

Lawyering: Problem-Solving and Dispute Resolution
LAW 5095 Schmitz (Sections 3 & 4) T/TH

3: 9-9:50 AM T/TH HH 109

4: 2-2:50 PM T/TH HH 109

Fall 2021

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Learning Outcomes

This course is essentially a semester-long examination of the roles lawyers play. The course will increase your knowledge of what it means to be a lawyer and will improve the skills you need to be an effective one. The course will also increase your understanding of the values embraced by the profession; these are the ideas, principles, norms, and rules that guide us when we make choices about how we should act when practicing as lawyers. Additionally, you will gain a broad understanding of alternative dispute resolution (ADR), as it includes the means lawyers use most for problem-solving. Indeed, at core, this course helps create a lens for your legal education – as we are called to be “problem-solvers” as lawyers every day!

That said, this course focuses primarily on the roles of advocates with some discussion of the roles of neutrals (such as mediators and arbitrators). You will increase your knowledge of how lawyers help clients select and participate in efficient, just, and appropriate methods of managing and resolving conflicts. More specifically, this course is structured to accomplish the following goals, objectives, and outcomes:

- Increasing your understanding of lawyers’ roles and relationships with clients generally;
- Knowing the distinction between problem-solving and traditional legal adversarial approaches to lawyering;
- Acquiring basic skills in interviewing and counseling clients and negotiation;
- Knowing basic “alternative” dispute resolution (ADR) procedures, their strengths and weaknesses, and the basic elements of the theory and practice of these procedures;
- Understanding how to analyze cases to assess appropriateness of different dispute resolution approaches and procedures;
- Acquiring basic skills in negotiation and mediation advocacy;
- Acquiring the knowledge and skills needed to recognize and evaluate ethical dilemmas that

- can arise during the representation of a client during dispute resolution; and
- Improving analytical skills. Effective analysis has several elements: identifying problematic issues; developing alternative perspectives about those issues; and making sound generalizations based on theory and one's own experience to develop appropriate strategies to suggest to the client.

Standard 303 of the *ABA Standards and Rules of Procedure for Approval of Law Schools* requires each student at an accredited law school “to satisfactorily complete at least . . . one or more experiential course(s) totaling at least six credit hours.” In the judgment of your School of Law faculty, successful completion of this course will satisfy two of Standard 303's six credit hours requirement.

Class Attendance

Attendance, preparation, and engagement in the exercises are of most importance. Attendance is very important because much of the learning happens in class. Nonetheless, we understand that flexibility is necessary – as people may suffer illness, etc. If such situation arises, please let me know if there is a reason you need to miss and we can work out alternatives for learning the material. **Above all, please let me know if you have questions or concerns as we go through the semester!**

Teaching Assistant (TA)

This class has a teaching assistant (TA) for each subsection to help with class simulations and assignments. Please **take advantage of this extra assistance**. Note that the TAs will hold office hours and are available to meet outside of class! See the first page of the syllabus for contact information for your subsection of the Lawyering class.

Required Readings

*Stefan H. Krieger, Richard K. Neumann & Renee M. Hutchins, *Essential Lawyering Skills*, Sixth Ed. Assignments from this book are listed below with the prefix “K&N”.

*Additional required readings will be posted on Canvas! **Again, be sure to check Canvas!**

Course Web Site

You must regularly consult Canvas, where you will find: 1) Course website with announcements, discussions, syllabus, etc.; 2) Assignments and materials needed for assignments; and 3) Links to join live Zoom classes, as necessary.

Indeed, this is your one-stop shop for the syllabus and other required course materials. I will also send email messages to the email account that you designate when you register and will post **announcements** on Canvas. **It is your responsibility to check Canvas and your registered email regularly** (at least once a day) and to make sure the account remains functional and is not too full to accept emails.

First Assignments:

Class Schedule and Assignments (subject to change so check Canvas!)

Discussion in class will inevitably cover some but not all of the material in the readings. Please do not expect that we will explicitly discuss all of the readings. *Nonetheless, you are responsible for all the readings, and I may call on you with questions or include surprise quizzes on the readings from time to time.* Above all, I hope that you will learn from all of the readings and find the class exercises helpful. If you have questions or concerns about the readings or exercises, please let me know. Other students often have the same questions and it benefits us all for you to share your questions and concerns.

Schedule of reading assignments –Subject to change! NOTE also that you have 2 classes (one at 1 PM and the other at your usual class time) on 10/5 & 10/26 and NO class on other days as noted herein.

8/24 **Introduction to Lawyering & Professionalism**

- K&N chap. 1- 2
- Foundations for Practice: The Whole Lawyer & The Character Quotient, http://iaals.du.edu/sites/default/files/reports/foundations_for_practice_whole_lawyer_character_quotient.pdf
- Group Discussions: Before class, please make a list of what you believed to be the most important parts of being a lawyer **before you read the above assignment, and what stuck out as contrasting your assumptions.** Be ready to discuss this in class!

8/26 **Guideposts for Lawyering – Paying Attention to Justice and Problem-Solving!**

Read: Dear 1L: Five Guideposts for Your Future Professional Practice

Pepperdine University Legal Studies Research Paper No. 2021/12

Abstract

Professors Love and Stipanowich address first year law students on the threshold of their career. Being an effective practitioner requires much more than a grounding in substantive law, legal research and writing, and (perhaps) trial advocacy. Law students today also need a broader range of knowledge and skills to prepare for the varying and evolving challenges of twenty-first century practice. Love and Stipanowich offer a number of precepts for 1L students to consider as guideposts for their career. It is possible—and even preferable—to be an effective and zealous advocate while still leaving the door open to cooperation and collaboration.

Citation:

Stipanowich, Thomas and Love, Lela P., Dear 1L: Five Guideposts for Your Future Professional Practice (2021). 22 *Cardozo J. Conflict Resol.* 529 (2021), Pepperdine University Legal Studies Research Paper No. 2021/12, Available at SSRN: <https://ssrn.com/abstract=3889873> & posted under “Files” on Canvas.

- Guest appearance by one of the authors if possible!

