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Developing Professional Identity in First-Year Law Students Through Oral Arguments in the Courthouse

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Former Justice William J. Brennan believed “oral argument is the absolutely indispensable ingredient of appellate advocacy. . . . [O]ften my whole notion of what a case is about crystallizes at oral argument. This happens even though I read the briefs before oral argument”¹

Given the limited opportunities for oral advocacy during law school, the 1L oral argument assignment has the potential to be a defining moment of the first-year

¹ HARVARD LAW SCH., OCCASIONAL PAMPHLET NO. 9, PROCEEDINGS IN HONOR OF MR. JUSTICE BRENNAN 22 (1967).

experience.² Most first-year legal writing courses include such an experiential component, asking students to take on the role of a lawyer for the first time.³ In fact, the 1L oral argument marks one of the earliest educational opportunities for students to begin thinking and acting like attorneys.⁴

Oral argument has become a critical curricular staple because it fills an experience gap in law school that has long been criticized.⁵ These criticisms, widely contained in documents like the Best Practices Report, expound that “most law school graduates are not as prepared for law practice as they could be and should be. Law schools can do much better.”⁶ Therefore, in fulfillment of the Report’s recommendation to “do better” in providing these increased experiential learning opportunities, the oral argument, the time-honored academic exercise, is a classic example where students are given the opportunity to integrate theory and practice in building essential litigation skills.⁷

Currently, the oral argument is typically performed in law school classrooms where classmates or professors act as judges.⁸ While the oral argument exercise in a law school classroom is valuable to student learning and satisfies the Best Practices recommendation, this article suggests that holding 1L oral arguments in courthouses creates a powerful immersive experience that accelerates students’ professional identity formation in a manner that is unparalleled in a classroom.⁹

² See Jennifer Kruse Hanrahan, *Truth in Action: Revitalizing Classical Rhetoric as a Tool for Teaching Oral Advocacy in American Law Schools*, 2003 B.Y.U. EDUC. & L.J. 299 (2003)

³ James D. Dimitri, *Stepping up to the Podium with Confidence: A Primer for Law Students on Preparing and Delivering an Appellate Oral Argument*, 38 STET. L. REV. 75, 75 (2008) (discussing how the oral argument is a typical first year assignment).

⁴ *Id.*

⁵ ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP (2007) [hereinafter BEST PRACTICES]. Best Practices recommends that legal education be more closely aligned with the actual skills and professional competencies needed in legal practice.

⁶ *Id.* at 5.

⁷ Dimitri, *supra* note 3, at 75-76.

⁸ Hanrahan, *supra* note 2, at 306.

⁹ This article acknowledges that there are many obstacles, both geographic and logistical, that may not make this possible for some programs.

The ABA's Professional Identity Mandate

In its most recent revision, the American Bar Association's Standard 303(b) now explicitly requires law schools to “provide substantial opportunities to students for ... (3) the development of a professional identity.”¹⁰ This mandate spans the entirety of law school, stating that “students should have frequent opportunities during each year of law school and in a variety of courses and co-curricular and professional development activities.”¹¹ Through these formative experiences, students can develop their understanding of what it means to be a lawyer—not just in terms of legal skills, but in terms of judgment, ethics, and professional responsibility.

Even before the ABA’s mandate, law schools had been reviewing and tailoring their curricula to provide meaningful experiences that shape students’ understanding of their role as future legal professionals.¹² Examples include a mandatory legal clinic requirement or extracurriculars like trial teams. However, many of these innovations do not occur until the student is in the second or third year of school. To better prepare law students for practice, the experiential learning involved with oral advocacy in law schools must start earlier and occur more often.¹³

Incorporating courthouse-based oral arguments is one way law schools can close this gap and naturally incorporate the ABA requirement into the first-year curriculum. Because oral argument is already a 1L staple, why not elevate its impact by placing it in a space that embodies the legal profession? The courthouse provides an authentic setting that naturally aligns with the ABA Standard 303(b)’s professional identity formation requirements, immersing

¹⁰ STANDARDS & RULES OF PROC. FOR APPROVAL OF LAW SCHOOLS 2024-2025, Standard 303(b) (AM. BAR ASS’N SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR 2024).

¹¹ STANDARDS & RULES OF PROC. FOR APPROVAL OF LAW SCHOOLS 2024-2025, Interpretation 303-5 (AM. BAR ASS’N SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR 2024).

¹² Charlotte S. Alexander, *Learning to Be Lawyers: Professional Identity and the Law School Curriculum*, 70 MD. L. REV. 465, 468 (2011).

¹³ Stephanie A. Vaughan, *Experiential Learning: Moving Forward in Teaching Oral Advocacy Skills by Looking Back at the Origins of Rhetoric*, 59 S. TEX. L. REV. 121, 143 (2017).

students with authentic exposure to legal practice shaping their professional development from the earliest stages of their legal education.

Importantly, developing a “professional identity relates to one's own decisions about professional behaviors ‘above the line’ as well as a sense of duty as an officer of the legal system and responsibility as part of a system in our society that is engaged in preserving, maintaining, and upholding the rule of law.”¹⁴ Therefore, implementation from year one is imperative.

The professional responsibility requirement reflects the understanding that becoming a lawyer involves more than mastering legal doctrine and skills because it requires developing an internal compass that guides professional judgment, ethical decision-making, and understanding of one's role in the legal system and society at large.¹⁵ Importantly, students start to see themselves more as lawyers, rather than students, when acting as attorneys, either in real life or in simulations.¹⁶

From the outset, the courthouse demands that students see themselves not merely as students performing a task but as future attorneys stepping into their roles. Performing arguments in a courthouse setting requires students to internalize the importance and magnitude of ethical considerations and the overall gravity of the profession.

Incorporating Professional Identity

I often compare this exercise to my experience as a young basketball player. As a child, I remember long nights playing basketball at the school gym. Although there were multiple training areas, our coach had us practice in the very gym where we played our games.

The point? When game time occurred, we were ready — not just physically, but mentally and emotionally. We played in the area where we practiced. We were familiar with the location. We knew how it looked, smelled, and felt. The same

¹⁴ Megan Bess, *Transitions Unexplored: A Proposal for Professional Identity Formation Following the First Year*, 29 CLINICAL. L. REV. 1, 4 (2022).

¹⁵ *Id.* at 8.

¹⁶ Katherine T. Vukadin, *Outside the Ivory Tower: How Law Students Benefit When Their Professors Revisit Practice*, 102 OR. L. REV. 313, 323–25 (2024).

theory and logic apply here to legal education: if we want students to be ready for the courtroom, we should have them practice inside of one.

A formed and prepared professional identity combines knowledge and skills, internalization of the profession's rules and values, and integration of personal and professional values.¹⁷ Therefore, the concept of *teaching* professional identity means we want our students to experience facing professional obstacles and making legal decisions while they are still in law school so that they have some idea of how they would resolve them and act when in practice.¹⁸ We want students to be prepared for the game by practicing on the best court (pun intended). The sooner students encounter the real-world settings of legal practice, the sooner they can internalize what it means to be a lawyer.

In performing the oral argument in a courthouse rather than a classroom, I have witnessed students undergoing profound and transformative moments. The authenticity of the courthouse environment creates a lasting impact on students' understanding of their future role as legal professionals.

Therefore, when analyzing the choice of court, the following provides a few aspects of this immersive experience that I believe particularly aid in the professional student identity and why other programs may also benefit from a similarly immersive experience.

Physical Environment

The courthouse itself serves as a powerful educational tool. The security screening, jury box, witness stand, judicial bench, and time-honored protocols immediately communicate the gravity and responsibility of the legal profession. For example, in our city, the local federal courthouse has white marble covering the floors to the ceilings. From the ceremonial environment alone, students begin to internalize the formality and decorum expected of legal professionals simply by being present in this space. Walking through that marble lobby sends

¹⁷ See Verna E. Monson & Neil W. Hamilton, *Entering Law Students' Conceptions of an Ethical Professional Identity and the Role of Lawyer in Society*, 35 J. LEGAL PROF. 385 (2011).

¹⁸ See David I. C. Thomson, "Teaching" Formation of Professional Identity, 27 REGENT U.L. REV. 303, 316 (2015); See also Neil Hamilton, *Professional-Identity/Professional-Identity/Professionalism Learning Outcomes: What Can We Learn About Assessment from Medical Education*, 14 U. ST. THOMAS L.J. 357, 363 (2018).

a clear message to students: the practice of law is important and your future profession matters.

Professional Appearance

Preparing for and participating in-courthouse oral arguments requires students to adopt professional attire. This allows students the opportunity to explore their professional appearance and how they want to portray themselves (and their practice) through their clothing choices. For the professors, this allows for an interesting class discussion on clothing choice. We often talk about aspects of courtroom attire like considering one's personal creativity in dressing, the nature of the case before the court, the demographics of potential jurors in the venue's location, consideration of the student's culture or religion, and potential expense, in tandem with personal brand creation—does that flashy suit and pocket square match how you want to portray yourself and your client to the jury and the public? What message does a bold suit, flashy jewelry, or subtle accessory send to a jury or judge? How can students align their appearance with their values and role? By dressing like the attorneys the students want to become, the weight of the profession is even more prominent.

Building Community Connections: Learning from Active Judges

Prior to our day at the courthouse, we invite the presiding judge to visit our class as a guest speaker, providing insight about arguments from the bench's viewpoint. Students are always deeply engaged in this discussion, not only because their own oral arguments are looming, but because this person may be the first judge some have ever encountered.

Providing a judicial perspective to our 1Ls provides invaluable insights that textbooks cannot convey, especially with relation to the legal climate of a particular location. We discuss topics such as career paths to becoming judges, attorney decorum and mannerisms from a bench perspective, the importance of preparation, additional resources to consult to become effective litigators, the nuts and bolts of what to bring to court, and how court proceedings administratively function. This discussion bleeds into their identity formation, with students not only beginning to see themselves as future lawyers but even as future judges.

Other Networking and Community Connections

In addition to learning the bench perspective, the courthouse experiences and judicial interactions provide first-year students with valuable networking opportunities. The students can meet local judges, attorneys, and court staff, connect with alumni who may be serving in any of these roles, and develop an increased peer relationship through this shared experience. These connections are crucial in developing the student's professional identity, as these professionals serve as role models for professional inspiration. If a continued relationship develops, these people may offer feedback, provide alternative perspectives and experience, provide working opportunities, all the while providing a sense of professional belonging that reinforces a student's sense of identity in the legal community.

My Experience – The Ins and Outs around Logistics and Implementation

Our local judiciary has been generous in making this experience possible, accommodating the request to use a courtroom for our oral argument day. Little Rock is a smaller metro city, with the state and federal courthouses located in central downtown. The courthouse is located within ten minutes of the law school, so the commute is not too inconvenient for students.¹⁹ Courtroom use is scheduled months in advance with both the judge and the courtroom deputy.

In the classes leading up to the argument date, students are informed about the security procedures and consequences of violating a protocol. Furthermore, students are given the courthouse address and encouraged to visit the building (and practice parking) prior to the date of the argument.

Students are trusted to handle transportation, but I always inform students that I will aid in transportation accommodations. On that same note, students are given my personal cellphone number in case there is a problem in their commute to the courthouse. Students must arrive fifteen minutes before their arguments and will wait outside the courtroom to be called for argument. From there, the

¹⁹ It is important in the decision to use the courthouse for oral argument to consider any accommodations being provided to students with disabilities. If this environment would not be beneficial due to mobility or other concerns, professors should adjust the assignment or the location in accordance with any applicable accommodation requests.

students perform their arguments as scheduled and exit the courthouse. I have the students who perform arguments act as judges with me for the next round of arguments because it allows them the dual opportunity to act as an attorney and a judge in the same exercise, adding an additional layer to the experiential learning approach of the assignment.

Debriefing afterwards is essential. In our next class, we have an interactive discussion to summarize our experience. We talk about the specifics of the class problem as well as general ways to improve oral argument, like tone, verbal transitioning, public speaking idiosyncrasies, and being intentional with body movements. Additionally, and most importantly in my discussion, we talk about how the students felt when they were standing behind the podium. Did they get jitters? Were they excited? Were they confident? Did they want to run for the hills, never to be seen again?

This reflection helps students identify their interests and refine their professional goals. For some, it confirms a desire to litigate. For others, it prompts a focus on transactional work. Both are valuable outcomes. I find it important to emphasize to students that although some apprehension may be normal and overcome with practice and time, if they truly feel after this exercise that litigation is not an area they want to pursue, they should tailor the remainder of their legal education and employment opportunities toward alternative goals to pursue transactional work. They are encouraged to follow their intuition in their identity formation, and this immersive experience allows for these feelings in a way that a classroom lacks.

Conclusion: The Lasting Impact on Student Professional Identity Formation

My students' feedback about courthouse arguments is overwhelmingly positive. This sentiment is echoed in my course evaluations and in numerous thank you emails after the semester's end. First-year students crave authentic opportunities like this to feel a part of the profession and understand the community they are soon to enter, and this assignment leaves a lasting impression. Arguing their first law school argument in a courthouse gives them a glimpse of their future, a sort of taste of their future professional selves.

Therefore, as law schools continue to evolve their approaches to professional identity formation, the courthouse argument experience stands as a potential program that effectively bridges the gap between academic study and professional practice. By providing first-year students with these authentic experiences, law schools not only meet ABA professional identity requirements but also lay a strong foundation for their students' professional development and future success in the legal profession—whether students choose litigation or an alternative path. The courthouse argument experience fulfills ABA mandates and most importantly gives students the opportunity to begin becoming the lawyers they aspire to become.