

**Negotiating With Students:  
My Experience with the Corrada/Dau-Schmidt Labor Law Simulation**

**By**

**Rafael Gely  
University of Missouri School of Law**

Several years ago, law professors Roberto Corrada (Denver) and Ken Dau-Schmidt (Indiana, Bloomington), developed a simulation for their Labor Law courses. Their intent was to fully engage students who had little or no experience regarding the union organizing and collective bargaining processes with some context in which to evaluate the course materials. Since then, Professors Corrada and Dau-Schmidt have written about and discussed their experience in academic presentations in which they have encourage others to use their approach.<sup>1</sup> Three years ago, after having taught labor law for over a decade following a traditional semi-Socratic format, I took the “Corrada/Dau-Schmidt challenge”. For the benefit of others who might like to consider doing the same, below I briefly describe Professors Corrada and Dau-Schmidt’s simulation and my experience using it.

**The Labor Law Simulation**

The traditional Labor Law course basically covers the regulation of the union organizing and collective bargaining processes for employees and employers who fall under the jurisdiction of the National Labor Relations Act (“NLRA”). The course covers the law of union organizing, the protections provided to employees and employers under the NLRA, the regulation of collective bargaining, and the contract administration process. One key aspect of understanding labor law is for students to realize that by acting collectively (or in concert, as provided under the NLRA) employees have opportunities to protect their welfare in a way that they cannot do when acting individually. The simulation provides students who have not had extensive work experience, or who have not been in a position to make a choice as to whether to act collectively in a work setting, an opportunity to experience the effects of collective action. More specifically, the simulation encourages students to use the framework and protections provided under the NLRA to protect their own interest as students vis a vis the professor teaching the course.

In the simulation, students are “employees” and the professor is the “employer”. Students receive an “employee handbook” (syllabus) which includes the terms and conditions of employment. Students are told that those terms will govern the class unless they organize collectively and negotiate alternative terms, or initiate mock causes of action to challenge any terms that violate relevant law. Students are provided with access to the National Labor Relations Board’s website, but otherwise, are expected to figure out the steps that need to be

---

<sup>1</sup> See Jeffrey E. Stake & Kenneth G. Dau-Schmidt, *Teaching in a Larger Social Context: Using Simulations to Demonstrate Socioeconomic Principles and Their Relevance to Law*, 41 SAN DIEGO L. REV. 75 (2004). They also discussed the simulation in the teacher’s manual to their labor law casebook (Kenneth G. Dau-Schmidt, et. al., *TEACHER’S MANUAL TO LABOR LAW IN THE CONTEMPORARY WORKPLACE*).

taken to organize a union or to file a complaint.<sup>2</sup> If the students believe that the employer has violated any provisions of the NLRA, they are expected to initiate the steps necessary to file an unfair labor practice charge (the type of action that real employees will initiate in similar situations). The professor plays multiple roles including president of the company, NLRB hearing officer, and NLRB regional director. If the students decide to organize, a bargaining representative election is scheduled. In anticipation of the election, the students (and the employer) are allowed to campaign (within the rules set up by the employer and within the parameters provided under the statute). If the students vote in favor of union representation, bargaining sessions are scheduled in which the students and the professor negotiate the terms of the collective bargaining agreement. The last few weeks of the semester are then governed by the terms negotiated under the collective bargaining agreement.

### **My experience**

Overall I have enjoyed the experience. The feedback I have received from students has been positive. I believe the simulation allows the students the opportunity to process the materials discussed in class from a new perspective and forces them to explore the administrative process of the NLRA hands on. The simulation introduces students to various lawyering skills such as deciding whether or not to file charges under the statute; preparing relevant documents; presenting oral arguments before an administrative agency; negotiating contract language; and, participating in an arbitration hearing. The simulation also allows students to experience first-hand various aspects of group dynamics such as deciding who will take a leadership role in a group; allocating responsibilities among group members; and dealing with internal conflict.

As Professors Corrada and Dau-Schmidt have acknowledged, the simulation format requires the professor to make some choices with regard to breadth of coverage (e.g., materials on federal preemption; issues pertaining to union members rights vis a vis the union). It also requires the professor to be willing to be flexible in the order and timing of topics coverage to match what is taking place in the simulation. In my experience these drawbacks are relatively minor and are very much offset by the much richer experience that students get out of the course.

Like with any other class, the simulation format also allows the professor to adapt the class to his or her individual preferences and circumstances. For instance, Professor Dau-Schmidt indicates that he conducts the bargaining sessions outside of class. I have instead decided to conduct the bargaining sessions in class. Students are expected to designate a bargaining team, and I ask a small group of students to serve as my bargaining team. The advantage of conducting the bargaining session in class is, of course, that all students get the opportunity to observe the negotiation, which opens the door for some interesting dynamics. One year, some of the students watching the negotiations were unhappy with some of the positions their representatives were taking at the table. This led to some interesting discussions during our debriefing about internal group dynamics and bargaining strategies. The disadvantage of course is that one has to allocate class time to the bargaining sessions.

Another adaptation I have made involves our discussion at the end of the term pertaining to the contract administration process. This topic involves a discussion of the grievance process

---

<sup>2</sup> The National Labor Relations Board is the administrative agency created under the NLRA.

and of labor arbitration. In the simulation, and once the students have voted for representation and negotiated a collective bargaining agreement, I intentionally violate a contract term with hopes of encouraging students to file a grievance. This has allowed us to actually arbitrate the grievance. The hearing has been conducted by my colleague and labor arbitrator Bob Bailey, in front of his Lawyering class (a first-year class in which students are introduced among other things to alternative dispute resolution processes). This has allowed the students in my class to prepare and conduct an arbitration hearing and the first-year students in the Lawyering course to observe one.

\*\*\*\*\*

Readers interested in exploring this simulation should read the article by Professor Dau-Schmidt (with Jeffrey Stake) cited above in note 1. Both Professor Corrada and Professor Dau-Schmidt have been generous with their time and advice and I am sure they will be happy to answer questions. If I can be of any assistance, please contact me at [gelyr@missouri.edu](mailto:gelyr@missouri.edu).