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The Human Side of Lawyering

Spring 2013

Course Description

The practice of law to a large extent involves working with people, and to practice law well, lawyers must be skilled not only in analyzing facts and rules but also in addressing the human side of legal practice. This course will help students explore three basic aspects of the human side of lawyering: lawyers as people, clients as people, and how different legal processes influence people. Toward becoming a productive and happy professional, the course will increase your self-awareness by helping you recognize your own values, beliefs and attitudes, as such factors can both significantly impact the work you do and the satisfaction you find within it. To help you better work with people, especially clients, the course will foster your awareness of relational skills and emotional intelligence competencies rooted in empirical social science research. The course will also consider relatively new legal movements and perspectives (e.g., ADR, therapeutic jurisprudence, and collaborative law) that support the humanization of the law. This is intended to be an interactive course. Along with readings and written assignments, in-class-exercises, guest speakers, court observations, and student presentations may be used as vehicles for learning.

SYLLABUS

WEEK 1: THE HUMAN ELEMENT OF LEGAL PRACTICE

Reading: Jonathan R. Cohen, *The Path between Sebastian's Hospitals: Fostering Reconciliation after a Tragedy*, Barry L. Rev. (forthcoming 2012).

WEEK 2: LAWYERS AS PEOPLE

Reading: Marjorie A. Silver, *Introduction to The Affective Assistance of Counsel (AAC)*
Susan Daicoff, *Lawyer Personality Traits and Their Relationship to Various Approaches to Lawyering* (ch. 3 of AAC)

Assignment: Eulogy Exercise (Handout)
Self-Inventory & Awareness Exercise (pp. 101-107 of AAC, *except* Part C)

Speaker: Professor Susan Daicoff: Lawyer Know Thyself

WEEK 3: WORKING WITH CLIENTS – COMMUNICATION SKILLS

Reading: Kristen Gerdy, *Clients, Empathy, and Compassion: Introducing First-Year Students to the "Heart" of Lawyering*, 87 Neb. L. Rev. 1 (2008). Please read only pp. 1-29.

Timothy Floyd, *Spirituality and Practicing Law as a Healing Profession: The Importance of Listening* (ch. 16 of AAC).

Assignment: Personal Legal Narrative (Handout)

WEEK 4: WORKING WITH CLIENTS – EMOTIONAL COMPETENCE & DIFFICULT CASES

Reading: Marjorie A. Silver, *Emotional Competence and the Lawyer's Journey* (ch. 1 of AAC). Please read only pp. 5 – 38.

Robert A. Mines, Rachel A. Meyer, and Michael R. Mines, "Emotional Intelligence and Emotional Toxicity: Implications for Attorneys and Law Firms," *The Colorado Lawyer* (April 2004). Go to http://www.minesandassociates.com/about_staff_publications.htm and follow link to article.

Alison Bernard & Niki Kopsidas, “How High is Your ‘EI’?” *New York Law Journal* (April 26, 2010). Go to <http://www.friedfrank.com/index.cfm?pageid=25&itemid=6186> and click on “view pdf” link.

Speaker: Marshall Knudson, Ph.D.: Crisis Center

Exercise: Countertransference Issues

Assignment: Reaction Papers (Handout)

WEEK 5: WORKING WITH CLIENTS – BEING PRESENT AS A PROFESSIONAL

Reading: Jonathan R. Cohen, *Conflicts as Inner Trials: Transitions for Clients, Ideas for Lawyers*, Cardozo J. Conflict Resol. (forthcoming 2012).

Leonard L. Riskin, *Awareness in Lawyering: A Primer on Paying Attention*. (ch. 15 of AAC).

Speaker: Amber Kelly, LCSW: Meditation Practice

WEEK 6: INTERDISCIPLINARY COLLABORATION

Reading: Kristin Henning, *Defining the Lawyer-Self: Using Therapeutic Jurisprudence to Define the Lawyer’s Role and Build Alliances that Aid the Child Client* (ch. 14 of AAC).

Robin Steinberg, *Beyond Lawyering: How Holistic Representation Makes for Good Policy, Better Lawyers, and More Satisfied Clients*, 30 N.Y.U. Rev. & Soc. Change 625 (2005). Also available at www.nycourts.gov/ip/partnersinjustice/Beyond-Lawyering.pdf

WEEK 7: RECENT MOVEMENTS IN CIVIL & CRIMINAL LAW

Reading: Pauline H. Tesler, *Collaborative Law: Practicing Without Armor, Practicing With Heart* (ch. 8 of AAC)

David B. Wexler, *The TJ Criminal Lawyer: Therapeutic Jurisprudence and the Practice of Criminal Law* (ch. 12 of AAC)

WEEK 8: RECENT MOVEMENTS IN CIVIL & CRIMINAL LAW

Film: *A Long Night’s Journey into Day*

If you are unfamiliar with the history of the South African Truth and Reconciliation Commission, please read about it a bit prior to class. See e.g., <http://www.justice.gov.za/trc/> or [http://en.wikipedia.org/wiki/Truth_and_Reconciliation_Commission_\(South_Africa\)](http://en.wikipedia.org/wiki/Truth_and_Reconciliation_Commission_(South_Africa)).

Speaker: Jim Santangelo: Drug Court

Assignment: Court Observation (Handout)
Student Group Presentations (Handout)

WEEK 9: MULTICULTURAL LEGAL PRACTICE

Reading: Paul R. Tremblay & Carwina Weng, *Multicultural Lawyering: Heuristics and Biases* (ch. 5 of AAC)

Speaker: Professor Iris Burke: Cross Cultural Practice

WEEK 10: VALUES – PROFESSIONAL AND PERSONAL

Reading: Lawrence Krieger, *The Inseparability of Professionalism and Personal Satisfaction*, 11 *Clinical L. Rev.* 425 (2004).

Deborah L. Rhode, *Forward: Personal Satisfaction in Professional Practice*, 58 *Syracuse L. Rev.* 217 (2007). Please read only pp. 217-238.

Assignment: Looking Back Paper (Handout)

Exercise: Self-Concordant Goals

WEEK 11: PITFALLS & PROTECTIVE STRATEGIES

Reading: Marjorie A. Silver, *Emotional Competence and the Lawyer's Journey* (ch. 1 AAC), pp. 38-52.

Joshua E. Perry, *Thinking Like a Professional*, 58 *J. Legal Educ.* 159 (2008).

Exercise: Replenish the Well: An Experience in Self-Care (Pie of Life)

WEEK 12: STUDENT PRESENTATIONS

WEEK 13: STUDENT PRESENTATIONS

WEEK 14: CONCLUSION

Reading: Paula A. Fanzese. *The Good Lawyer: Choosing to Believe in the Promise of Our Craft* (ch. 18 AAC).

Speaker: Marcia Davis, Esq.: Practicing Law from the Human Dimension

Assignments

In addition to assigned readings, the course will involve exercises, student group presentations (more on this below), and written assignments (e.g., reflections on readings and speakers, introspective articulations of the student's professional goals and values, a personal legal narrative based upon a past encounter with the legal system, a court observation exercise, and an end-of-the-semester "looking back" paper reflecting on learning in the course as a whole.) Readings and other assignments will be announced each week for the following week's class, and will also be posted on the course's TWEN website. Students are responsible for keeping abreast of such changes.

Student Group Presentations

Learning to collaborate effectively with others, to conduct independent research, and to make public presentations are important legal skills. Later in the semester students will be divided into small groups, with each group responsible for conducting independent research and making a class presentation on an aspect of the human side of lawyering. We will discuss this in further detail as the course progresses. Briefly, our hope is that presentations will be both educational and enjoyable. They should also be conducted in keeping with the standards of legal professionalism.

Attendance, Preparation and Participation

Your attendance, preparation and participation are critical in this course. For most sessions, there will be assigned readings. You are expected to have read these assignments carefully and to have begun thinking about them on your own before the class begins. In class, you are expected to participate constructively in the exercises and discussion. The success or failure of the class will largely depend upon whether you are prepared to discuss the materials and the attitude you bring to the in-class experience.

Electronic Devices

Except where required for specific pedagogical purposes, the use of electronic devices, including laptop computers, is prohibited. Additionally, no recording of any type is permitted without advance written permission.

Grading

The course will be letter graded in accordance with the university's grading policies (<http://www.registrar.ufl.edu/catalog/policies/regulationgrades.html>). Grades will be based upon in-class performance including participation in discussions and exercises (40%), student group presentations (20%), and written assignments (40%). There is no final exam.