

PRACTICE READY LAWYERS DON'T JUST REPRESENT CLIENTS: EXPERIENTIAL EDUCATION FOR THE BUSINESS OF LAW

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Good afternoon. I am pleased to be here today and to be part of this panel as we discuss teaching the business of law. Our conference focus, Educating the Transactional Lawyer of Tomorrow, asks us to explore what our students need to enter legal practice. With that goal in mind, I would like to start with what it means to build the practice ready lawyer and the steps we can take to ensure our teaching prepares students for practice.

Of course one of the main aims of law school is to ensure that students gain knowledge of the law. Legal knowledge is more than just the black letter law and includes identifying legal issues, developing solutions to client problems, applying the law to identified issues and advising a client how to proceed. We also teach lawyering skills, including writing and advocacy, interviewing and counseling, creativity and client-centered thinking. That list can certainly be expanded. Justin Evans and Anthony Gabel provided us with an addition just a few moments ago – entrepreneurship.

By defining our practice-ready lawyer as one who has had exposure to a wide array of legal knowledge and skills, are we actually providing students with what they need to enter the practice of law? To answer that question, let us shift our focus away from law school and onto the practice of law.

Lawyers represent clients. Though it is a lawyer's primary focus, client representation is not and never can be the totality of a lawyer's work. We need to step back and break down the components of client representation to identify the related skills necessary for practice.

Certain tasks arise from a lawyer's work with clients that are not themselves client representation: the business of law. Though we represent clients through different vehicles, all lawyers must adhere to ethical rules

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concerning law office management: employee oversight, trust fund management, client selection, and conflicts of interest. Lawyers must also understand how they deliver services and work with others, requiring project management and collaboration skills. We must also continue to stay abreast of changes in the law. All of these non-client representation tasks are part of the business of law.

Today I will discuss another aspect of the business of law: professional development. Lawyers grow and evolve throughout their legal careers, and our idea of who we are as lawyers and the services we offer change as we mature in practice.

A lawyer's professional development includes three components. First, all lawyers must continue to study the law after their formal training concludes. Second, we must continue to develop our skills in delivering legal services. Both of these aspects of professional development derive from our ethical duty of competence.

I will focus today on a third aspect of professional development—practice development. Practice development is more than bringing in clients and rainmaking. As colloquially understood, it is known as business development, but that is a misnomer for a crucial skill set our students must employ in practice.

Practice or business development is a series of actions and habits that lawyers take to improve upon their ability to deliver legal services, whether they represent clients in private firms, public interest, in-house, or government practice. It includes reflection on their role and identity as an attorney and how actions that they take throughout their careers will define them. A practice and business development focus helps us become the type of lawyer that clients and employers alike want -- a trusted advisor who is an expert in a legal field. It also helps us become the professional we want to be.

Teaching business development in law school helps our students be better ready to enter the profession, take charge of their own destinies, and capitalize on opportunities related to their own identity. It is no longer the case that lawyers start and end their careers in the same organization. Today's lawyers make multiple lateral moves throughout the course of their careers. Legal organizations also spend less time, if any, on mentoring and apprenticeship, forcing lawyers to grow and learn on their own. Business development in the law school curriculum prepares our students to understand and navigate these realities.

Accordingly, I have made business and professional development a component of my teaching. For the rest of my presentation, I will discuss two assignments that can be incorporated into any course to teach business development skills: drafting a business development plan and implementing a

class blog. Both assignments have been part of my Investor Advocacy Clinic course.

I would like to start with the business development plan.¹ I ask my clinic students to design a formal plan for our clinic. This assignment can be altered to apply to the legal sector most applicable to a course you teach or an individual student's intended practice upon graduation.

The assignment includes several steps designed to promote reflection on firm and professional identity. First, students develop a mission statement describing the focus of the firm, employer, or student's own practice. By preparing a mission statement, the student focuses her efforts on the intended goals of her practice, allowing her to better evaluate and strategically choose between opportunities in an environment when there is never enough time. It also forces her to evaluate the feasibility of the mission and whether the goals are realistic.

Second, students describe the optimal client and where that client is likely to be located. Along with the mission statement, this step allows us to reflect on our practice and begin preparing for difficult decisions about whether we ultimately decide to represent a potential client. I am not going to spend any time discussing client selection and intake as we will soon be hearing from Manoj Viswanathan on that topic.

Next, students identify potential client referral sources and industry leaders. This step forces students to focus on where they will locate their ideal client in keeping with the firm's mission.

Finally, students describe how they will reach their intended audience. Students often identify outreach efforts such as speaking to communities whose members may require legal services. For example, our clinic firm represents small investors with claims against their brokers. Students have identified senior centers and retirement communities for educational presentations. Students also evaluate the other professionals practicing in the arena and determine how to position the clinic law firm as a leader among them.

In my course, students then put their plan into action. They recommend an audience and topic for a live presentation to help the community learn about investing and what to do if they may have a claim against a broker/dealer. After their idea is approved, they must design and implement a high quality educational presentation. This provides students with a concrete example of an activity that

¹ The business development plan assignment, distributed during the conference, is reprinted in Appendix 1.

fosters professional development and forces them to reflect upon how a plan can be implemented in a way that comports with their own style, professional identity, and values.

Business and professional development can also be taught through the implementation of a class blog. Creating a blog designed to teach business development takes some work from the professor—starting with building the blog from an online platform and creating student profiles to which you can later link their substantive work. Instructions for both of these steps are in your electronic materials.²

Developing and ensuring consistent content is perhaps the most challenging part of the blog. I have approached this in two ways. First, I assign specific topics for students, due at various points in the semester. Generally, these topics have no specific expiration date once written, which allows us to post them throughout the semester. Second, students create their own entries related to the subject matter of our blog. Some students have chosen to write multi-week series based upon, for example, the top ten frauds investors may face. Others have written entries in conjunction with current events or national campaigns. In either case, these student-selected topics ensure that the student learns about the sources of legal news and developments in the substantive legal area and how to stay abreast of those developments.

The blog exercise also provides an opportunity to discuss ethics and professionalism with students. For example, we discuss what it might mean if a student deviated from the instructions and provided what could be construed as legal advice in a post. We also discuss how a certain entry may impact a student's reputation and the professional profile they wish to project through their work. Finally, we discuss our jurisdiction's rules concerning attorney advertising and how we implement and follow them.

Through the implementation of the business development plan and class blog, our students are more practice ready. They have begun to think, in law school, about the type of lawyer they want to be. They understand that the practice of law does not start and stop with the work they do for a client. After completing these exercises, students learn that institutions have their own values, goals and images, and that they are expected to be able to identify and adhere to them while maintaining their own professional identity. Students also learn that their development is in their own hands and involves effort, much of which might be in addition to a heavy caseload and client responsibilities. My students,

² Instructor notes and the full blog assignment are reprinted at the end of this article in Appendix 2.

for example, work on these assignments while also providing advice to real people in a clinical setting. The clinical platform offers an optimal opportunity to experience the challenging realities of engaging in professional development alongside representing clients.

Business development exercises also teach students more about the substantive area of law that is the focus of my course. By conducting their own research and then writing on a topic of substantive law, they deepen their knowledge and understanding of the law.

Students' knowledge does not end with substantive law – both exercises also assist in continued skill development. For example, students learn how to write for a non-legal, lay audience—translating complex ideas into understandable, but not patronizing, pieces. They also further develop their ability to analyze the law. If, for example, a student writes a blog post about a case or change in the law, she does more than simply report on the change. She must go further and discuss what the law means and why it is important to our audience or practice.

Finally, these professional and business development exercises assist students in developing a public professional profile. Our students are able to provide employers with evidence of their writing through an online portfolio of their work on the clinic's blog. A recent study found that the number one way most consumers approach their search for a lawyer is by using the Internet. Our students' Internet presence begins early and provides them with a head start in showing their capabilities and building their practices.

In conclusion, as we reflect upon what it means for our students to be practice-ready lawyers, we need to broaden our view of practice from just client representation and ensure that our students learn the business of law.

APPENDIX 1

SAMPLE ASSIGNMENT

Investor Advocacy Clinic Business Development Plan

As a new law firm, it is important for the Investor Advocacy Clinic to ensure that our target audiences know that we are open for business. Even though we do not charge for our legal services, we still must work to develop a network of referrals and a client base. We also must build our reputation as experts in our field who provide excellent legal advice and client service.

Each of our student teams will assist the Clinic by preparing a Business Development Plan. The plan should include a mission and goal statement. This statement will, in your own words, discuss the groups served by the Clinic and the means through which we serve them (e.g., the services we provide). As clients contact us throughout the semester, we will refer to the mission and goal statement and only accept as clients those individuals who fall within our mission and need legal services of the type we can competently and ethically provide.

After creating the mission and goal statement, your group should brainstorm. Who are our target clients? What type of activities can the Clinic engage in to reach those clients and fulfill its mission and goals? To which audiences should we connect? What information should we share with those audiences? How and where do we provide the message? What resources can we use? Be creative and professional. Once implemented, your business development plans will help shape the Clinic's future and the public's perception of who we are and what we do.

Your final business development plan should include the following sections:

- Mission and Goal Statement;
- Target clients: describe who our ideal clients are, where you believe they can be found and at least five ways we can reach out to them;
- Potential client referral sources: at least five, with an explanation of why each will be able to refer clients to us and how you suggest we reach out to them;
- Potential outreach ideas: at least five with a one paragraph description of the target audience, the proposed presentation, resources you propose using, location and why you identified the group and program; and
- A group decision as to which education/outreach idea your team will implement this semester (this can a one line statement).

As part of your Business Development Plan, you should consider the rules governing lawyer advertising and contacting potential clients and ensure that the ideas contained in your plan do not run afoul of those rules.

APPENDIX 2

MATERIALS FOR CLASS BLOG

Instructor Materials

Create the blog. There are numerous free blogging platforms that you can use for a classroom blog. We created a blog using the WordPress platform. The blog has also been added to the Investor Advocacy Clinic's webpage at the law school (www.law.gsu.edu/iac) and our most recent blog posts are programmed to appear along the side of the page. This allows users to find our blog while visiting our official webpage or via an Internet search.

Create student profiles. For each student blog author, draft a short biography with a photo. We prepared student profiles after asking the students to engage in a quick write during class, with one minute spent on each of the following questions: (1) Basic information: name, intended graduation date, undergraduate school and degree, hometown; (2) Why did you join the Investor Advocacy Clinic? (3) Why is the Investor Advocacy Clinic important? (4) What do you hope to do when you graduate? After collecting the information, we drafted short entries to create a professional profile for each student. The communications department assisted us by taking high-resolution photos of each student. The students reviewed and approved their profiles before we posted them. Each post subsequently written by a student would then be linked back to the student's profile.

Create an "About Us" Page. We use the "About Us" page to provide general information about the clinic and provide potential clients with contact information should they be interested in potential representation. We also provide the information required by Georgia's attorney advertising rules and a disclaimer noting that the blog posts are neither legal nor investment advice and only reflect the views of the individual authors. We are careful to note that our interns are not attorneys.

Post regularly and generate content. The most challenging part of maintaining a blog is ensuring that new content is consistently posted. We have addressed this issue by assigning each student several entries due at different points in the semester. We purposefully assigned several entries on topics of general interest that could be posted at any time. Once completed, these posts are scheduled for future publication. They may be moved to a later date if a current news item arises that we feel should be included in the blog immediately.

After students became comfortable with drafting blog entries, we asked them to choose and write about their own topic. During the course of the

semester, students are also assigned entries on current events in our practice area as they arise. Professors could ask students to create their own alerts for news (both popular press and legal) and follow relevant individuals or entities. For example, we subscribe to alerts and news releases from FINRA, the SEC and the Federal Trade Commission, among others, each of whose actions provide us with potential blog topics.

Students also created posts that tie to specific campaigns (such as Financial Literacy Month and Military Saves Month) or holidays (such as post-Thanksgiving shopping and football).

We assigned a sufficient number of blog posts throughout the semester to ensure at least three posts per week. On many occasions we had five posts each week. The posts generated in the Spring 2014 semester will continue to run until September of 2014, ensuring regular posts until our Fall 2014 students begin generating content.

Our Spring 2014 assignment to the students with a list of assigned entries and due dates follows. In the pages that follow, we have also compiled published posts by category to provide examples of the different types of posts students may write.

Reviewing and Editing Student Work. Because blogging is new to many students, it does take time to review and comment on student work before it is posted. The early posts require the most revision. After receiving comments on the early posts, the submissions at the end of the semester require fewer changes prior to posting.

Posting Student Entries and Administering Blog. Only professors have administrator rights on our blog, which means that only the professors are able to post entries. While this ensures that no content is posted without final approval, it does add a bit of time to the process. In addition, it requires the addition of a byline for each author. We list the student's name, note the semester in which they were an intern and provide a hyperlink back to their profile. After you add a few posts, this process is fairly simple and doesn't take much time. We also created categories and tags for our posts and the professors select the appropriate tags and categories to add to each student entry.

Publicizing the Blog and Building an Audience. To increase the reach of our blog, we ask our students to share their posted entries through professional social media such as LinkedIn. We also work with the College of Law's communications department and ask that they retweet our posts and add them to the College of Law's webpage.

Linking Back to Prior Work. As you post regularly, you will find overlap in topics or a student exploring a prior topic in a different way. In such situations, link back to the prior student's work. For example, we created a "Wednesday's Word" series to define some of the terminology in investing and securities arbitration. When a student writes an in-depth post that mentions one of these terms, we link the term to the definition so the reader can easily find more information.

Ethics and Professionalism. A blog provides an opportunity to discuss ethics and professionalism with students. Students and lawyers alike often incorrectly believe that lawyer advertising only includes billboards, television commercials and the phonebook. In addition to discussing the mechanics of drafting posts and developing a professional profile, the ethics rules concerning advertising should be discussed with students. Professors should also caution students against drafting posts that could be considered legal or other specialized advice and discuss the potential ramifications if such entries were posted. Finally, professionalism should be discussed, giving students the opportunity to reflect upon what type of image they want to project to future clients, colleagues and employers.

Sample Assignment for Students

Investor Advocacy Clinic Blogging Assignment

The Investor Advocacy Clinic maintains a blog at www.law.gsu.edu/IACblog. Each student intern is responsible for drafting at least six (6) blog posts. During the course of the semester, you will also be assigned additional blog posts based upon current happenings in the securities world or in the event you do not have a full caseload.

We blog for many reasons. First, all law firms need clients. Blogging is one of many ways lawyers engage in business development – ensuring that potential clients know who we are as a law firm and how we can help clients. Excellent blog posts show potential clients and referral sources the high level of expertise and service that we can provide them.

Second, blogging helps us learn. By preparing a blog post on a topic, you will gain expertise in a subject area or expand your level of knowledge. Many aspects of investment and securities arbitration may be new to you. Conducting research and writing on a new area gives you an opportunity to fully understand investment and securities arbitration concepts and better serve our clients. In addition, lawyers are required to study the law—including its changes—as part of

our duty of competence. Following the changes in our field of practice and drafting blog posts also helps us fulfill this ethical duty.

Third, blogging helps us meet our clinic's goal of educating investors. Our blog posts have a much broader reach than any individual, in-person communication. They are available at any time of the day, when an investor needs them, and they can be easily located by investors around the world through a simple query in a search engine.

The Assignment:

Subscribe to the clinic's blog. Review our prior posts to get a sense of the types of information we post and the general blog format.

Drafting tips:

- Be creative. Draft your post in an interesting fashion, making it accessible to a wide audience and in an engaging way.
- Keep it short. Posts should be at least 250 words, but should not generally exceed 1,000 words. Take your first draft and cut out extra words and legalese. Remember: you are not writing a legal memo or brief. We are providing information in an easily digestible format for an audience that includes non-lawyers and novice investors.
- Come up with a hook. Draft a title and introduction that draws in your reader so that they will read the post. Use headings to break the blog post into readable chunks that entice our audience to read the whole post.

Keep it professional. Remember, we are a law firm subject to the ethics rules concerning advertising. Make sure we follow the applicable rules. We should project a professional image. We want the outside community to see us as experts in the field who they would want to represent them if they needed a lawyer. This doesn't mean we can't be creative, just that we need to ensure that our creativity doesn't come across as being unprofessional.

Embed links to other relevant blogs and websites within your blog entry. We are not recreating the wheel. Other sites may already do an excellent job on topics where we are not experts. We should ensure that our readers have access to that information and give credit where it is due. In addition, blog posts are intentionally shorter pieces. Our readers will appreciate resources to consult if they would like to further research a topic. When you embed links, be sure the source is reliable and is not biased or attempting to sell services. We prefer government sites and nonprofit organizations, such as www.sec.gov, www.finra.org or www.saveandinvest.org.

Refer to the below assignment list to see which topics have been assigned to you and their due dates. “Wildcard” means that you may select any topic that relates to investing, securities regulation or securities arbitration. We encourage you to begin working on your entries well before they are due and to submit your blog entries in advance of the due dates. You will be representing real clients during the course of the semester and it is possible that unforeseen issues in a client matter may require you to spend more time on a case than you expected. Planning ahead by beginning your posts before they are due will help you better balance unanticipated responsibilities.

Keep track of all time spent drafting blog posts and record your time under your student team’s client/matter number in Clio. We keep track of all time related to investor education and outreach in this client/matter.

Your draft entries should be submitted to Professor Iannarone via email. Be prepared to revise your post. You will receive feedback and proposed edits from Professor Iannarone that should be incorporated into your document before we will post it on the blog.

Due Date	Blog Topic	Responsible Student
1/17/2014	Preparing to Invest: Get Your Financial House in Order	
1/17/2014	Working with Investment Professionals: Outline different types of professionals and the services they offer	
1/17/2014	Understanding Professional Designations: What do those letters after a professional’s name mean? How do I research them?	
1/17/2014	Selecting an Investment Professional: How to select and research to undertake before selecting	
1/17/2014	Establishing Goals: What type of investor are you and why are you investing?	
1/17/2014	Before you buy – research and understand the investment	
1/24/2014	What is a Stock? Define, cover advantages and disadvantages.	
1/24/2014	What is a Bond? Define, cover advantages and disadvantages.	
1/24/2014	Mutual Funds, Index Funds and Exchange Traded Funds. Define, cover advantages and	

	disadvantages.	
1/24/2014	Cash Equivalents: define, cover advantages and disadvantages	
1/24/2014	Alternative Investments: What are they, risks and advantages, how to research them	
1/24/2014	Steps to be an Informed Investor After you Invest	
1/31/2014	What type of investment account do you have: discretionary vs. non-discretionary.	
1/31/2014	Decoding your account statement: How do you read an account statement?	
1/31/2014	Common Causes of Action: Unsuitability	
1/31/2014	Common Causes of Action: Churning	
1/31/2014	Common Causes of Action: Unauthorized Trading	
1/31/2014	Common Causes of Action: Misrepresentation	
2/7/2014	Common Causes of Action: Blue Sky Laws	
2/7/2014	Common Causes of Action: Failure to Supervise	
2/7/2014	Common Causes of Action: State Common Law Claims	
2/7/2014	What do you do if you think you have a claim?	
2/7/2014	How Long do I have to Bring a Claim: The Six Year Eligibility Rule	
2/7/2014	What does arbitration cost? Using the fees calculator.	
3/7/2014	Wildcard	
4/11/2014	Wildcard	

4/11/2014	Wildcard	

Blog Entries by Type of Post

Entries Available at www.law.gsu.edu/iacblog

Student Profiles:

- Meet Student Intern Cassandra Bradford
- Meet Student Intern Patricia Uceda
- Meet Student Intern D. Russell Stroud
- Meet Student Intern Benjamin Stubbs

General Posts Concerning Securities, Investing and Fraud:

- Deciphering the Alphabet Soup of Professional Designations
- Phishing: It's Not Just an Internet Problem Anymore
- Does Your Team Loyalty Make You More Vulnerable to Securities Fraud? (Affinity fraud, posted on Friday after Thanksgiving)
- Does This Investment Suit Me? (Suitability)

Legal News:

- Georgia Court of Appeals Addresses Finality of FINRA Arbitration Award
- FINRA Board Decision Invalidates Class Action Waivers in Customer Agreements

Multi-Part Series:

- Friday's Fraud (Eleven week series describing the top ten investment frauds of 2013 as identified by the North American Securities Administrators Association (NASAA))
 - Week 1: Prepare for your Future by Learning from the Past (overview of series and substantive posts to follow)
 - Week 2: Private Offerings: Investing, Fraud and the Value of Referees
 - Week 3: Real Estate Investment Schemes: Watch Out for Traps

- Week 4: Ponzi Schemes: Don't Believe the Unbelievable
- Week 5: Affinity Fraud: Scammers in Sheep's Clothing
- Week 6: Self-directed IRAs: Being the Head Chef can be Risky
- Week 7: Oil and Gas Drilling Scams: Don't Drop Money Down Dry Wells
- Week 8: Proxy Trading Accounts: Make Sure Your Trust has a Backup
- Week 9: Digital Currency: The Dangers of Modern Monies
- Week 10: Crowdfunding: What You Need to Know About Small Business Investments
- Week 11: Third Party Service Providers: The Importance of Regulation
- Detailed Exploration of Legal Concept
 - Expungement Under FINRA Rules: What is Expungement?
 - Expungement Under FINRA's Rules: Why Does Expungement Exist?
 - Expungement Under FINRA's Rules: How Often is it Granted?
 - Expungement Under FINRA's Rules: Why is it Granted?
 - Expungement Under FINRA's Rules: Notice to Arbitrators Relating to Expungement
 - Expungement Under FINRA's Rules: Proposed Rule Changes
 - Comment Period Open on FINRA Rule Proposal Concerning Expungement
 - Investor Advocacy Clinic Comments on FINRA Proposed Rule Change 2014-020
 - Wednesday's Word: Expungement

Promotion of Student Work:

- Investor Advocacy Clinic Comments on FINRA Proposed Rule Change 2014-005
- Investor Advocacy Clinic Comments on FINRA Proposed Rule Change 2014-020
- Clinic Provides Education to Future Elder Law Advocates

Blogging in Support of National Campaign:

- Financial Literacy Month (April)
 - Millennials and their Finances: The Struggle is Very Real
 - How Financially Literate Are You? Take this FINRA Quiz to Find Out!
- National Consumer Protection Week (March 2-8, 2014)
 - What to do When Your Identity Has Been Stolen

- When Going Green Can Cost You: Solar Energy System Scams
- Baby, You're a Star: How Your Looks Can Get You Sucked into a Scam
- NOW HIRING: When a Job Advertisement May be a Scam
- Military Saves Week (February 24-March 1, 2014)
 - Don't Let Your Military Status Make You More Susceptible to Scams
 - Members of the Military: Beware of Affinity Fraud

Current Events:

- Where's the Beef? On the Internet, Kobe Beef Jerky Might Be As Real As Buying the Brooklyn Bridge (crowdfunding)
- My Two Sense: Know Your Stock Purchase, Tweeps (intended Twitter IPO investors' unwitting purchase of Tweeter stock instead of Twitter)
- Weed Out Investment Scams (investor alerts concerning marijuana-related investments)