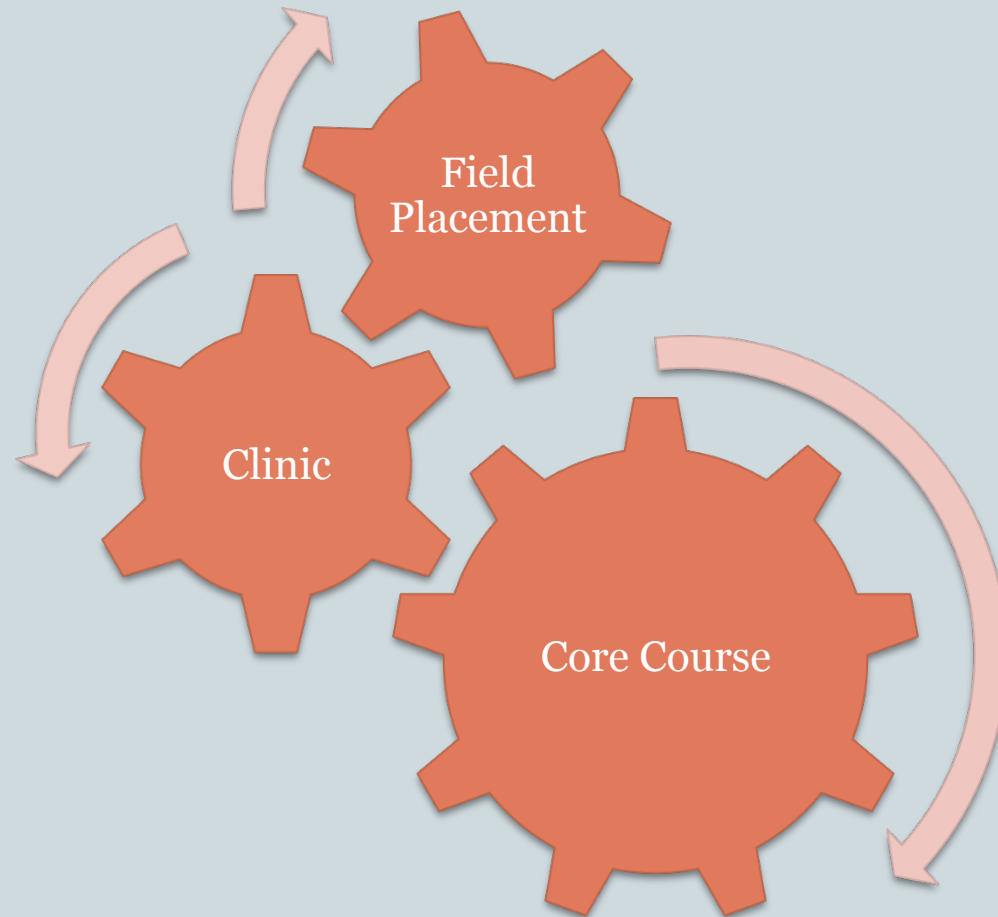


# Catalyzing Innovations in the Curriculum



Student: \_\_\_\_\_ → → → → → → → → Score: \_\_\_\_\_

**Family Law Final Exam**  
**Assessment Criteria for Essay Responses**

This grading sheet identifies the criteria that I will use in grading your essay exams. Part A is worth 40% of the overall grade. It is a critical component because it confirms your subject-matter mastery in this course particularly. Part B is worth 25% of the overall grade. It is a critical lawyering component to develop across all subject matters. Part C is worth 35% of the overall grade. This component is critical to preparing practice-ready students ready to advise real clients with limited resources and only lay understanding of the law.

**A. Issue-Spotting Claims and Defenses Using Precise Rules to Reach Accurate Conclusions (40%)**

• Spots relevant legal issues triggered by the facts presented, including claims and defenses. (See grading memo and sample high-performing answers for a complete list of issues presented.)	
• Avoids discussing claims that are not presented by the facts.	
• States accurate legal rules governing each cause of action and each element using precise terminology.	
• Reaches a clear legal conclusion on all elements and claims.	
• As appropriate, identifies the source of authority governing the legal rules being careful to distinguish between cases, statutes, constitutions; federal v. state; and uniform acts or restatements v. adopted rules.	
• Articulates counter arguments, as appropriate.	
• Explains jurisdictional splits, as relevant.	

Page Break

### B. Legal Analysis (25%)

• Analyzes the legal rules by applying the law to the facts provided in the fact pattern accurately and explicitly. Shows the reasoning that leads to the stated conclusion fully and completely.

### C. Client-Centered Framing (35%)

- Organizes analysis clearly and thoughtfully to maximize client understanding.
- Explains in a client-centered manner why the rule is what it is, particularly when the outcome is adverse to the client's expectations or needs.
- Explains *who* specifically will raise each claim and counter-claim.
- Grounds legal analysis of each legal claim in appropriate level of coverage given the viability of the claim consistent with client resources.
- Clearly advises client of why particular claims may be advantageous or disadvantageous, particularly where multiple claims are analyzed.
- Appropriately explains the result to the client in procedural, evidentiary, and litigation-based context. Not just "who will win," but "when" and "how" this might occur in the process.

# An 'A' exam:



- **An 'A' exam** would make a supervising attorney (client) (the intended audience) feel confident about relying on your work with little or no corrections or interventions. A client would be pleased that you prepared her for all possible counter arguments and legal obstacles that the case would likely encounter. The reader would understand “what” the law is, “how” it applies to her case, and (where appropriate) “why” the law is what it is or why it is as uncertain as it is.
- An 'A' exam will:
  - (a) be easy to read due to strong large-scale organization, clarity, and focus;
  - (b) have missed no major causes of action or misstated any major rules of law;
  - (c) have further analyzed the minor or more subtle legal issues in the fact pattern;
  - (d) connect fact and law seamlessly to reason to legal conclusions;
  - (e) be based on a close, accurate, and thorough reading of the facts;
  - (f) ground legal advice in a sophisticated understanding of how a case proceeds through the legal process

# A 'B' exam:



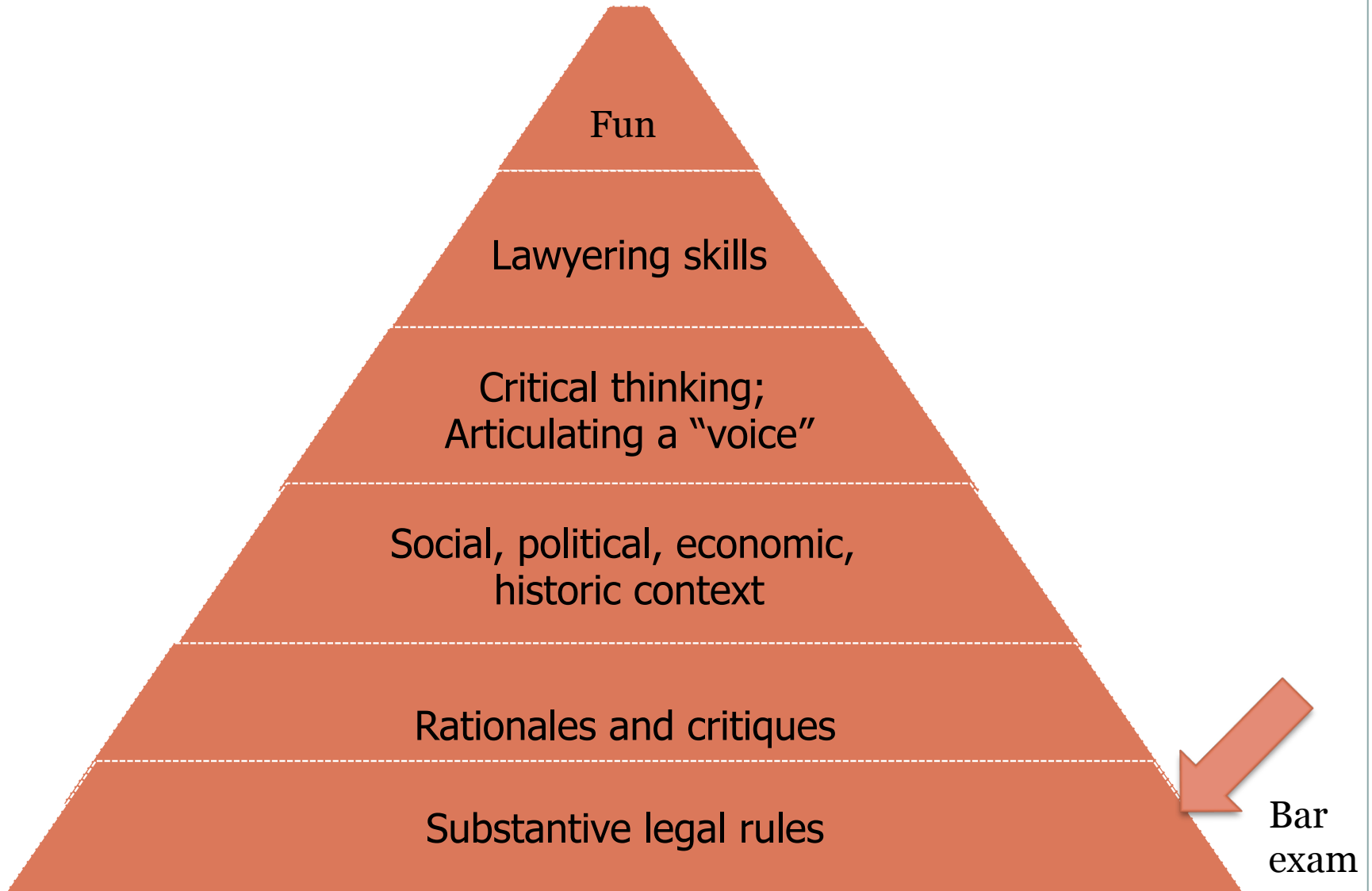
- **A 'B' exam** would make a favorable impression on the intended audience. It would communicate that you know the law and legal analysis well. A supervising attorney would enjoy watching your growth and would feel confident that, with guidance, you will be a very good attorney. The work product might require some “gap filling” to thoroughly address all issues, to refine the precise terminology, or to tighten the analytical structure. The intended audience would generally understand the law, the conclusions, and the legal advice with strong clarity.
- A 'B' exam will:
  - (a) be similar to, but lack the thoroughness, power, or polish of an 'A' paper;
  - (b) have generally hit “the big issues” and stated the law accurately, but missed some of the minor nuances and complexities;
  - (c) be generally well-organized, but may require the reader to reread certain sentences or paragraphs before fully grasping the author’s point or may use excessive space to make minor points;
  - (d) state defensible legal conclusions, but further clarity may be necessary to understand the reasoning in all its contours;
  - (e) explain the “what” and “how” of the law, but may leave the client with further follow-up questions regarding why the result is as you suggest it is or why the other side might prevail

# Assessment Takeaways



- **What I expect:**
  - Analysis to achieve client outcomes
  - Lawyering within a legal process
  - Legal output that clients need and value
  
- **What I seek to avoid:**
  - Serial dumping of issues
  - Bland memorization (cramming) of legal rules
  - Bifurcating goals of day-to-day classroom experience from exam assessment criteria

# Course Objectives



Bar  
exam



# Socratic Frame

1. Client-Centered
2. Process-Oriented
3. Product-Oriented





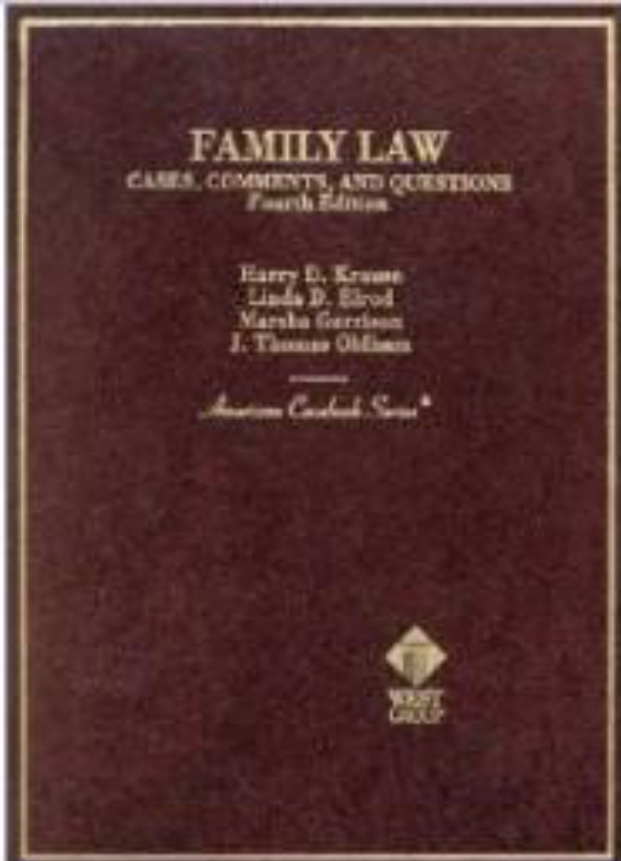
# Client-Centered Socratic Method



“What are the facts of the case?”

“Who is the client?”

“What is she seeking?”



# Process-Oriented Socratic Method



“What are the arguments?”

“What is the source and strength of authority?”

“Does the authority advance client goals?”



# Product-Oriented Socratic Method



“What is the holding?”

“Does the result achieve client goals?” “Explain how and why.”



# Application and Feedback



REAL CLIENT ~~SIMULATION~~ THREAD

# Client-Based Thread



- Clients spontaneously interrupt course early in semester with goals and needs
- Class is divided into two adversarial law firms
- Length, difficulty, and content of client thread is representative of course exam
- Former students simulate the client(s)

Hat tip: Nancy Polikoff, American University

# Family Law Client Representation Work Plan

## Spousal Maintenance



*All work that you complete today will be done in groups and will be submitted for “other participation” points. The groups should be no more than three – four persons. These “other assignments” cumulatively are worth 10% of your overall course grade. I intend for everyone to contribute to the dialogue and shift the drafting roles around. List at the top of your document the names of all group members contributing.*

- **STEP 1 – NEEDS ASSESSMENT.** For the purposes of this exercise only, assume that the \$1.5MM inheritance that Lucy received is in a trust that can only be used for the care and well-being of Lucy’s daughters. Assume further that Lucy will seek maintenance from Brad. Brad will not seek any maintenance from Lucy. Analyze the relevant code provisions to determine each party’s respective arguments under the “needs assessment” provision of the maintenance statute 403.200(1) only. Write a persuasive argument using the facts.
- **STEP 2 – AWARD AMOUNT.** Assuming Lucy meets the “needs assessment” under 403.200(1), use the factors in 403.200(2) to make the most persuasive argument possible for your client regarding (a) how much maintenance should be awarded; and (b) what type of maintenance to be awarded (permanent, durational, rehabilitative). Don’t worry so much about attaching a dollar figure to your request, but explain why you are asking for a particular range and type of award.

# Family Law Client Representation Work Plan

## Child Support Calculation



*All work that you complete today will be done in groups and will be submitted for “other participation” points. The groups should be no more than three – four persons. These “other assignments” cumulatively are worth 10% of your overall course grade. I intend for everyone to contribute to the dialogue and shift the drafting roles around. List at the top of your document the names of all group members contributing.*

- **STEP 1 – CALCULATE INCOME.** Calculate each spouse’s percentage share of the gross monthly income. For the purposes of this exercise, assume that Brad is no longer receiving rental income because he is now living in the condominium. Brad will stipulate that he will receive \$125,000 a year in future annual bonuses. Assume further that Lucy’s \$1.5MM inheritance is structured as a trust to be paid out for the care and well being of Lucy’s daughters at \$3,000 a month.
- **STEP 2 – PRESUMPTIVE AWARD.** Use the child support guidelines to calculate the presumptive award and use strong client counseling language to explain not just how much will be awarded, but the strong public policy reasons and federal mandates that dictate this outcome.
- **STEP 3 – DISCRETIONARY ADD-ONS.** Consider whether there are any arguments for deviations from the presumptive award. If so, make the argument in the context of client counseling.

# Learning Outcomes



By the completion of this course, you should be able to:

- Critique and analyze current legal frameworks regulating the family using a legal lens grounded in social, economic, and policy considerations and considering the implications of legal frameworks across cultures, communities, and diverse family structures;
- Construct persuasive client narratives to achieve specific client goals within an objective legal framework;
- Advise clients regarding possible grounds for divorce, defenses to divorce, and divorce pleading requirements;
- Represent clients in the distribution of property by conducting an equitable distribution analysis;
- Calculate presumptive child support awards and raise arguments for deviations;
- Read and interpret statutory provisions regulating the family unit;
- Analyze the constitutional issues that arise from laws regulating the family