understand skills used in evaluating client objectives, offering advice, and reaching a compromise to achieve win-win solutions;
2. Understand pertinent sections of the Model Code of Professional Responsibility as it relates to ethical rules on multiple representation of business owners;
3. Analyze the client's objectives in order to advise the client on allocating voting authority and control in a business enterprise;

4. Understand and articulate potential and actual conflicts of interest that may arise in representing multiple parties; and
5. Apply sections of California Code of Professional Responsibility in drafting a client retainer agreement.

Written Exercise 1: Draft Retainer Agreement

This exercise will cover the topics in Modules 1 and 2. Using one or more of the sample forms, draft a client retainer letter agreement to represent Compu Devices in business, tax and corporate matters related to the company. Assume that the parties have decided that it is in everyone's best interests to have C & W represent only the company, and then in the event there is a conflict, the firm will continue to represent Andrew, with whom the firm has a previous relationship. Each of the parties will retain separate counsel to review the ownership agreement drafted by C&W.

This is a short answer question so take your time. Draft your response in MS Word in no more than 1000 words and cut and paste into the box provided and click insert. You need not select your name before submitting your answer. Feedback will automatically be sent to you via email. You should also submit a draft by email to Professor Johnson.

Comments will be provided and you will be expected to make the corrections and resubmit for inclusion in your course portfolio.

Module 3. Tutorial on Business Law Basics (Week 4)

This course module is a tutorial and will cover the following areas:

1. Different types of business entities, including partnerships, corporations, and limited liability companies;
2. Basic business law principles in assessing the parties' goals and interests; and
3. An overview of basic tax terms, how they are applied in analyzing the tax consequences of different types of entities.

Students are expected to demonstrate the ability to:

1. Analyze the rules, principles, and facts to understand different business relationships and legal entities;
2. Understand the requirements, advantages and disadvantages of partnerships, limited liability companies, and corporations; and
3. Understand and apply the basic tax concepts and ramifications in selecting the business entity.

Module 4: Choice of Entity Challenge (Week 5)

This course module will cover the following areas:

1. Classification of business owners as Toilers, Golfers, Hybrids, Big Fish, Family Affair, Personal Service Organizations; and Emerging Public Companies;
2. Selecting the appropriate business entity based upon the nontax considerations, focusing on closely-held corporations and limited liability companies; and
3. Organizational, financing and tax strategies for converting existing entities to other business entities.

Students are expected to demonstrate the ability to:

1. Analyze the pros and cons of corporations and limited liability companies and apply the principles to different client interests;
2. Apply the financial and strategies to make recommendations to clients based upon their priorities; and
3. Apply the tax rules governing conversions from one entity to another.

Module 5: Tax Considerations (Week 6)

This course module will cover the following areas:

1. The tax perks and traps in selecting different legal entities for a business; and
2. Planning strategies in evaluating different business entities based upon the tax implications.

Students are expected to demonstrate the ability to:

1. Understand the tax terms affecting the acquisition and disposition of a business ownership interest;
2. Understand the tax perks and traps for corporations, limited liability companies and partnerships; and
3. Analyze basic tax rules to evaluate and select the most appropriate business entity.

Module 6: Setting Up the Company (Week 7)

This course module will cover the following areas:

1. Organizing and funding the business, including a basic understanding of tax considerations and capital requirements; and
2. Developing a plan to obtain financing for a business enterprise.

Students will be expected to demonstrate the ability to:

1. Critically analyze the various factors that will impact on tax liability, control issues, and funding requirements for the business;
2. Understand and analyze the formalities associated with organizing a closely-held corporation;
3. Evaluate common rules and traps in organizing and funding a business enterprise; and
4. Propose solutions to address issues that may arise.

Module 7: Buy-Sell Agreements (Week 8)

This course module will cover the following areas:

1. Different types of buy-sell agreements and the pros and cons of each;
2. Considerations for using buy-sell agreements in service organizations; and
3. When to use different types of buy-sell agreements to effect the interests of the parties.

Students will be expected to demonstrate the ability to:

1. Understand and analyze different types of buy-sell agreements;
2. Critically analyze how these agreements should be structured and the planning objectives in evaluating different types of strategies;
3. Understand common mistakes and apply solutions that attorneys often encounter in drafting buy-sell agreements; and
4. Understand unique challenges faced by professional service organizations where person expertise is critical to the success of the enterprise and there is no secondary market for an owner's interest.

Module 8: Negotiating the Organizational Agreement (Week 9)

This course module will cover the following areas:

1. Considerations in negotiating an ownership agreement to create a limited liability company and closely held corporation;
2. Principled negotiating techniques for reaching win-win solutions; and
3. The basics of copyright law, including licensing and assigning rights to a third party; and
4. The basics of patent law, including licensing and assigning rights to a third party.

Students will be expected to demonstrate the ability to:

1. Understand strategies for creating a win-win solution to issues;
2. Understand the rights of owners to software and to apply them to a case study to determine the value of intellectual property as an asset of a company; and
3. Evaluate the differences between assignment and licensing of patents.

Module 9: Drafting Organizational Documents (Week 10)

This course module will cover the following areas:

1. Critical terms for an operating agreement for a limited liability company; and
2. Critical terms for a shareholder agreement for a closely held corporation.

Students will be expected to demonstrate the ability to:

1. Apply critical terms to negotiate an agreement in which all of the parties achieve substantially what they desire;
2. Memorialize the substance of a negotiated agreement among owners to create a limited liability company or a closely held corporation;
3. Draft the essential terms for an operating agreement or shareholder agreement; and
4. Work effectively in a group to achieve a win-win solution.

Written Exercise 2: Operating Agreement/ Shareholder Agreement

At the end of this module students will be negotiating an ownership agreement in a group with other students assuming the role of one of the parties. This exercise will cover topics covered in Modules 3 through 9.

Module 10: In-House Employee Matters (Week 11)

This course module will cover the following areas:

1. Considerations in developing a retirement plan for non-key company employees;
2. Protecting employee rights and operational policies that need to be in place in any business enterprise;
3. Protecting the business from acts of its employees; and
4. Critical areas that need to be included in the Employee Manual.

Students will be expected to demonstrate the ability to:

1. Analyze benefits plans for employees;
2. Evaluate the options for a benefits plan and apply them to develop an employee benefits plan to address key issues; and

3. Draft a company policy related to telecommuting.

Module 11: Employment Agreements for Key Executives (Week 12)

This course module will cover the following areas:

1. The basic components of an executive compensation package;
2. Essential terms to be included in an employment agreement;
3. Common mistakes and traps in drafting employment agreements; and
4. Different types of stock option and equivalency programs for key executives.

Students will be expected to demonstrate the ability to:

1. Structure a compensation package for a key executive employee;
2. Analyze and resolve strategic planning issues in negotiating employment agreements for key employees; and
3. Evaluate and advise on the pros and cons of stock options and equivalency plans.

Module 12: Drafting the Employment Agreement (Week 13)

This course module will focus on:

1. How to customize a sample agreement and integrate the interests of the employer and employee into a single employment agreement; and
2. The mechanics of drafting an employment agreement for a key executive.

Students will be expected to demonstrate the ability to:

1. Assess each parties priorities to establish an employment relationship; and
2. Apply these priorities and draft an employment agreement for a key executive.

Written agreement 3: At the end of this module, you will draft an employment agreement for Carla that reflects a compromise between the company's interests and Carla's interests. Assume that the parties have negotiated an agreement that reaches a compromise between their respective interests. If you choose to defer a benefit or obligation, include a process for addressing that issue in the future.

Will cover topics in Modules 10 through 12.

Module 13: Transactions Between Entities (Week 14)

This module will cover the following areas:

1. Transactions between companies such as the sale of stock or the assets of a company;
2. Strategies for a company that wants to diversify into other areas of business; and
3. Different ways to structure the deal to diversify, including asset sales, stock sales, and reorganizations.

Students will be expected to demonstrate the ability to:

1. Understand and evaluate the factors and determine when and how to diversify; and
2. Apply different types of diversification strategies to a series of case studies.

Module 14: Negotiating the Deal (Week 14)

This module will cover the following areas:

1. Essential terms for a Purchase and Sale Agreement; and
2. Essential terms for a stock sale or exchange.

Students will be expected to demonstrate the ability to:

1. Analyze and explain a complex reorganization plan; and
2. Draft a client memo explaining the mechanics and advantages of a stock purchase and asset exchange.

Writing Exercise 4: At the end of Part 2, draft a Client Memo to one of the following sets of clients, explaining the proposed reorganization: 1) Andrew, Bob and Vendors Group regarding disposition of their interests in Compu Devices, Inc.; OR 2) Carla, Devon & Edward regarding the proposed D Reorganization. Assume that the parties have negotiated an agreement that reaches a compromise between their respective interests. The Memo should not be more than 7 pages, 1 1/2 lines, 12 point font and should include the subheadings as outlined in the instructions.