

Program Booklet



ASSOCIATION OF AMERICAN LAW SCHOOLS **WORKSHOP FOR NEW LAW SCHOOL TEACHERS**

June 6 – 8, 2019 | Washington, DC



Association of American Law Schools

[AALS.ORG/NLT2019](https://aals.org/NLT2019)
#AALSNT

Introduction

Welcome to the 2019 AALS Workshop for New Law School Teachers and to the legal academy!

Over the next few days, the Planning Committee hopes that you will gain valuable insights and practical information on how to become an effective classroom teacher, a productive scholar, a caring mentor, and an active citizen in your law school and beyond.

We have an all-star cast of presenters committed to helping you succeed in your academic career, but don't expect to just sit quietly and listen to their advice. The sessions are intended to be interactive. Your presenters and session leaders are as interested in hearing from you as you are in hearing from them. You may also be involved in group exercises, role-playing, or quick breakout sessions. The interactivity serves dual purposes: helping you to learn and modeling ideas for effective, innovative teaching. Please ask questions, share your concerns, and take advantage of the opportunities to learn from the presenters and from each other.

Sessions will include topics such as learning theory, course design, diversity and inclusion in and out of the classroom, developing a research agenda, promoting your research, and setting boundaries.

Just as important as the knowledge that you will gain are the rewarding and sustaining professional relationships and friendships that you will begin to build over the next few days. We are all delighted to be with you at the beginning of this journey and look forward to an exciting workshop.

Congratulations!

Susan S. Kuo

University of South Carolina School of Law and

Chair, Planning Committee for the 2019 AALS Workshop for New Law School Teachers

PLANNING COMMITTEE FOR 2019 AALS WORKSHOP FOR NEW LAW SCHOOL TEACHERS

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Sarah B. Hadjimarkos, University of Wisconsin Law School

Michael J. Higdon, University of Tennessee College of Law

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Law, **Chair**

Naomi Jewel Mezey, Georgetown University Law Center

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of Law

Welcome

Dear Colleagues,

On behalf of President Vicki Jackson and the AALS Executive Committee, it is my privilege to welcome you to the association and to the law teaching profession.

Established in 1900, AALS is an association of 179 law schools committed to promoting excellence in legal education. As the learned society for legal education, we are also very much your organization, and that of your nearly 9,000 law faculty colleagues throughout the nation. Over the years, many of us have benefited from work we have done under the AALS umbrella. Our involvement has connected us to faculty beyond our home law schools and has led to career-enriching collaborations in both scholarship and teaching.

AALS values and expects its member schools and their faculty to value:

1. A faculty composed primarily of full-time teacher-scholars who constitute a self-governing intellectual community engaged in the creation and dissemination of knowledge about law, legal processes, and legal systems, and who are devoted to fostering justice and public service;
2. Academic freedom, diversity of viewpoints, excellent scholarship, and excellent teaching;
3. A rigorous academic program in the context of a dynamic curriculum that is both broad and deep;
4. A diverse faculty hired, promoted, and retained based on meeting and supporting high standards of teaching and scholarship and in accordance with principles of nondiscrimination;
5. Competent and professional staff to support the mission of the law school;
6. The selection of students based upon intellectual ability and potential for success in the study and practice of law, through a fair and non-discriminatory process designed to produce a diverse student body and a broadly representative legal profession; and
7. Honesty, integrity, and professionalism in dealing with students, faculty, staff, the public, and the Association.

Association activities encompass many areas that may be of interest to you, particularly our professional development programs for law faculty. Detailed information on the professional development schedule for the coming academic year can be found on our website at www.aals.org/aals-events.

The work of AALS is done largely by volunteers through its committees and sections. There are 103 AALS sections representing subject matter areas and other common interests. Becoming involved in one or more sections will connect you to colleagues all over the country. Sections also construct the majority of the Annual Meeting program and will provide you throughout the year with an ongoing source of information and conversation on your fields of interest through the AALS web-based community platform that many sections use.

The next AALS Annual Meeting, which will be held Thursday, January 2 through Sunday, January 5, 2020 in Washington, DC, will bring together more than 2,500 law faculty and administrators. At the Annual Meeting, each section presents a program of interest to its members. There are also day-long programs and other special programs, including some based on the theme “Pillars of Democracy: Law, Representation, and Knowledge,” selected by AALS President Vicki Jackson. Faculty tell us that perhaps the most important part of the Annual Meeting is the opportunity to meet colleagues informally across generations and to develop ongoing interactions with them over the years.

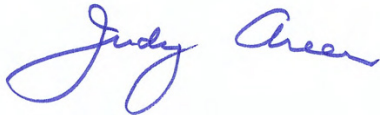
AALS also sponsors a scholarly papers competition for those who have been in law teaching for five years or less. To learn more, see the competition announcement at the end of this booklet.

The association's *Journal of Legal Education*, which is published quarterly and distributed to all law faculty, is an excellent platform for the exchange of ideas and information about legal education, legal scholarship, and innovative teaching. The *Journal* is currently co-edited at American University, Washington College of Law, and the Northeastern University School of Law. The co-editors are Camille Nelson and Anthony E. Varona, American University, Washington College of Law and Jeremy R. Paul and Margaret Y. Woo of Northeastern University School of Law. The Association also co-sponsors the *Journal of Clinical Legal Education*.

The AALS *Directory of Law Teachers* is available year-round online and is published annually. Your dean's office can assist in ensuring that you are included in the *Directory* listings.

As you begin your career in law teaching and are understandably focused on developing your own courses and advancing your scholarly agenda, I encourage you to become involved in AALS as you begin what we hope will be a long, productive, and satisfying career.

Sincerely,



Judith Areen

AALS Executive Director

Table of Contents

Program	2
Biographies of Presenters and Planning Committee Members	6
Presentation Outlines and Materials	
<i>Eloise Pasachoff</i>	11
<i>Michael Hunter Schwartz</i>	14
<i>Michael Hunter Schwartz</i>	17
<i>Cynthia Lee</i>	20
<i>Beth H. Wilensky</i>	23
<i>Kris Franklin</i>	27
Supplemental Materials	
Connect with AALS	38
<i>Section Chairs and Chairs-Elect</i>	39
<i>Section Sign-Up Sheet</i>	45
<i>2020 AALS Annual Meeting</i>	47
<i>Call for Scholarly Papers</i>	48
AALS Statement of Good Practices by Law Professors in the Discharge of Their Ethical and Professional Responsibilities	50
Notes Page	55
General Meeting Information	56
Hotel Floor Plan	57

Internet

In common areas:

Select SSID/Network: **Mayflower_CONFERENCE**

Access code: **AALS2019**

In guest room:

Connect to network: **Mayflower_GUEST**

Add last name, room number, and connect

Twitter

Tweet about your experiences during your time with us. Use hashtag **#AALSNLTL**.

Evaluation

An evaluation will be emailed to you at the conclusion of the workshop. Your feedback and suggestions will assist the Planning Committee with improvements to the 2020 workshop.

Program Schedule

As of May 20, 2019

Thurs., June 6

4 – 8 pm

Registration

District Foyer, Lower Level

6 – 7:15 pm

Small Group Discussions

Part I – Setting the Stage

See handout for the location of your small group meeting room.

These small groups will be your cohort for the workshop, providing an opportunity to meet some of your peers and discuss your expectations for the workshop and your career. These small groups will reconvene again on Saturday morning.

7:30 – 8:45 pm

AALS Sponsored Dinner

Palm Court Ballroom, Lobby Level

Welcome and Introduction of Dinner Speaker

Susan S. Kuo, University of South Carolina School of Law and Chair, Workshop for New Law School Teachers

Defining Yourself for Yourself: How to Make the Most of Your Academic Career

Danielle Holley-Walker, Howard University School of Law

8:45 – 9:30 pm

Dessert and Coffee Reception

Palm Court Ballroom, Lobby Level

Mingle and enjoy a reception of mini desserts and coffee in a relaxed atmosphere after the opening dinner.

Fri., June 7

8 – 8:45 am

AALS Section on Minority Group with Q&A and Refreshments

Palm Court Ballroom, Lobby Level

Co-Moderators:

Andrea L. Dennis, University of Georgia School of Law
Mariela Olivares, Howard University School of Law
SpearIt, Texas Southern University
Thurgood Marshall School of Law

8:45 – 9 am

Refreshment Break

District Ballroom, Lower Level

9 – 9:15 am

Opening Session

District Ballroom, Lower Level

Welcome

Judy Areen, Executive Director, Association of American Law Schools

Introduction:

Susan S. Kuo, University of South Carolina School of Law and Chair, Workshop for New Law School Teachers

9:15 – 9:45 am

Plenary Session: Why Scholarship Matters

District Ballroom, Lower Level

Introduction: Susan S. Kuo, University of South Carolina School of Law

Speaker: Vicki C. Jackson, Harvard Law School and AALS President

In an era of “alternative facts,” good legal scholarship is of the highest importance. Law is essential to

constitutionalism, democracy, and markets, but law is often in need of improvement. Good legal scholarship fosters better understandings of law and how law operates. In so doing, it provides a foundation for reform where needed. Professor Jackson will discuss these points and explore how many different forms of legal scholarship contribute to law’s ability to provide both needed stability and needed change.

10 – 10:45 am

BREAKOUT SESSIONS: SCHOLARSHIP

The following sessions offer focused discussion on a variety of topics important to legal scholarship. Each session will be offered twice so that participants have the opportunity to attend two of their choosing.

- **Designing Your Research Agenda**

District Ballroom, Lower Level

Leader: Benjamin Means, University of South Carolina School of Law

How to conceptualize and articulate the themes of your scholarship and research trajectory.

- **Building a Scholarly Community/Network**

Independence, Lower Level

Leader: Lisa M. Fairfax, The George Washington University Law School

How to form a community of readers and like-minded scholars inside and outside of your institution.

• **Distributing Your Ideas**
Georgia Room, Second Floor

Leader: Randy E. Barnett,
Georgetown University Law
Center

How to distribute your scholarship
and build your reputation through
both academic channels and
popular media.

• **Challenges of
Interdisciplinary
Scholarship**

Pennsylvania Room, Second
Floor

Leader: Madhavi Sunder,
Georgetown University Law
Center

How to do research in multiple
fields and speak to multiple
audiences in your scholarship.

• **Scholarship for Legal
Research and Writing
Faculty**

Constitution Room, Lower
Level

Leader: Lucy Jewel, University of
Tennessee College of Law

How to develop and stay engaged
with your scholarly agenda while
also teaching time-intensive legal
writing and skills courses.

• **Engaged Scholarship and
Advocacy**

Rhode Island Room, Second
Floor

Leader: Nancy D. Polikoff,
American University,
Washington College of Law

How to maximize the impact of
your scholarship.

10:45 – 11 am

Refreshment Break

District Ballroom, Lower Level

11 – 11:45 am

BREAKOUT SESSIONS:

SCHOLARSHIP

This is the second set of sessions
offering focused discussion on a
variety of topics important to legal
scholarship.

• **Designing Your Research
Agenda**

District Ballroom, Lower
Level

Leader: Benjamin Means,
University of South Carolina
School of Law

How to conceptualize and articulate
the themes of your scholarship and
research trajectory.

• **Building a Scholarly
Community/Network**

Independence, Lower Level

Leader: Lisa M. Fairfax, The George
Washington University Law
School

How to form a community of
readers and like-minded scholars
inside and outside of your
institution.

• **Distributing Your Ideas**

Georgia Room, Second Floor

Leader: Randy E. Barnett,
Georgetown University Law
Center

How to distribute your scholarship
and build your reputation through
both academic channels and
popular media.

• **Challenges of
Interdisciplinary
Scholarship**

Pennsylvania Room, Second
Floor

Leader: Madhavi Sunder,
Georgetown University Law
Center

How to do research in multiple
fields and speak to multiple
audiences in your scholarship.

• **Scholarship for Legal
Research and Writing
Faculty**

Constitution, Lower Level

Leader: Lucy Jewel, University of
Tennessee College of Law

How to develop and stay engaged
with your scholarly agenda while
also teaching time-intensive legal
writing and skills courses.

• **Engaged Scholarship and
Advocacy**

Rhode Island Room, Second
Floor

Leader: Nancy D. Polikoff,
American University,
Washington College of Law

How to maximize the impact of
your scholarship.

12:15 – 2 pm

**AALS Luncheon – How
to Become an Excellent
Classroom Teacher**

Palm Court Ballroom, Lobby
Level

Introduction: Naomi Jewel Mezey,
Georgetown University Law
Center

Speaker: Eloise Pasachoff,
Georgetown University Law
Center

This lunch provides an opportunity
to meet others teaching in the same
subject area.

2:15 – 3 pm

**Plenary Session: Learning
Theory**

District Ballroom, Lower Level

Introduction: Aaron H. Caplan,
Loyola Law School, Los Angeles

Speaker: Michael H. Schwartz,
University of the Pacific,
McGeorge School of Law

Effective teachers understand
that what learners bring to the
classroom is just as important as
what the teachers bring. Through
the vehicle of a jeopardy game,

this plenary session will connect the current academic research on student learning, teaching theory and research, and the teaching strategies modeled during earlier sessions. Awareness of the learning and teaching research can help teachers to promote a positive classroom experience and improve outcomes.

3 – 4 pm

BREAKOUT SESSIONS - TEACHING

The following sessions offer focused discussion on a variety of topics important to law teaching.

Course Design

Georgia Room, Second Floor

Leader: Michael H. Schwartz,
University of the Pacific,
McGeorge School of Law

How to plan your course for best effect, considering topics such as choosing a casebook, constructing a syllabus, and deciding what to cover and in what order.

Inside the Classroom

District Ballroom, Lower Level

Leader: Cynthia Lee, The George Washington University Law School

How to be an effective teacher in the law school classroom: ideas on how to develop your own teaching style, give students more assessment during the semester, and make class more interactive.

Outside the Classroom

Independence, Lower Level

Leader: Mark Niles, American University, Washington College of Law

How to interact with students outside the classroom including supervising research assistants, mentoring a broad range of students, and setting appropriate boundaries.

Teaching Legal Research and Writing

Rhode Island Room, Second Floor

Leader: Beth H. Wilensky, The University of Michigan Law School

How to get the most teaching bang for your buck out of every legal writing assignment. Whether you are teaching a traditional legal writing course or are looking for ways to incorporate writing assignments into a doctrinal course, maximizing the value your students get out of an assignment is challenging. This session will introduce a number of techniques, grounded in learning theory, that maximize how much students learn from each writing assignment.

Teaching with Technology

Pennsylvania Room, Second Floor

Leader: Aaron H. Caplan, Loyola Law School, Los Angeles

How to use information technology effectively, including visual aids, polling, class websites, distance learning, and student use of computers in the classroom.

4 – 4:15 pm

Refreshment Break

District Ballroom, Lower Level

4:15 – 5:30 pm

Plenary Session: The Demands and Delights of Institutional Citizenship: Exploring a Range of Service Opportunities

District Ballroom, Lower Level

Speakers:

Okianer Christian Dark, Howard University School of Law

Roger A. Fairfax, Jr., The George Washington University Law School

Paul Ohm, Georgetown University Law Center

Moderator: Naomi Jewel Mezey, Georgetown University Law Center

In addition to producing influential scholarship and facilitating effective student learning, law professors are also called upon to be good institutional citizens by furthering law school priorities and contributing to multiple institutional relationships with students, staff, faculty, university officials, community members, alumni, and practicing lawyers and judges. Such interactions can present exciting opportunities, but it is especially important for junior faculty to consider how to prioritize among them and balance the competing demands on their time.

5:30 – 6:30 pm

AALS Reception

Palm Court Ballroom, Lobby Level

6:30 – 7:30 pm

AALS Section on Sexual Orientation and Gender Identity Issues Informal Gathering

Constitution, Lower Level

Co-Moderators: To be announced

Sat., June 8

8 – 8:45 am

AALS Section on Women in Legal Education with Q&A and Refreshments

Palm Court Ballroom, Lobby Level

Speaker: Rebecca Rosenberg, Ohio Northern University, Pettit College of Law

Moderator: Okianer Christian Dark, Howard University School of Law

8:45 – 9 am

Refreshment Break

District Ballroom, Lower Level

9 – 10:15 am

Plenary Session: Diversity and Inclusion Inside and Outside the Classroom

District Ballroom, Lower Level

Speakers:

Regina T. Jefferson, The Catholic University of America, Columbus School of Law

Maria Mercedes Pabón, Loyola University New Orleans College of Law

D. Gordon Smith, Brigham Young University, J. Reuben Clark Law School

Moderator: Susan S. Kuo, University of South Carolina School of Law

All law teachers have to think about ways to teach, mentor, and collaborate effectively in a diverse community. This session will discuss the special challenges diverse faculty members sometimes face in their roles of teacher, mentor, and institutional citizen. It will also address the responsibility that all faculty members have to promote the meaningful inclusion of all students and discuss strategies for doing so both inside and outside the classroom.

10:15 – 10:30 am

Refreshment Break

District Ballroom, Lower Level

10:30 – 11:45 am

Small Group Discussions Part II – Reflections

See handout for the location of your small group meeting room.

Participants will reconvene in their small group cohorts from Thursday night to reflect on ideas related to teaching, scholarship, and service that have been raised during the workshop.

12 – 1:30 pm

AALS Luncheon – Work and Life Satisfaction

Palm Court Ballroom, Lobby Level

Introduction: Aaron H. Caplan, Loyola Law School, Los Angeles

Speakers:

Naomi R. Cahn, The George Washington University Law School

Peter H. Huang, University of Colorado Law School

Law can be a demanding profession, for both practitioners and for legal academics. This luncheon discussion considers ways to enhance work and life satisfaction for law teachers, and also considers the teacher's role in helping students pursue professional fulfillment and personal well-being.

1:45 – 3:15 pm

Plenary Session: Assessment

District Ballroom, Lower Level

Introduction: Susan S. Kuo, University of South Carolina School of Law

Speakers:

Rory D. Bahadur, Washburn University School of Law

Kris Franklin, New York Law School

In this interactive session, participants will learn different methods to evaluate students and provide feedback throughout the semester. The session will also cover exam creation, grading, and post-exam review.

3:15 pm

Informal Networking and Refreshments

District Ballroom, Lower Level

Biographies of Planning Committee Members and Presenters

Biographical sketches are from the AALS Directory of Law Teachers

JUDITH AREEN, Exec. Dir. AALS, Dean Emer. and Prof. Emeritus, Georgetown. JD, 1969, Yale; AB, 1966, Cornell University. Mem. of Bd. of Editors, Yale L.J. *Admitted*: DC, 1972; MA, 1971. Prof. Emeritus, Georgetown Law Center, since 2017; Exec. Director, AALS, since 2014; Paul Regis Dean Prof. of Law, Georgetown Law Center, 1976-2017; Interim Dean, Georgetown Univ. Law Center, 2010; Exec. V.P. & Dean, Georgetown, 1989-2004; Fellow, Woodrow Wilson Int'l Cntr. for Scholars DC, 1988-1989; Prof., Community & Fam. Med. Georgetown Med. Cntr., 1982-1989; Assoc. Dean, Georgetown, 1984-1987; Gen. Counsel & Domestic Reorg. Coord'r, 1979-1980; Dir., Fed. Leg. Rep. Proj. Pres.'s Reorg. Proj. Off. Mgt. & Budget DC, 1977-1979; Vis. Assoc. Prof., Michigan, 1975-1976; Assoc. Prof., Georgetown, 1972-1976; Fel. & Dir., Educ. Voucher Study Cntr. for the Study of Public Policy Cambridge MA, 1970-1972; Prog. Planner for Higher Educ., Budget Bur. Off. of the Mayor NYC, 1969-1970. *Subjects*: Family Law; Jurisprudence; Educ. Law. *Books*: Higher Educ. and the Law (with Lake), 2d ed., 2014; Cases and Materials on Family Law (with Spindelman and Tsoukala), 6th ed., 2012; Cases and Materials on Law, Sci. and Med. (with King, Goldberg, Gostin & Jacobson), 3d ed., 2005; Educ. Vouchers: A Report on Financing Educ. By Grants To Parents (with Jencks et al.), 1970. *Member*: ALI; ABF (Fellow). *Consultantships*: Gov'r, DC Bar, 1979-1982; Bd. Member, Pro Bono Institute, since 2004; Exec. Com., AALS, 1998-00, 2005-07, Pres., 2006.

RORY D. BAHADUR, Prof. of Law, Washburn. Sr. Articles Editor, St. Thomas L. Rev. *Admitted*: FL, 2003. Associate, Downs & Associates, P.A., 2003-2004. *Subjects*: Admiralty and Maritime Law; Torts; Fed. Courts; Civil Proc. II. *Awards*: West Outstanding Scholastic Achievement Award, 2003; West Outstanding Scholastic Achievement Award, 2001.

RANDY E. BARNETT, Carmack Waterhouse Prof. of Legal Theory, Georgetown. JD, 1977, Harvard; JD, 1977, Harvard; BA, 1974, Northwestern. *Admitted*: DC, 2011; IL, 1977; IL, 1977. Director, Georgetown Cntr. for the Constitution, since 2012; Professor, Georgetown, since 2006; Professor, Boston Univ., 1993-2006; Vis. Professor, Harvard, 2002; Professor, Chicago-Kent, 1988-1993; Vis. Professor, Harvard, 1992; Vis. Prof., Northwestern, 1990-1991; Vis. Scholar, Northwestern, 1988-1989; Professor, Chicago-Kent, 1986-1988; Ass't Professor, Chicago-Kent, 1982-1986; Res.

Fellow, Univ. of Chicago, 1981-1982; Ass't St.'s Att'y, St.'s Att'y's Off. Cook Cty. Chgo., 1977-1981. *Subjects*: Contracts; Const'l Law; Recent Books on the Const. (S). *Books*: The Struc. of Liberty, 2d ed, 2014; Restoring the Lost Constitution, 2d ed, 2014; Const'l Law: Cases in Context, 2d ed, 2013; Contracts, Cases and Doctrine, 5th ed., 2012; Oxford Introduction to U.S. Law: Contracts, 2010; Perspectives on Contract Law, 4th ed., 2009. *Awards*: Bradley Prize, 2014; Guggenheim Fellowship, 2009. *Member*: Nat'l Exec. Com. 1990-93, Order of the Coif; Member, American Pol. Sci. Association; Member, Law & Soc. Association.

NAOMI R. CAHN, Harold H. Greene Chair, Geo. Wash. MA, 1989, Georgetown; JD, 1983, Columbia; BA, 1979, Princeton Univ. . Res. & Writing Ed., Colum. Hum. Rts. L. Rev. *Admitted*: NY, 1984; DC, 1984. Prof., since 1999; Assoc. Dean, 2006-2008; Assoc. Prof., Geo. Wash., 1993-1999; Vis. Prof., 1991-1993; Ass't Dir., Sex Discrim. Clinic Georgetown, 1988-1993; Assoc., Hogan & Hartson DC, 1987-1988; Assoc., Dolkart & Zavos DC, 1986-1987; Fellow, Harrison Inst. Georgetown, 1984-1986; Staff Att'y, Community Legal Servs. Phila., 1984. *Subjects*: Family Law; Juv. Law; Estates & Trusts; Clinic; Feminist Legal Theory; . *Books*: Contemporary Approaches to Trusts and Estates (3rd ed. with Gary, Borison, and Monopoli), 2016; Contemporary Family Law (4th ed. with Abrams, Ross, Meyer, & McClain), 2015; The New Kinship, 2013; Red Families v. Blue Families (with June Carbone), 2010; Confinements (with Michie), 1997. *Member*: Acad. Fellow, ACTEC; Member, ALI. *Consultantships*: Sr. Fellow, Evan Donaldson Adoption Institute, 2009-2015; Reporter, Unif. Law Commission, UFADAA Drafting Committee, 2012-2014.

AARON H. CAPLAN, Professor, Loyola, Los Angeles. JD, 1991, Univ. of Michigan Law School; BA, 1986, Univ. of Pennsylvania. Contrib. Editor, Michigan Law Review. *Admitted*: WA, 1993. Prof. of Law, Loyola Law Sch. Los Angeles, since 2008; Scholar in Residence, Seattle Univ. Sch. of Law, 2014-2015; Staff Attorney, ACLU of Washington, 1998-2008; Adj. Professor, Seattle Univ. Sch. of Law, 2007; Litig. Associate, Perkins Coie, 1992-1998; Jud. Clerk, Judge Betty Binns Fletcher, 1991-1992. *Subjects*: Civil Procedure; Const'l Law; First Amendment; Prof'l Responsibility. *Books*: An Integrated Approach to Const'l Law, 2015.

OKIANER CHRISTIAN DARK, Prof. of Law, Howard. JD, 1979, Rutgers - Newark; JD, 1979, Rutgers - Newark; BA, 1976, Upsala College. *Admitted*: PA, 1979; NJ, 1979. Prof., Howard, since 2001; Assoc. Dean, 2005-2012; Ass't U.S. Att'y, Off. of U.S. Att'y Dist. of OR Portland, 1995-2001; Prof., 1990-1997; Assoc. Prof., Univ. of Richmond Sch. of Law, 1987-1990; Ass't Prof., Richmond, 1984-1987; Trial Att'y, Civil Div. DC, 1983-1984; Trial Att'y, Antitrust Div. U.S. Dep't of Just. DC, 1979-1984. *Subjects*: Torts; Health Law (S); ; Advanced Torts (S); Products Liability. *Awards*: ABA Section of Tort, Trial & Ins. Liberty Achievement Award for Advancing Diversity in the Legal Profession, 2014; Warren Rosmarin Prof. of Law Excellence Award in Teaching and Service, 2005; National Fair Housing Alliance Award of Excellence, 1997; Virginia Women Attorneys Ass'n Fdn. Dist. Fac. Award, 1991; Univ. of Richmond Dist. Educ'r Award, 1990. *Consultantships*: Member, Adv'y Bd. of Montgomery Cty. Primary Care Program, Montgomery County, 2006-2014; Chair, Montgomery Cty. Comm. on Health, 2005-2007.

ANDREA L. DENNIS, Professor, Georgia. JD, 1997, New York Univ. Sch. of Law; BS, 1994, Univ. of Maryland, Coll. Park. Exec. Ed., N.Y.U. Ann. Sur. Am. L. *Admitted*: DC, 1999; MD, 1998. Assoc. Professor, Univ. of Georgia, since 2010; Ass't Professor, Univ. of Kentucky, 2006-2010; Sr. Associate, National Off. of Job Corps, 2004-2006; Ass't Fed. Public Defender, Fed. Public Defender, D.MD., 2001-2004; Associate, Covington & Burling, 1998-2001; Spec. Ass't Corp. Counsel, Off. of the Corp. Counsel, 1999-2000; Law Clerk, The Hon. Raymond A. Jackson, USDC, 1997-1998. *Subjects*: Children and the Law; Crim. Law and Proc. Seminar (S); Lawyering for Children (S); Evidence; Family Law; Crim. Law; Crim. Proc. II. *Awards*: UK Alumni Ass'n Great Teacher, 2010.

LISA M. FAIRFAX, Prof. of Law; Dir. of Conf. Programs, C-LEAF, Geo. Wash. JD, 1995, Harvard; BA, 1992, Radcliffe Coll. . Harv. Women's L.J. *Admitted*: DC, 1998; MA, 1995. Prof., since 2006; Assoc. Prof., 2004-2006; Ass't Prof., Maryland, 2000-2004; Assoc., Ropes & Gray Boston & DC, 1995-2000. *Subjects*: Securities Regulation; Contracts; Corporations. *Books*: The Social Ties that Bind Directors in Martha Stewart's Legal Troubles (J. Heminway, ed), 2007. *Awards*: Tchr. of the Year, 2003. *Consultantships*: Member, National Adjudicatory Council, FINRA, since 2008; Member, ABA Com. on Corporate Laws, since 2007; Chair, AALS Bus. Associations Section, 2009-2010.

ROGER A. FAIRFAX JR., Assoc. Prof., Geo. Wash. JD, 1998, Harvard; Non US Advanced, 1995, Univ. of London; BA, 1994, Harvard Univ. . Commentaries Chair, Harv. L. Rev. *Admitted*: DC, 1999; MA, 1998. Assoc. Prof., Geo. Wash., since 2005; Vis. Ass't Prof., Wm. & Mary, 2004-2005; Counsel, O'Melveny & Myers LLP DC, 2003-2005; Trial Att'y,

Honors Prog. Public Integrity Sect. Crim. Div. U.S. Dep't of Just. DC, 2000-2003; Spec. Ass't, U.S. Att'y E.D.VA Alex. VA, 2002; Spec. Ass't, Ass't Att'y Gen. Crim. Div. U.S. Dep't of Just. DC, 2000-2001; Clerk, Hon. Judith W. Rogers U.S.C.A. DC Cir., 1999-2000; Clerk, Hon. Patti B. Saris U.S.D.C. D. MA Boston, 1998-1999. *Subjects*: Crim. Procedure; Crim. Law; Grand Jury (S); Adjudicatory Crim. Procedure; White Collar Investigations (S).

KRIS FRANKLIN, Prof. of Law, NYLS. JD, 1992, New York Univ; BA, 1989, Yale Univ. Ed.-in-Ch., N.Y.U. Rev. of L. & Soc. Change. *Admitted*: NY, 1993. Prof., since 2006; Dir., Acad. Skills Prog., since 2002; Assoc. Prof., New York L.S., 2002-2006; Legal Res. & Writing Instr., New York Univ., 1996-2002; Staff Att'y, Legal Aid Soc. Civil Div. NYC, 1992-1996. *Subjects*: Contracts; Advanced Legal Methods; Negotiation, Counseling & Interviewing; Sexuality Law; Torts. *Books*: Strategies and Techniques for Tchg. Acad. Success, 2015; The Lawyer's Practice, 2011. *Member*: Past Chair, Sect. on Tchg. Methods), AALS ; Past Chair, Sect. on Academic Support, AALS; member, SALT. *Consultantships*: Lesbian & Gay Rts. Com. member, Ass'n of the Bar of NYC, 2000-2002; Sex & Law Com. member, Ass'n of the Bar of NYC, 1996-1999.

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PETER H. HUANG, Prof. and DeMuth Chair of Bus. Law, Colorado. JD, 1997, Stanford; PhD, 1984, Harvard; BA, 1976, Princeton. *Admitted*: CA, 1998. Prof. and DeMuth Chair, Univ. of Colorado Sch. of Law, since 2011; Harold Kohn Chair Prof., Temple, 2005-2011; Vis. Lecturer, Yale Law School, 2009; Mem., Sch. of Social Sci. Inst. for Adv'd Study, 2005-2006; Assoc. Prof., Minnesota, 2004-2005; Ass't Prof., Pennsylvania, 1997-2004; Vis. Prof. & Olin Fellow, Southern Cal., 2000; Vis. Ass't Prof., Econ. Stanford, 1994; Vis. Ass't Prof., Econ. U.C.L.A., 1990; Vis. Ass't Prof., Econ. Cal. Berkeley, 1989; Economist, FTC DC, 1984-1985. *Subjects*: Securities Litig. & Enforcement; Corporate Finance; Bus. Basics for Lawyers; Neuroscience and the Law (S); Securities Regulation; Media, Popular Culture, & Law; Torts I; Legal Ethics and Professionalism; Economic Analysis of Law; Advanced Securities: Economics and Regulation of Derivatives (S). *Books*: "Law & Popular Culture (with others), 2012; Law & Popular Culture (with others), 2007. *Member*: American Economic Association; Western Economic Ass'n International; Soc. for Judgment and Decision Making; Law & Soc. Association; Am. Law & Econ. Ass'n. *Consultantships*: Adv'y Bd., Derivatives Rpt., since 2000.

VICKI C. JACKSON, Thurgood Marshall Prof. of Constitutional Law, Harvard. JD, 1975, Yale. Yale L.J. *Admitted*: DC, 1979; NY, 1976. Prof., since 1992; Assoc. Dean, Transnat'l Legal Stud., Georgetown Univ. Law Center, 2009-2010; Assoc. Dean, for Res. & Acad. Progs., 2004-2005; Assoc. Dean, Res., 2001-2004; Assoc. Prof., Georgetown, 1986-1992; Att'y, Rogovin Huge & Lenzer DC, 1978-1985; Clerk, Hon. Thurgood Marshall DC, 1977-1978; Clerk, Hon. Morris Lasker S.D. NY, 1976-1977; Clerk, Hon. Murray Gurfein 2d Cir. NY, 1975-1976. *Subjects*: Fed. Courts; Comp. Const'l Law; Const'l Law; Sup. Ct. (S); Gender & Fed. Courts (S). *Books*: Fed. Courts Stories (with Resnik), 2010; Const'l Engagement in a Transnational Era, 2010; Defining the Field of Comp. Const'l Law (with Tushnet), 2002; Comp. Const'l Law (with Tushnet), 2d ed 1996, 1999. *Member*: ALI; Int'l Ass'n Women Judges (Managerial Bd., since 2003); Int'l Ass'n Const'l Law (Bd., since 1999). *Consultantships*: Bd. of Gov'rs, DC Bar, 1999-2002; Co-Chair, Spec. Comm. Gender, Task Force on Gender, Race & Ethnic Bias, DC Cir., 1992-95, Adv'y Com. on Procs., 1992-1998.

REGINA T. JEFFERSON, Dean and Professor, Cath. Univ. BS, 1981, Howard. *Admitted*: DC, 1988; MD, 1987. Prof., since 2000; Assoc. Dean, Acad. Affrs., 2000-2001; Assoc. Prof., 1996-2000; Ass't Prof., 1992-1996; Vis. Ass't Prof., Cath. Univ., 1991-1992; Future Law Prof. Scholar, Georgetown, 1990-1991; Pension Specialist, Nat'l Off. IRS DC, 1987-1990. *Subjects*: Fed. Income Tax.

LUCY JEWEL, Assoc. Prof. of Law, Tennessee.

HOWARD W. KATZ, Legal Educ'r in Residence, Cleve.-Marshall. JD, 1977, Harvard. *Admitted*: OH, 1977. Vis. Professor, Duquesne, 2015-2017; Professor, Elon Univ. Sch. of Law, 2008-2015; Vis. Prof., Capital Univ. Law School, 2007-2008; Vis. Prof., Cleve-Marshall, 2005-2006; Vis. Prof., Widener, 2005; Vis. Prof., Cleve. - Marshall, 2003-2004; Dir., Strategic Plng. Cuyahoga Cty. Treas'rs Off. Cleve., 1998-2004; Vis. Prof., Cleveland-Marshall, 1995-1998; Vis. Prof., Geo. Wash., 1994-1995; Vis. Assoc. Prof., Howard, 1993-1994; Vis. Assoc. Prof., Case Western Res., 1993; Ch. Counsel, Cleve. City Coun., 1990-1993; Vis. Assoc. Prof., Pittsburgh, 1989-1990; Ass't Dean, Univ. of Bridgeport Law Sch., 1988-1989; Vis. Assoc. Prof., Tulane, 1987-1988; Ass't Prof., George Mason, 1981-1987; Ass't Dean, 1980-1981; Ass't Prof., No. Illinois, 1979-1981; Ass't Law Dir., City of Cleve., 1978-1979; Ass't Prof., Law & Gov't Lake Erie Coll. Painesville OH, 1977-1978. *Subjects*: Const'l law; Land Use; Property; Contracts; Torts. *Books*: Const'l Law: Cases in Context 2d ed. (with Barnett), 2013; Starting Off Right in Contracts, 2d ed. (with Nygren), 2013; Starting Off Right in Torts, 2d ed. (with Nygren), 2011; Strategies and Techniques of Law Sch. Teaching: A Primer for New (and Not So New) Professors (with O'Neill), 2009. *Awards*: Knight Fdn. Fellowship in Community Building, 2003. *Member*: Cong. for the New Urbanism. *Consultantships*: Sr. Fellow, Am. Architectural Fdn., 2005; Developmental Consult. to and Series Ed. for the Focus Casebook Series, Wolters Kluwer, since 2015.

SUSAN S. KUO, Prof. and Assoc. Dean for Diversity and Inclusion, So. Carolina. BA, 1991, Duke. Exec. Res. Ed., Vanderbilt J. Transnat'l L. *Admitted*: MD, 1997; KY, 1997; DC, 1997; TN, 1995. Professor, So. Carolina, since 2013; Assoc. Professor, So. Carolina, 2006-2013; Vis. Assoc. Professor, Alabama, 2011; Vis. Assoc. Professor, Iowa, 2011; Assoc. Professor, No. Illinois, 2002-2006; Vis. Assoc. Prof., So. Carolina, 2005; Ass't Professor, No. Illinois, 1998-2002; Vis. Ass't Professor/Fellow, Toledo, 1997-1998; Jud. Clerk, Judge Eugene E. Siler Jr. U.S.C.A. 6th Cir. London KY, 1996-1997; Spec. Ass't U.S. Att'y, U.S. Att'ys Off. Atlanta, 1995-1996; Jud. Clerk, Judge Robert H. Hall U.S.D.C. N.D. GA Atlanta, 1994-1995. *Subjects*: Fed. Courts; Civil Procedure; Race & Law (S); Crim. Law; Law and Social Just. (S); Conflict of Laws; Crim. Procedure. *Awards*: Univ. of So. Carolina Michael J. Mungo Grad. Tchg. Award, 2014; Univ. of So. Carolina Social Just. Award, 2014; Univ. of So. Carolina Sch. of Law Tchg. Award, 2014; Univ. of So. Carolina Sch. of Law Pub. Award, 2014; Univ. of So. Carolina Sch. of Law Tchg. Award, 2010.

CYNTHIA LEE, Charles Kennedy Poe Res. Prof. of Law, Geo. Wash. JD, 1989, UC, Berkeley. Assoc. Ed., Cal. L. Rev. *Admitted*: CA, 1989. Professor, Geo. Wash., since 2001; Professor, San Diego, 1993-2001; Vis. Scholar, Women's Leadership Inst. Mills Coll. Oakland CA, 1999; Assoc., Cooper White & Cooper San Fran., 1991-1992; Clerk, Ch. Judge

Harold M. Fong U.S.D.C. Honolulu, 1989-1990. *Subjects:* Adjudicatory Crim. Procedure; Prof'l Responsibility; Crim. Law; Crim. Procedure. *Books:* Crim. Procedure: Cases and Materials, 2016; Crim. Law: Cases and Materials, 2014; Searches and Seizures: The Fourth Amendment, Its Const'l Hist. and the Contemporary Debate, 2011; Murder and the Reasonable Man: Passion and Fear in the Crim. Courtroom, 2003. *Awards:* George Washington Univ. Inst. of Public Policy Policy Res. Scholar Award, 2006; Gustavus Myers Bk. Awards - Hon. Mention, 2003; Thurgood Marshall Memorial Scholarship Award - Hon. Mention, 1996. *Member:* ALL; AALS Crim. Just. Section. *Consultantships:* Member, Outreach Committee, ALL, 2009-2012; Member, Com. on Sections and the Annual Meeting, AALS, 2009-2011; Chair, AALS Crim. Just. Section, 2008; Chair, Multicultural Women's Attorneys Network, ABA Comm. on Racial and Ethnic Diversity in the Profession, 2004-2006; Co-Chair, APABA Women's Forum, APABA-DC, 2002-2003; Bd. of Dirs., Southwest Cntr. for Asian Pacific Am. Law, 2001.

BENJAMIN MEANS, Ass't Prof., So. Carolina. Art.Ed., Mich. L. Rev. *Admitted:* NY, 2000. Assoc., Satterlee Stephens Burke & Burke, 2003-2007; Assoc., Davis Polk & Wardwell, 2000-2003; Law Clerk, Hon. Rosemary S. Pooler, 2d Cir., 1999-2000. *Subjects:* Bus. Associations; Liberty (S); Mergers & Acquisitions; Bus. Crimes.

NAOMI JEWEL MEZEY, Prof. of Law, Georgetown. JD, 1995, Stanford; MA, 1992, Minnesota; JD, 1987, Stanford. Arts. Ed., Stan. L. Rev. *Admitted:* DC, 1998; CA, 1996. Prof., Georgetown Law, since 1998. *Subjects:* Legal Just. (S); Lawmaking; Feminist Law & Phil. (S); Gender & Sexuality (S); Nationalism & Cultural Identity (S); Nationalism & Cultural Identity (S); Civil Procedure. *Awards:* Flegal Tchg. Award, 2013. *Member:* American Studies Association; Ass'n for the Study of Law, Culture & Humanities (Treas., 2004-07).

MARK NILES, Prof., American. JD, 1991, Stanford. *Admitted:* MD, 1992. Staff Att'y, U.S. Dep't of Just. Civil Div. DC, 1994-1998; Assoc. Hogan & Hartson, DC, 1992-1994. *Subjects:* Admin. Law; Law & Literature; Civil Procedure.

PAUL OHM, Assoc. Dean (Academic Affairs), Prof. of Law, Georgetown. JD, 1999, U.C.L.A. *Admitted:* CA, 1999. Sr. Policy Advisor, Fed. Trade Commission, 2012-2013; Trial Attorney, Dep. of Just. CCIPS, 2001-2005. *Subjects:* Information Privacy Law; Tech. of Privacy; Computer Crime Law; Crim. Justice.

MARIELA OLIVARES, Assoc. Professor, Howard. Exec. Editor, Michigan L. Rev. *Admitted:* DC, 2003; TX, 2002. Professor, Howard, since 2011; Lecturer, Catholic Univ. of

America Columbus Sch. of Law, 2010-2011; Tchg. Fellow, Georgetown Univ. Law Center, 2008-2010; Attorney, Ayuda, 2005-2008; Associate, Wiley Rein & Fielding LLC, 2003-2005; Law Clerk, Sup. Ct. of Texas, 2002-2003. *Subjects:* Immig. Law; Torts; Family Law; Domestic Violence (S).

MARIA PABÓN, Prof. of Law, LL.M. Prog. Director, Loyola, New Orl. JD, 1989, Pennsylvania; BA, 1985, Princeton. Assoc. Ed., U. Pa. L. Rev. *Admitted:* IN, 2008; TX, 1996; PR, 1991; PA, 1989. Prof. of Law, Indiana Univ. Sch. of Law, Indianapolis, 2008-2011; Assoc. Prof., 2006-2008; Ass't Prof., Ind. Indianapolis, 2002-2006; Lect., 2000-2002; Lect., Advocacy & Res. Mo.-Columbia, 1999-2002; Family Law Team Leader & Staff Att'y, Legal Aid of Central TX Austin, 1997-1999; Dir., Family Violence Legal Line Women's Advocacy Proj. Austin, 1996-1997; Ass't U.S. Att'y, Off. of the U.S. Att'y San Juan, 1995-1996; Ass't to the Att'y Gen., 1992-1995; Att'y, Envtl. Unit PR Dep't of Just. San Juan, 1991-1992; Assoc., McConnell & Valdes San Juan, 1990-1991; Assoc., Pepper Hamilton & Scheetz Phila., 1989-1990. *Subjects:* Family Law; Estates & Trusts; Rts. of Noncitizens/Aliens (S); Prof'l Responsibility; Immig. Law; Race and the Law (S). *Books:* Persistent Inequality: Contemporary Realities in the Educ. of Undocumented Latino/a Children, 2009. *Awards:* Grimes Fellowship, 2007; ISBA Rabb Emison Award, 2007; Trustees Tchg. Award, 2006. *Member:* American Law Institute; Soc. of American Law Teachers; Immig. Law Teachers. *Consultantships:* Ed'l Bd. Member, Bender's Immig. Bulletin, since 2010; Family Law Ed'l Bd., Computer Assisted Legal Instruc., since 2005.

ELOISE PASACHOFF, Prof. of Law, Georgetown. Exec. Ed. - Outside Authors, Harv. C.R.-C.L.L. Rev. *Admitted:* MA, 2005; NY, 2005. Assoc. Prof. of Law, Georgetown Univ. Law Center, since 2011; Assoc. Prof. of Law, Georgetown Univ. Law Center, since 2011; Climenko Fel. and Lect. on Law, Harvard Law School, 2010-2011; Climenko Fel. and Lect. on Law, Harvard Law School, 2010-2011; Law Clerk, The Hon. Sonia Sotomayor, United States Sup. Court, 2009-2010; Climenko Fel. and Lect. on Law, Harvard Law School, 2008-2009; Litig. Associate, Wilmer Cutler Pickering Hale and Dorr, 2006-2008; Law Clerk, The Hon. Robert A. Katzmann, United States Ct. of App. for the 2nd Circuit, 2005-2006; Law Clerk, The Hon. Jed S. Rakoff, US Dist. Ct. for the Southern Dist. of NY, 2004-2005.

NANCY D. POLIKOFF, Prof. (on leave Spring 2018), American MA, 1980, George Washington University; JD, 1975, Georgetown. *Admitted:* MD, 1976; DC, 1975. Professor, American, since 1993; Vis. Professor, U.C.L.A., 2017; Vis. Professor, U.C.L.A., 2011-2012; Vis. Professor, Univ. of Ariz., 2004-2005; Assoc. Professor, American, 1990-1993; Ass't Prof., American, 1987-1990; Staff Att'y, Women's Legal Defense Fund DC, 1982-1987; Founding Mem., Feminist

Law Collec. DC, 1976-1981. *Subjects*: Family Law; Family Theory and Policy Seminar (S); Clinic (S); Civil Procedure; Sexuality and the Law (S); Sexuality and the Law (S); Children of LGBT Parents (S). *Books*: Beyond (Straight and Gay) Marriage: Valuing All Families under the Law, 2008. *Awards*: Dan Bradley Award, 2011. *Consultantships*: Exec. Com., AALS Sect. on Gay & Lesbian Legal Issues, 1990-94, Chair, 1992-1993; Child Support Guidelines Com., DC Superior Ct., 1985-1989; Adv'y Bd., Nat'l Cntr. for Lesbian Rts., since 1989.

REBECCA ROSENBERG, Ass't Prof. of Law, Ohio No.

MICHAEL H. SCHWARTZ, Dean, Prof. of Law, McGeorge. JD, 1987, UC, Hastings. Hastings Int. & Comp. L. Rev. *Admitted*: CA, 1987. Att'y, Hufstedler Miller Kaus & Beardsley Los Angeles, 1987-1989. *Subjects*: Contracts; Remedies; Ins. Law. *Books*: Techniques for Tchg. Law II (with Sparrow, Hess, and Friedland), 2011; Tchg. Law by Design for Adjuncts (with Hess and Sparrow), 2010; Tchg. Law by Design: Engaging Students from the Syllabus to the Final Exam (with Hess and Sparrow), 2009; Contracts: A Context and Prac. Casebook (with Riebe), 2009; Expert Learning for Law Students, 2008; Thurston Society, 2007; Pass the Bar! (with Reibe), 2006; Order of the Coif, 1987. *Member*: AALS Balance in Legal Educ. (Immediate Past Chair); AALS Sect. on Acad. Support (Chair Elect); AALS Sect. on Tchg. Methods (Treasurer).

D. GORDON SMITH, Dean & Glen L. Farr Prof. of Law, Brigham Young. JD, 1990, Univ. of Chicago; BS, 1986, Brigham Young. Comment Ed., U. Chi. L. Rev. *Admitted*: DE, 1991. Professor, Brigham Young University, since 2007; Professor, Univ. of Wisconsin, 2002-2007; Vis. Professor, Vanderbilt University, 2001-2002; Assoc. Professor, Lewis & Clark College, 1997-2002; Vis. Assoc. Professor, Arizona St. University, 1999; Vis. Assoc. Professor, Washington Univ. of St. Louis, 1998; Ass't Professor, Lewis & Clark College, 1994-1997; Associate, Skadden Arps Slate Meagher & Flom Wilmington DE, 1991-1994; Clerk, Judge W. Eugene Davis U.S.C.A. 5th Cir. Lafayette LA, 1990-1991. *Subjects*: Corporate Finance; Law & Entrepreneurship; Bus. Associations; Securities Regulation; Contracts; Fiduciary Law. *Books*: Bus. Organizations: Cases, Problems, and Case Studies (2d ed.), 2008. *Awards*: Tchr. of the Year, 2011; First-Year Tchg. Award, 2008. *Member*: Law and Entrepreneurship Association, Founder and Pres. 2007-2013; American Law Institute.

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Presentation Outlines and Materials

Workshop speakers were invited to submit discussion outlines for those in attendance.
These outlines and other materials are presented in sequence of the program.

How to Become an Excellent Classroom Teacher (while still doing research, contributing to the law school community, and having a life)

Eloise Pasachoff
Georgetown University Law Center

- Caveats
- Law School Students
 - Smart
 - Engaged
 - And yet... they need direction, encouragement, “scaffolding” the material
- Teaching
 - *Before the semester*
 - Syllabus
 - Have one!
 - Helpful to tie to units, to table of contents
 - How much to assign?
 - To change or leave open?
 - Policies – office hours? passing? Internet?
 - What are you trying to teach?
 - What is the law
 - How to apply the law
 - How might we justify / critique / improve the law
 - *Preparing for and teaching each class*
 - What’s your goal for each class? “Students will be able to...”
 - Questions for students to focus on while reading
 - Lecture notes
 - How much detail?
 - My structure: review / overview; several points / cases / issues with Q&As; wrap-up / looking forward

- Outline on board or in handout like this
 - Don't read
- Kinds of questions
 - Factual
 - Lining up arguments (use a chart?)
 - Why
 - Application / hypos
 - Open-ended: what are reasons for [& against], why might we [not], why might that be a good [bad] idea
 - Not “What’s the strongest argument you can make”
 - Not student X v. student Y
- Varying in-class experience: guest speakers, group in-class assignments, film clips and discussion
- “Going meta”
- *As the semester unfolds*
 - Mid-semester course evaluation? (e.g. Survey Monkey: What’s working for you? What could be working better to help you meet your learning goals for this class? Anything else?)
 - Other ways to engage students – field trip? social event?
- *Assessment*
 - Throughout the semester? (e.g. quizzes, brief writing assignment with model answer, problem sets, worksheets)
 - End of semester – helping students review and prepare
 - Feedback – on papers, on exams
- *Mentoring*
 - Office hours – mandatory/optional, drop-in/scheduled (e.g. Calendly.com)
 - “Four Things About Me”
 - Letters of recommendation, references, calls
 - Connecting students to each other
- *The outside world in times of crisis*
 - Student experiences, the world at large, student experiences in the world at large
 - To bring in or ignore?
 - If you bring it in, how?
 - Being humble and human

- *Honing our craft*
 - Sitting in on each other's classes
 - Debriefing, talking about teaching
 - "That was fine"
- Last thoughts: doing research, contributing to the law school community, and having a life
 - Many chapters
 - Regular rather than binge writing – "touching your research"
 - Time / number limits on saying yes; calendaring ahead
 - Sleep, exercise, friends and family
 - Resources: AALS, National Center for Faculty Development and Diversity, subject matter groups and affinity groups, different people inside your institution – ask for help!

Learning Theory

Michael Hunter Schwartz

University of the Pacific, McGeorge School of Law

- I. Best Law Teachers/ Teaching Theory
 - A. Teaching vs. Scholarship Choice
 - B. Personal Qualities of Great Teachers
 - C. Manifesting Respect
 - D. High Expectations
 - E. Preparing for Class
- II. Constructivist Learning Theory
 - A. What is a learning theory?
 - B. How implementing learning theories can help results
 - C. Gist of the theory
 - D. The teacher's role according to this learning theory

E. Other core concept: _____

III. Cognitive Learning Theory

A. Attention

B. Thinking about One's Thinking Process

C. Moving Between the Two Types of Memory

D. Teaching implications of the information processing cognitive theory

E. Theory explanation for computer document storage systems

IV. Adult Learning Theory

A. Key terminology

B. Preferred learning activities

C. Role of learning goals

D. Role of students' prior knowledge in learning process

E. Other aspect of students' role in the learning process

V. Potpourri

A.

B.

C.

D.

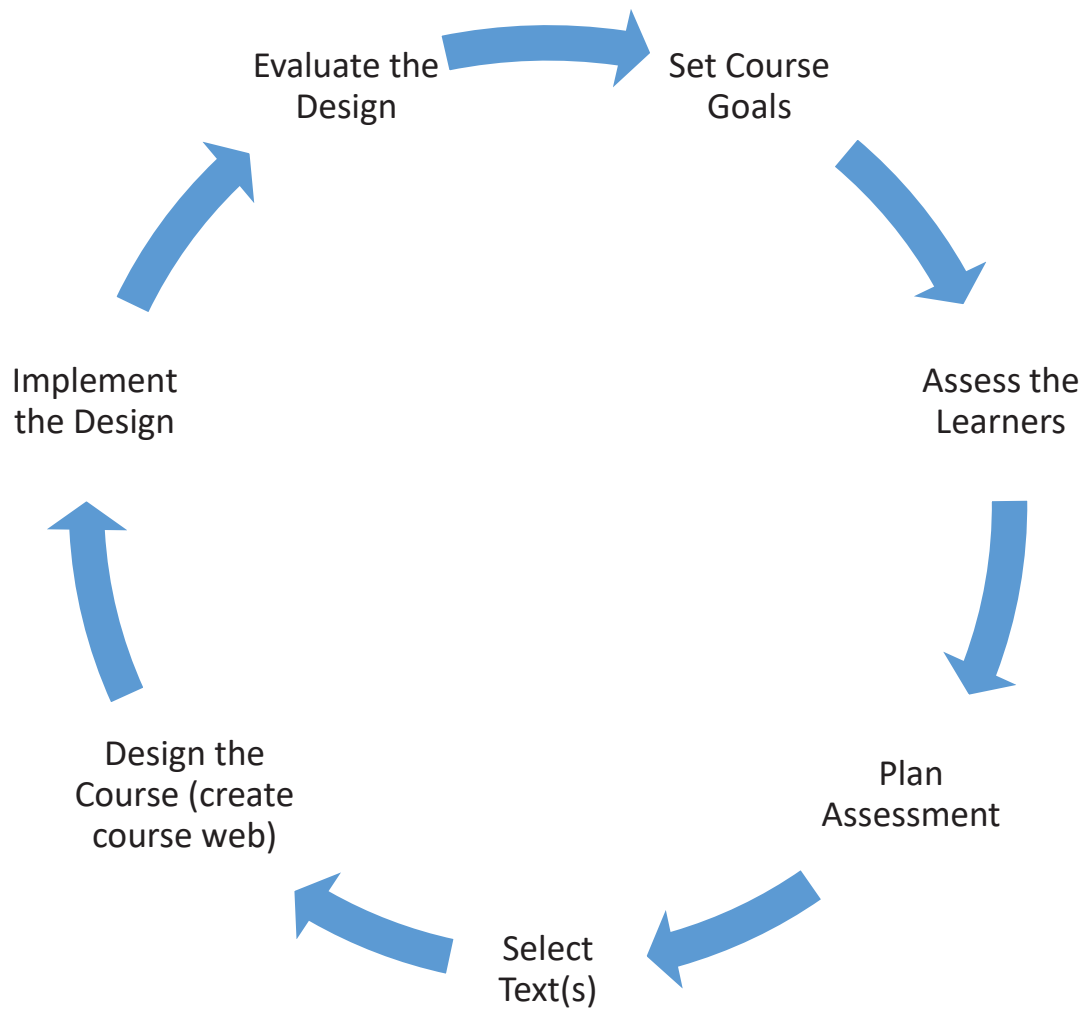
E.

Course Design

Michael Hunter Schwartz

University of the Pacific, McGeorge School of Law

The Recursive Course Design Process*



*All three pages in this handout are based on MICHAEL HUNTER SCHWARTZ, SOPHIE M. SPARROW, AND GERALD F. HESS, TEACHING LAW BY DESIGN, ENGAGING STUDENTS FROM THE SYLLABUS TO THE FINAL EXAM (2d Ed., Carolina Academic Press, 2017).

Textbook Evaluation Tool

Author(s) Title Publisher	Congruence with Your Objectives	Case Selection and Sequencing	Quality and Quantity of Problems	Quality and Quantity of Questions	Teacher's Manual: Assessment Help	Teacher's Manual: Teaching Help
Text #1:						
Text #2:						
Text #3:						
Text #4:						
Text #5:						

*All three pages in this handout are based on MICHAEL HUNTER SCHWARTZ, SOPHIE M. SPARROW, AND GERALD F. HESS, TEACHING LAW BY DESIGN, ENGAGING STUDENTS FROM THE SYLLABUS TO THE FINAL EXAM (2d Ed., Carolina Academic Press, 2017).

Course Design Checklist

- ☐ **Determine what you want students to know, value, and be able to do**
- ☐ **Figure out who your students are**
- ☐ **Decide how you will assess students and draft assessments**
- ☐ **Choose texts**
- ☐ **Design each part of the course**
- ☐ **Design the course as a whole**
- ☐ **Create a syllabus that**
 - ☐ Provides the basic information students need and addresses all the issues that reasonably might arise in the class;
 - ☐ Engages students;
 - ☐ Communicates high expectations;
 - ☐ Includes challenging and appropriate reading and problem-solving assignments;
 - ☐ Paces the course carefully to make sure the course has an engaging opening and an effective closing and avoids the end-of-semester rush; and
 - ☐ Devotes instructional time to problem-solving instruction and experiences.
- ☐ **Create a course webpage (if you have decided to have one)**
- ☐ **Implement your design**
- ☐ **Evaluate your design**

*All three pages in this handout are based on MICHAEL HUNTER SCHWARTZ, SOPHIE M. SPARROW, AND GERALD F. HESS, TEACHING LAW BY DESIGN, ENGAGING STUDENTS FROM THE SYLLABUS TO THE FINAL EXAM (2d Ed., Carolina Academic Press, 2017).

Inside the Classroom

Cynthia Lee

The George Washington University Law School

HOW TO BE AN EFFECTIVE TEACHER IN THE LAW SCHOOL CLASSROOM:

IDEAS ON HOW TO (1) DEVELOP YOUR OWN TEACHING STYLE, (2) GIVE STUDENTS MORE ASSESSMENT DURING THE SEMESTER, AND (3) MAKE CLASS MORE INTERACTIVE

- I. Importance of Developing Your Own Teaching Style
 - A. Fine to get teaching tips from others
 - B. Best, however, to develop your own teaching style
- II. Ways to Give Students More Assessment (Feedback) During the Semester
 - A. Guided Practice Questions (GPQs) or easy practice quizzes
 - 1. I post them the day before class (because I want the students to have done the readings first, before they take the practice quiz)
 - 2. I stop accepting submissions a half hour before class (which means they can't see the correct answers after I stop accepting submissions) because I want them to do these GPQs before class (because doing the GPQs after class will be too easy – one wouldn't need to do the readings)
 - B. Google Forms makes it easy to give a multiple choice or true/false quiz (can also ask for short answers, but not possible to grade those automatically)
 - C. Not graded, but checked for effort and completeness
 - 1. I scan the student responses and will email a student if it looks like they didn't do the reading and they were just guessing (in order to get the benefit of the questions and answers.
 - 2. No class participation credit if it looks like a student didn't do the readings and was just guessing.
 - 3. I usually include at least one or two easy questions that any student should get right if they did the readings.
 - D. To incentivize students to do these GPQs:

1. I make the GPQs part of class participation grade (in one class I made class participation worth 25% of the grade and students received 1 point for each submission)
2. I tell students that some of these questions will appear on the final exam (and then I do include many of the GPQs on the final exam, but since it should be easy for the students to do well on the GPQs since they have many of the questions and answers in advance, I make this portion of the exam worth only about 15% of the grade)
3. In one class, I would recognize students if they were the only students to get a perfect score.
4. I would announce how many students got perfect scores at the start of each class (so if 10 students got perfect scores, the other students would feel they needed to do better since so many of their classmates were doing well).

E. Benefits

1. Students seemed to feel more comfortable with the black letter law
2. Fewer student questions during class
3. Fewer student questions right before the final exam (because students who had done the GPQs felt they had a good handle on the material)
4. Students would come to class more prepared
5. Students started doing the assigned readings more carefully (so they get a perfect score on the GPQs)

III. Ways to Make Class More Interactive

- A. If students are doing the Guided Practice Questions, they will start doing the readings more carefully so you don't have to spend as much time going over the assigned readings
- B. This should give you more time to give students hypotheticals that they can work through in class.
 1. I like to divide students into prosecution and criminal defense for criminal law and criminal procedure classes (plaintiff and defendant for civil law classes)
 2. Think-Pair-Share. I'll have the students pair up with one or two other students to discuss the hypothetical and come up with an oral argument;

I'll then call on groups at random to present their oral arguments and give them feedback on the spot – like remind them that they should state the applicable rule up front before they dive into their analysis)

3. Good if you can get students to realize that they can't really participate in class if they don't do the readings in advance
4. In my upper level courses, I ban laptops and other electronic devices because otherwise students will get on their laptops or cell phones instead of interacting with their peers during these exercises

Teaching Legal Research and Writing

Beth H. Wilensky

The University of Michigan Law School

How to Get the Most Teaching Bang for Your Buck out of Every Legal Writing Assignment

For a terrific general bibliographic resource on scholarship about teaching legal writing, check out the Legal Writing Institute's Monograph Series, available here:

<https://www.lwionline.org/publications/monograph-series>

Each volume contains links to a curated set of scholarly articles on the relevant topic. I particularly recommend these volumes of the Monograph Series:

- Volume 1: The Art of Critiquing Written Work
- Volume 2: The New Teacher's Deskbook
- Volume 3: Teaching Legal Writing: Theory
- Volume 7: The New Teacher's Deskbook Update

For collections of shorter essays on teaching legal writing, I recommend browsing these excellent publications:

Perspectives: Teaching Legal Research and Writing

<https://info.legalsolutions.thomsonreuters.com/signup/newsletters/perspectives/>

The Second Draft

<https://www.lwionline.org/publications/second-draft>

For advice on specific topics this AALS session covers, here are some scholarly articles to get you started:

Background on Some Key Learning / Teaching Principles

Cognitive Science: How Students Learn

- Elizabeth Adamo Usman, “Making Legal Education Stick: Using Cognitive Science to Foster Long-Term Learning in the Legal Writing Classroom,” 29 Geo J. Legal Ethics 355 (2016)
- James McGrath, “Planning Your Class to Take Advantage of Highly Effective Learning Techniques,” 95 U. Det. Mercy L. Rev. 153 (2018)
- Hillary Burgess, “Deepening the Discourse Using the Legal Mind’s Eye: Lessons From Neuroscience and Psychology that Optimize Student Learning,” 29 Quinnipac L. Rev. 1 (2011)
- Serge A. Martinez, “Why Are We Doing This? Cognitive Science and Nondirective Supervision in Clinical Teaching,” 26 Kan. J. L. & Pub. Policy 24 (2016)

Assessment

- Steven J. Johansen, “What Were You Thinking? Using Annotated Portfolios to Improve Student Assessment,” 4 J. Legal Writing Inst. 123 (1998)
- Herby Ramy, “Moving Students from Hearing and Forgetting to Doing and Understanding: A Manual for Assessment in Law School,” 41 Cap. U. L. Rev. 837 (2014)
- Karen McDonald Henning & Julia Belian, “If You Give a Mouse a Cookie: Increasing Assessments and Individualized Feedback in Law School Classes,” 95 U. Det. Mercy L. Rev. 35 (2018)
- Olympia Duhart, “It’s Not for a Grade: The Rewards and Risks of Low-Risk Formative Assessment in the High-Stakes Law School Classroom,” 7 Elon L. Rev. 491 (2015)

Teaching Students to be Self-Motivated, Reflective, Life-Long Learners

- Deborah L. Borman, “Fast Track Your Mindset: Engineering Confidence and Streamlining Feedback for Full Steam Success in Legal Practice,” 49 U.S.F. L. Rev. Forum 40 (2015)
- Kaci Bishop, “Framing Failure in the Legal Classroom: Techniques for Encouraging Growth and Resilience,” 70 Ark. L. Rev. 959 (2018)

- Scott Freuhwald, “Teaching Law Students How to Become Metagoconitive Thinkers: Helping Students Develop Their Mental Apps”
(https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2243128)
- Renee Nicole Allen and Alicia Jackson, “Contemporary Teaching Strategies: Effectively Engaging Millenials Across the Curriculum,” 95 U. Det. Mercy L. Rev. 1 (2018)

The Assignment

Designing the Problem

- Lorraine Bannai et al., “Sailing Through Designing Memo Assignments,” 5 J. Legal Writing Inst. 193 (2001)
- Lenore F. Carpenter and Bonny Tavares, “Learning By Accident, Learning By Design: Thinking About the Production of Substantive Knowledge in the LRW Classroom,”
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3212985
- Beth Hirschfelder Wilensky, “Assignments with Intrinsic Lessons on Professionalism (Or, Teaching Students to Act Like Adults Without Sounding Like a Parent),” 65 J. Legal Educ. 622 (2016)

Before You Assign the Problem

- Miriam E. Felsenburg and Laura P. Graham, “A Better Beginning: Why and How to Help Novice Legal Writers Build a Solid Foundation By Shifting Their Focus from *Product* to *Process*,” 24 Regent U. L. Rev. 84 (2011-12)
- Judith B. Tracey, “I See and I Remember; I Do and I Understand: Teaching Fundamental Structure in Legal Writing Through the Use of Samples,” 21 Touro L. Rev. 297 (2005)
- Terrill Pollman, “The Sincerest Form of Flattery: Examples and Model-Based Learning in the Law School Classroom,” 64 J. Legal Educ. 298 (2014)

After Students Submit Their Work

- Anne Enquist, “Critiquing and Evaluating Law Students’ Writing: Advice from Thirty-Five Experts,” 22 Seattle U. L. Rev. 1119 (1999)
- Jane Kent Gionfriddo, “The ‘Reasonable Zone of Right Answers’: Analytical Feedback on Student Writing,” 40 Gonz. L. Rev. 427 (2004-05)

- Robin S. Wellford-Slocum, “The Law School Student-Faculty Conference: Towards a Transformative Learning Experience,” 45 S. Tex. L. Rev. 255 (2004)
- Cassandra L. Hill, “Peer Editing: A Comprehensive Pedagogical Approach to Maximize Assessment Opportunities, Integrate Collaborative Learning, and Achieve Desired Outcomes,” 11 Nev. L. J. 667 (2011)
- Anne Enquist, “Critiquing Law Students’ Writing: What Students Say is Effective,” 2 J. Legal Writing Inst. 145 (1996)
- Patricia Grande Montana, “Better Revision: Encouraging Writers to See Through the Eyes of the Reader,” 14 J. Legal Writing Inst. 291 (2008)
- Mary Beth Beazley, “The Self-Graded Draft: Teaching Students to Revise Using Guided Self-Critique,” 3 J. Legal Writing Inst. 175 (1997)
- Christy DeSanctis and Kristen Murray, “The Art of the Writing Conference: Letting Students Set the Agenda without Ceding Control,” 17 No. 1 Persp: Teaching Legal Res. & Writing 35 (2009)
- Terri LeClerq, “The Premature Deaths of Writing Instructors,” 3 Integrated Legal Res. 4 (1990-91)
- Cassandra L. Hill and Katherine T. Vudakin, “Now I See: Redefining the Post-Grade Student Conference as Process and Substance Assessment,” 54 Howard L. J. 1 (2010)

Assessment

Kris Franklin
New York Law School

Chapter 8⁺

Agreed Damages

Exercise 8-1: Chapter Problem

You are a new associate in a law firm. The senior partner in your law firm has just dropped a project in your lap. She told you that the firm represents a small motorcycle manufacturing company and she asked you to draft what she calls a “bullet-proof liquidated damages clause.”

By using the term “bullet-proof liquidated damages clause,” the partner means that she wants you to draft a clause that is so unquestionably enforceable that no rational lawyer would challenge the clause. The partner told you that the assignment of drafting the entire contract has been divided up among several associates. Your only task is to draft the liquidated damages clause.

The clause will be used as part of a contract between your client and a construction company that is building the client a new manufacturing factory. The partner provided you with the following additional information about the deal:

- The contract will have a construction completion date of July 1, 2015.
- The client wants the project finished on time and, therefore, wants the clause to address what will happen if the construction company does not complete construction on time.
- The client estimates that the new plant will save the client \$4,000,000 per year over the fifteen-year useful life of the plant. These savings stem from a number of factors; specifically, the new factory will allow the client to reduce its number of employees because it will automate more of the client's manufacturing processes, and the new machinery will require less power to operate than the machinery in the existing factory.
- The client also believes that the new factory will allow the client to produce better, more reliable motorcycles—thereby increasing the client's profits, although the client has stated that it cannot determine how much its profits will increase.

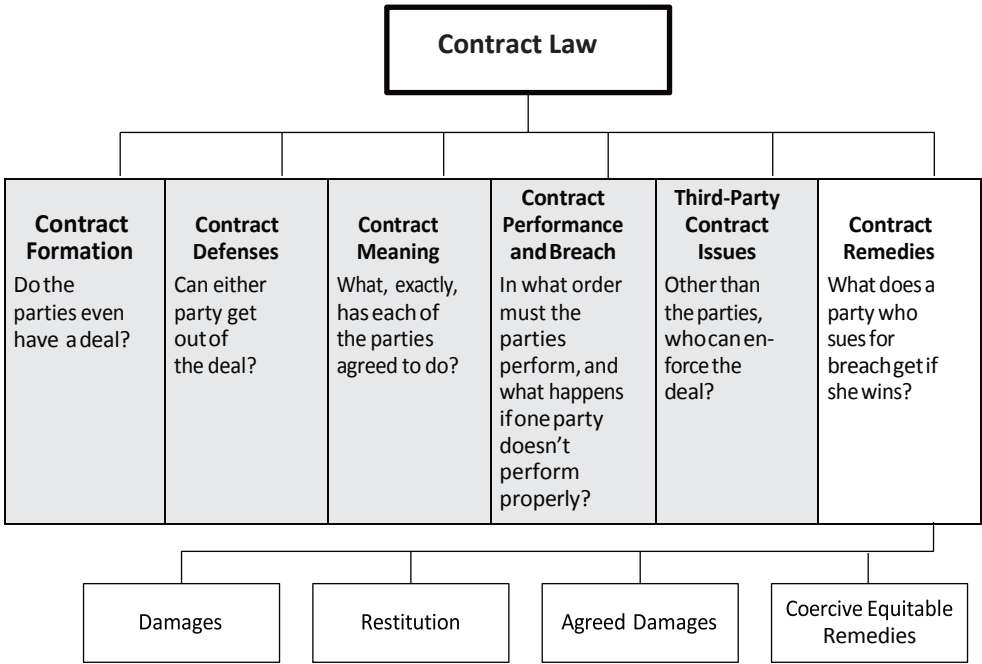
Introduction to Agreed Damages

You are about to learn about a particular type of contract clause frequently included in contracts: “agreed” or “liquidated” damages clauses. Lawyers use these two terms interchangeably and so will we in this chapter.

Diagram 8-1 depicts where this topic fits within the bigger picture of contract law. As you

will see, “Agreed Damages” is the third box under the sixth major contract subject, “Contract Remedies.”

Diagram 8-1: Contract Law Graphic Organizer



You need to learn about liquidated damage clauses because they are a common type of clause that lawyers draft and use. There are also many other types of commonly used contract clauses. For example, earlier in this text you were introduced to covenants not to compete and damages waiver clauses. To give you more insight into commonly used clauses, Table 8-1 on the next page provides a non-exhaustive list of common contract terms and a summary explanation of each type of clause. As you work your way through your study of contract law, look for all of these clauses and make sure you understand the effect of each.

Introduction to the Validity of Liquidated Damages Clauses

Courts use a set of specialized rules to determine the validity of liquidated damages clauses, although courts vary greatly in how they frame their tests. Liquidated damages clauses are generally enforceable, but courts strike down such clauses if they are found to be a “penalty.” “Penalty” is just a label attached by a court when it concludes that a clause is unenforceable. The “penalty” label does not provide a rule.

Courts generally use a two-part test to determine if a liquidated damages clause is valid (not a “penalty”):

Table 8-1: Common Contract Clauses

Name of Clause	Goal of Clause
Covenant not to compete	Communicates that an employee or a seller of a business cannot compete (for a specified period of time and within a specified locale) with the employer or buyer
Liquidated damages	States an amount a party should be awarded by a court if the other party breaches the contract
Merger	Communicates that the written document contains all of the terms to which the parties have agreed and that prior agreements that are not reflected in the written document are not part of the parties' contract.
No oral modification	Indicates the parties only can modify the contract in writing.
Force majeure	Lists circumstances, usually natural disasters and wars, under which a party can avoid having to perform the contract without penalty.
Time is of the essence	Uses the words "time is of the essence" to communicate an expectation about timely performance of the parties' contract promises.
Choice of law	States the body of law that will govern any dispute between the parties. May also limit the state or city in which either party may file suit. (Lawyers may refer to this latter provision as a "jurisdiction clause.")
Arbitration	States that disputes under the contract will not be decided by a court but, rather, by an arbitrator. Usually includes a specified process for the arbitration (<i>i.e.</i> , what rules will be followed and how the arbitrator will be selected).
Indemnification	Communicates that, if one party is sued for a matter relating to the contract, the other party will pay for the costs of defending the suit and will pay any award of damages ordered by the court
No assignments	States that the rights conferred under the contract (and, in some instances, the duties imposed under the contract) cannot be transferred to someone else.
Savings	Indicates the parties have agreed that, if a court invalidates a particular term of the parties' contract, the rest of the contract will remain enforceable.

1. Were the damages difficult to ascertain when the contract was made; and
2. Is the amount stated as liquidated damages reasonable in light of the actual and/or anticipated damages?

In the second prong of the test, the terms "and/or" reflect the fact that courts are split in their articulations of the rule. Also note that the two prongs tend to have an inverse relationship; the more difficult damages are to ascertain, the more leeway courts give parties' efforts to estimate damages (and, conversely, the easier damages are to ascertain, the less leeway courts give parties' efforts to estimate damages). The cases and materials below illustrate the application of these principles.

Overview of Chapter 8

In this chapter, you will learn the tests used to evaluate liquidated damages clauses and how courts apply those tests. You will also learn how to draft a valid and enforceable liquidated damages clause.

Evaluating the Enforceability of an Agreed Damages Clause

Leeber v. Deltona Corp.

546 A.2d 452 (1988)

[... Text of case and accompanying reinforcement questions omitted for AALS New Law Teachers' Conference.]

Summary: Contract between Florida condo developer and condo buyer. Agreed price for purchase of the unit was \$150,200 with 15% down-payment (\$22,530), to be retained as liquidated damages if buyers breach. Upon building completion two years later buyers do breach, and developer resells unit for \$167,500. Since developer benefitted from breach buyers sue to recover their deposit. Court finds liquidated damages clause enforceable, concluding that Florida law general favors liquid damages clauses where damages not ascertainable at the time the contract was made (as was the case here), the 15% figure was reasonable and not a penalty, and was not unconscionable.]

United States v. Hayes

633 F. Supp. 1183 (1986)

[... Text of case and accompanying reinforcement questions omitted for AALS New Law Teachers' Conference.]

Summary: Defendant physician entered a contract as a medical student to accept \$29,000 in tuition assistance in exchange for working for two years after graduation in a government program designed to provide medical services to underserved locales. Standardized for contract provided for treble damages of \$90,000 in event of breach. Court finds damages clause enforceable because calculating the damages to the government would be "virtually impossible," thus the treble damages clause had a direct relationship to the actual damages as a fair and reasonable attempt to set damages in advance.]

[Material omitted for AALS New Law Teachers' Conference]

Chapter Problem Revisited

Exercise 8-1 at the beginning of this chapter asked you to draft a liquidated damages clause. To do so, use what you have learned about liquidated damages clauses in this chapter and the drafting guidance below:

1. Implement your client's goals: Your client wants to encourage the contractor to complete the job on time; to maximize its recovery if the contractor delays completion; to have a court, if necessary, affirm the enforceability of the clause; and to have a clause that is so clearly enforceable that the contractor would not even litigate the issue.
2. Be explicit about the effect you want the contract term to have.
3. Use clear and simple language. Ineffective lawyers draft obscure contract terms, which often become the subjects of litigation.
4. Carefully edit your work product. Your work product will reflect on your level of professionalism and effectiveness as a lawyer. Ensure that any work product you produce is polished.

In addition, it may be helpful to review some sample liquidated damages clauses in formbooks and to read some articles about liquidated damages. Both are available in your law school library. For example, one article that is useful for understanding drafting principles is *How to Draft and Enforce a Liquidated Damages Clause* by Henry Luepke. While we encourage you to read the entire article, below we are providing some key points and excerpts from the article:

1. Express your client's intent. As Luepke states, "If the parties intended the clause to serve as compensation for the damages likely to result from a breach, the court will uphold the clause and enforce it as written. If, on the other hand, the clause was intended to serve as punishment for a breach, the court will refuse to enforce it." Thus, "when drafting a liquidated damages clause, counsel should use language demonstrating that, at the time of contracting, the parties intended the liquidated amount to fully compensate, but not punish, for a breach of the contract." Luepke specifically advises:

The simplest way to demonstrate that the intent of a provision for liquidated damages is compensatory rather than punitive is to explicitly state this intent in the clause itself. Specifically, the clause should provide that the liquidated amount to which the parties have agreed is intended as compensation and is not intended as punishment.

2. Label the clause as a "liquidated" or "agreed" damages clause. As Luepke notes,

It is true that labeling a liquidated damages provision as either one for compensation or as one for a penalty is not conclusive on the issue of whether it will or will not be enforced. Nevertheless, courts are generally constrained to give effect to the parties' intention as expressed by the plain terms of the contract.

3. Be cognizant of the enforceability test your clause will have to pass. As Luepke states:

[A] court will have to answer two threshold questions, *i.e.*, 1) is the liquidated amount a reasonable forecast of just compensation in the event of a breach?; and 2) is the liquidated amount for a harm that was incapable or very difficult of accurate estimation at the time the contract was made?

Because the intent of the parties is to be ascertained from the plain language of the contract, the answers to these questions should be made explicit in the terms of the liquidated damages clause. For example, the liquidated damages clause might state explicitly and explain why the damages to be suffered in the event of breach are very difficult of accurate estimation and, for this reason, the parties have agreed that the amount fixed by the clause is a reasonable forecast of just compensation in the event of breach.

4. Specify the type of breach for which the liquidated amount is intended as compensation. Luepke explains:

All breaches are not alike, and a liquidated damages clause should not treat them as if they were. . . . Where a liquidated damages clause applies equally to multiple types of breaches, regardless of the significance or magnitude of the breach, the scope of the clause is overly broad, and a court will likely find that the intent of the provision is punitive, regardless of statements indicating a contrary intent.

The terms of the clause, therefore, should specify the types of breaches to which it applies and should clearly show that it is intended to provide compensation only for the type of breach that would result in the damages that are difficult or impossible to calculate.

5. Specify the type of harm for which the liquidated amount is intended as compensation. As Luepke notes, "the anticipated harm for which a liquidated damages clause is intended to compensate may not always be obvious to a court." Accordingly, parties to a "liquidated damages clause . . . would do well to specify the types of difficult-to-quantify harm for which the clause is intended to provide compensation." For example, "where breach of a contract may result in a loss of profits . . . the clause should state that the liquidated amount is intended to compensate for the difficult-to-calculate loss of anticipated profits that the parties agree would result from the type of breach in question."
6. Provide a formula for calculating the liquidated amount. A formula is preferable to a lump sum because the amount of damages will vary with the type and duration of breach. For example, a clause could state that a certain amount is to be added to a base liquidated amount for each day contract performance is delayed. Or, where the anticipated harm is lost profits, the liquidated sum could be set as a percentage of the gross amount yet to be paid under the contract. The advantage in using a formula is that it ensures "that the liquidated amount will be adjusted according to the relative degree or magnitude of the breach." Accordingly, a court is more likely to find that "the amount to be recovered as liquidated damages is intended to bear some relationship to a reasonable forecast of the probable damages and, therefore, is intended to compensate, not punish, for a breach. On this basis, a liquidated damages clause will likely be enforced."

Class 2

Working Group Problem

Reading effectiveness quiz: *Leonard v. Pepsico*

1. Does the procedural posture of this particular case affect the outcome or the court's reasoning?
2. What legal issue(s) is the court is deciding?
3. What facts support Leonard's contention that he is owed a Harrier jet? (list all)

What facts suggest that he is not? (list all)

4. Where in the case does the court state the rule(s) of law to be applied?

Restate the rule(s) in your own language.

5. Why do the defendants win here, but not in *Lefkowitz* or *Carlill*?
6. What contracts policy concerns support the court's holding in this case?

MIDTERM GRADING SHEET

POINTS
POSSIBLEPOINTS
EARNED

CONTRACT FORMATION

8

Applicable Law <ul style="list-style-type: none"> This is primarily a contract for the services of renovation. Any materials purchased are probably ancillary to the work, so under the predominance test, common law should apply. 	1.5	
Mutual Assent <ul style="list-style-type: none"> Not clear from facts who made offer and who accepted. Original offer seems to be Joe for 35K, but that was clearly rejected. Both parties act as if they have a deal for the three specified parts of the job at \$25K. A deposit was given and accepted. Probably enough to show that both had a present intent to form a contract at the time the deal was struck. Terms and Type <ul style="list-style-type: none"> Sufficient certainty of terms likely requires price and scope of the work. There aren't a lot of details here, but the basics seem covered enough that lack of certainty will not defeat a determination of mutual assent. Bilateral or Unilateral? <ul style="list-style-type: none"> ✓ Contract for services could be unilateral because S wants the work actually done, not just a promise to do it. ✓ But no specific language here suggests offer for unilateral, and default rule is bilateral unless specifies otherwise, so probably bilateral. ✓ Classification matters b/c if unilateral than contract not formed until perfect performance. So under classical rule S could still revoke. But R.2d §45 makes unilateral K irrevocable if performance has begun, which here it has. ✓ Chances are, then, whether deemed bilateral or unilateral Joe will be able to show that he has a contract. Consideration <ul style="list-style-type: none"> No question of consideration in original deal. Bargained-for exchange of money for work. Did Joe have a pre-existing duty to repair all of the electricity? Unlikely. The parties' discussions back and forth about this seem pretty clear that he was supposed to fix identified problems but was not obliged under the contract to remove and replace all wiring in affected rooms. Sarah could claim that there was no consideration for the contract modification of extra money for unplanned electrical work. Hold up game when she's living in a torn up house and needs work done ASAP? But illusory promise means one party doesn't get anything. Here she'd get all new wiring, which is probably a substantial benefit. And there's at least a suggestion that this is required to bring her home into compliance with building codes. 	5.5 5=amazing 4=strong 3=fine 2=some problems 0-1=lacking analysis average = 3	
If no contract <ul style="list-style-type: none"> If by any chance Joe loses on the question of whether there was a binding contract, he would have a decent claim for compensation for his work so far under a promissory estoppel theory, because he justifiably relied on Sarah's promises to pay for work done to her house. 	1	

DEFENSES & DAMAGES

POINTS
POSSIBLE
10POINTS
EARNED

<p>Breach</p> <ul style="list-style-type: none"> • Sarah breached by locking Joe out of the job and calling in someone else. • Did Joe breach by changing the plan for wiring work? Very unlikely. Seemed necessary, and both parties indicated assent. <p>Defenses</p> <ul style="list-style-type: none"> • W/o consideration modification wasn't enforceable, or economic duress for modification. <ul style="list-style-type: none"> ✓ Both illusory promise and duress are doubtful because added work seems necessary, Sarah got a benefit in exchange, and had an opportunity to bargain. Anyway, these defenses would go to price owed when work completed. Wouldn't give Sarah the right to cancel the job. • Mistake <ul style="list-style-type: none"> ✓ Seems like both parties thought they didn't need to entirely replace the wiring, but turned out they did. If mistake, then probably mutual. ✓ Scope and price of job drastically changes with wiring, so likely basic to K, and definitely material to parties' exchange because they talked about this back and forth. ✓ If mistake, could void contract. Arguably that's what the parties did when Joe said another \$16K and Sarah said go ahead. If so, though, new K now in force. • Illegality <ul style="list-style-type: none"> ✓ Not an issue since Joe was going to correct the illegal wiring. If anything, Sarah's <i>new</i> contract may be illegal. 	<p>6</p> <p>6=<i>amazing</i> 5=strong 4=fine 3=some difficulties 2=problems 0-1=lacking analysis</p> <p>average = 3.5</p>	
<p>Damages</p> <ul style="list-style-type: none"> • Partial payment, so defective performance, not non-performance. • Joe will probably want BoB of his expected profit on the job. Calculated as "get" (\$25K or \$37K?) minus "give" of cost of labor and materials to complete the work, expected to be \$4K (but was that for original deal or including added electrical work?), less the deposit already paid. • Joe will also ask for reliance damages of \$6K, calculated as \$3K in materials and \$3K in labor. • Joe may instead ask for damages as expected profit on the basement job he passed up, but since he wouldn't be able to do both jobs, can't get both this and the BoB for Sarah's job. One or the other. • Sarah should counterclaim for \$4K deposit. Chances are this will get swallowed by what she owes Joe, so just deducted from amt. to be paid. • Depending on what the market would bear (as evidenced by her deal with new contractor?), Sarah may instead argue that Joe made a bad bargain and damages should be calculated as FMV-K price if less. No specific facts support this, though. 	<p>4</p> <p>4= excellent 3=strong 2=fine 1=problems</p> <p>average = 2.5</p>	

Contracts Section 1C

Franklin, Fall 2015

Midterm

Please respond to the attached question as thoughtfully as you can within the time allotted, **explaining and supporting your reasoning** for all important points. If any parts of the question are not clear, or if you believe there is a mistake or typo in the question, please just state the assumptions you are working with and I will grade your paper with that understanding.

If you handwrite your response, please write on only one side of the page, preferably in ink, and make your answer as legible as possible. You are welcome to skip lines if that will make your response easier to read.

You can make any notes you wish on the test itself or on scrap paper. These will be collected, but your markings will not be read or scored. However, you **may not** write on the Restatement/UCC supplement because they will be checked and reused for future exams.

Sarah's 100-year-old brownstone badly needed some updates. She began talks with Joe, a fully-licensed contractor, about the possibility of undertaking a significant renovation to her home. Initially Joe suggested that Sarah do a few minor cosmetic upgrades to the kitchen and bathrooms but focus primarily on bringing all of the plumbing and electrical equipment up to date. He estimated that he could do all that work for about \$35,000. This was too much money for Sarah. And though she understood the importance of Joe's attention to what was going on behind the walls, didn't want to devote too much of her limited budget to things she couldn't see or appreciate.

The two continued their conversations and eventually decided they'd aim for a compromise consisting of:

- a new kitchen island and refaced cabinets;
- replacing the tile and building a new walk-in shower in the main bathroom; and
- repairs to the plumbing and electricity, but not full-scale rebuilding of those systems.

This could be done for Sarah's maximum budget of \$25,000. Sarah gave Joe a deposit of \$4,000 to get started.

The following week Joe and his crew began the project by removing an agreed-upon wall, taking the fronts off of the kitchen cabinets, and tearing out the bathroom down to the studs. It was at that point that Joe noticed the bathroom wiring consisted of consisted of "knob and tube" fittings that these days are considered genuinely dangerous.

Joe went back and explained to Sarah that there was now no way to do the job as they had previously outlined. Leaving the knob and tube wiring wasn't legal, so in addition to running new lines in the demolished bathroom, he would have to investigate, and probably end up replacing the wiring in every room he was working in. The expected electrical work, and the repairs to the walls that would have to be broken into to complete it, would likely cost \$16,000 more than projected.

Sarah was shocked and upset. Faced with a house in shambles and few other options, she tearfully told Joe to proceed. Joe's crew spent the next few days rewiring the bathroom, removing the debris from their demolition work, and bringing in the materials they would need for the next phases of their work.

The following Monday, Joe went to Sarah's house and found that the key she had given him no longer worked. When he called her cell phone she explained that she had located another builder who was willing to make the cosmetic repairs she wanted without worrying about the problematic wiring. She thanked Joe for what he had done so far, but indicated she would no longer need his services.

Joe couldn't believe what he was hearing. His crew's labor so far already added up to \$3000, and they had brought in another \$3000 in materials. He was out money, time, the \$4000 profit he had expected from Sarah, as well as the chance to take on a \$10,000 basement renovation job that he had passed up because he was committed to working on Sarah's place.

If Joe sues Sarah what will he claim, and what counterclaims or defenses should he expect? Who is likely to win, and what damages, if any, might be awarded?

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- 1) Go to www.aals.org/login/
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- 3) Type your email address and click the 'go' button
 - If you get the message 'Email address not found in database,' you have not been to your law school's roster.
 - If your email address is found, then you have already been added by your school's roster. Your password will be emailed to you, which will allow you to log in. After logging in, you can change your password under the 'My Information' link.
 - If you need assistance, contact dltsupport@aals.org

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You can look by name or school in the online *DLT*, but the new search function can do much more. Sort faculty members by subjects taught, currently teaching, years teaching, and seminar offerings, among others. You can also cross search for multiple faculty and multiple subject areas at the same time.

If you don't want to share too much in your own listing, simply log on and adjust your privacy settings to reflect the amount of information you would like to be available online.

JOIN SECTIONS

Support for new law professors does not end at the conclusion of this Workshop. The AALS Section for New Law Professors exists to provide advice, guidance, and support to professors in their first seven years of law teaching. We encourage you to join the section, which offers informative panels, networking opportunities, teaching assistance, and scholarship opportunities for members.

You should find engaging with at least one other section helpful as well. With 103 unique sections, the AALS community provides a forum for almost every area of law. Depending on what you teach and what your scholarly interests are, you may find it useful to sign up for several sections. You can find the complete list of all sections and their leadership included in this booklet.

Email support@aals.org to have an AALS team member sign you up for one or more AALS sections, including the Section for New Law Professors. You can also view the complete list sections by visiting www.aals.org/sections/. Please note there is a special process and a \$15 registration fee to join the Section on Clinical Legal Education. After joining a section, you may log into the section website to find the listserv email address, view past discussions, and share files.

Section Chairs and Chairs-Elect for 2019

AALS Sections are interest groups comprised of faculty members and professional staff of AALS member and fee-paid schools. (Others interested in joining a Section may do so as associate members.) Sections present programs at the AALS Annual Meeting, provide newsletters for their members, and conduct other activities of interest to their members, such as mentoring programs, exam exchanges, directories, and listservs. Section leaders steer the intellectual programming and activity that make AALS a learned society.

To have an AALS team member sign you up for one or more sections, please e-mail support@aals.org, or fill out the form in this booklet.

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Admiralty and Maritime Law

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Africa

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Joel H. Samuels, University of South Carolina School of Law, **Chair-Elect**

Agency, Partnership, LLC's and Unincorporated Associations

Kelli A. Williams, Florida State University College of Law, **Chair**

Sarah Haan, Washington and Lee University School of Law, **Chair-Elect**

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Naomi R. Cahn, The George Washington University Law School, **Chair-Elect**

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Antitrust and Economic Regulation

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Art Law

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Nicholson Price, The University of Michigan Law School, **Chair-Elect**

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Brooke D. Coleman, Seattle University School of Law, **Chair-Elect**

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Get the Most from AALS: Join a Section!

Sections are academic and administrative communities comprised of faculty members and professional staff. Sections present programs at the AALS Annual Meeting, provide newsletters for their members, and provide other activities of interest to their members, such as mentoring programs, exam exchanges, directories, and other communications. Getting involved in one or more Sections is a great way to connect with faculty in your field and find volunteer opportunities.

Please write your information below and select the AALS Section(s) that you would like to join. Please turn this form into AALS Registration or any AALS Staff Member upon completion.

Full Name: _____ **School:** _____
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Academic Sections

- | | |
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| <input type="checkbox"/> Administrative Law | <input type="checkbox"/> Employment Discrimination Law |
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| <input type="checkbox"/> Alternative Dispute Resolution | <input type="checkbox"/> Financial Institutions and Consumer Financial Services |
| <input type="checkbox"/> Animal Law | <input type="checkbox"/> Graduate Programs for Non-U.S. Lawyers |
| <input type="checkbox"/> Antitrust and Economic Regulation | <input type="checkbox"/> Immigration Law |
| <input type="checkbox"/> Art Law | <input type="checkbox"/> Indian Nations and Indigenous Peoples |
| <input type="checkbox"/> Biolaw | <input type="checkbox"/> Insurance Law |
| <input type="checkbox"/> Business Associations | <input type="checkbox"/> Intellectual Property |
| <input type="checkbox"/> Children and the Law | <input type="checkbox"/> International Human Rights |
| <input type="checkbox"/> Civil Procedure | <input type="checkbox"/> International Law |
| <input type="checkbox"/> Civil Rights | <input type="checkbox"/> Internet and Computer Law |
| <input type="checkbox"/> Clinical Legal Education* | <input type="checkbox"/> Islamic Law |
| <input type="checkbox"/> Commercial and Consumer Law | <input type="checkbox"/> Jewish Law |
| <input type="checkbox"/> Communication, Media & Information Law | <input type="checkbox"/> Jurisprudence |
| <input type="checkbox"/> Comparative Law | <input type="checkbox"/> Labor Relations and Employment Law |
| <input type="checkbox"/> Conflict of Laws | <input type="checkbox"/> Law and Anthropology |
| <input type="checkbox"/> Constitutional Law | <input type="checkbox"/> Law and Economics |
| <input type="checkbox"/> Contracts | <input type="checkbox"/> Law and Interpretation |
| <input type="checkbox"/> Creditors' and Debtors' Rights | <input type="checkbox"/> Law and Mental Disability |
| <input type="checkbox"/> Criminal Justice | <input type="checkbox"/> Law and Religion |
| <input type="checkbox"/> Defamation and Privacy | <input type="checkbox"/> Law and South Asian Studies |
| <input type="checkbox"/> Disability Law | <input type="checkbox"/> Law and Sports |
| <input type="checkbox"/> East Asian Law and Society | <input type="checkbox"/> Law and the Humanities |
| <input type="checkbox"/> Economic Globalization and Governance | <input type="checkbox"/> Law and the Social Sciences |
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| <input type="checkbox"/> Election Law | <input type="checkbox"/> Law, Medicine and Health Care |
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| <input type="checkbox"/> Employee Benefits and Executive Compensation | <input type="checkbox"/> Legal History |
| | <input type="checkbox"/> Legal Writing, Reasoning and Research |
| | <input type="checkbox"/> Legislation & Law of the Political Process |

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Academic Sections (Continued)

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| <input type="checkbox"/> Nonprofit and Philanthropy Law | <input type="checkbox"/> North American Cooperation |
| <input type="checkbox"/> Poverty Law | <input type="checkbox"/> Socio-Economics |
| <input type="checkbox"/> Professional Responsibility | <input type="checkbox"/> State and Local Government Law |
| <input type="checkbox"/> Property Law | <input type="checkbox"/> Taxation |
| <input type="checkbox"/> Real Estate Transactions | <input type="checkbox"/> Technology, Law and Legal Education |
| <input type="checkbox"/> Remedies | <input type="checkbox"/> Torts and Compensation Systems |
| <input type="checkbox"/> Securities Regulation | <input type="checkbox"/> Transactional Law and Skills |
| <input type="checkbox"/> Sexual Orientation and Gender Identity Issues | <input type="checkbox"/> Trusts and Estates |

Administrative Sections

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| <input type="checkbox"/> International Legal Exchange | <input type="checkbox"/> Teaching Methods |

Affinity Sections

- ☐ Minority Groups
- ☐ New Law Professors
- ☐ Women in Legal Education

*Sections have no fee to join except for the Section on Clinical Legal Education, which costs \$15 annually to join.

AALS Annual Meeting, January 2 – 5, 2020

Thousands of law faculty, deans, administrators, and scholars will gather in Washington DC, from January 2–5, 2020 for the AALS Annual Meeting. Under the theme of “Pillars of Democracy: Law, Representation, and Knowledge,” the meeting serves as an opportunity to connect and collaborate with colleagues, discuss critical and emerging legal issues, and attend programs focused on fresh perspectives on law and legal education.

AALS offers a 50% discount off the registration fee for new law faculty (1-3 years). The registration rate includes three and half days of interactive sessions organized by 103 Sections and AALS programs such as Arc of Career, Discussion Groups, Open Source, Symposium, and Hot Topic sessions. Your registration also includes the AALS Opening Plenary session with featured speakers, the AALS Opening Reception, the AALS Exhibit Hall, along with morning and afternoon refreshment breaks. Registration and hotel reservations will open in mid-August.

Take advantage of sessions and events we’ve organized specifically for new teachers, including a session on how to get the most out of the Annual Meeting followed by a reception for new law teachers the first night the conference kicks off.

Thursday, January 2, 2020

5:30 – 6:30 pm

Session for First Time Meeting Attendees - What is AALS and Why Does It Matter for My Career? And How Do I Get the Most Out of the Annual Meeting?

This session is for new law professors and administrators, especially those who have never attended an AALS Annual Meeting. After a quick introduction to the organization, members at various stages of their careers will briefly discuss their experiences with AALS. There will also be a candid discussion of why people attend the Annual Meeting and what they hope to get out of it. Members of the AALS leadership structure will be in attendance, and there will be time to have a dialogue with them about their AALS experiences.

6:30 – 7:30 pm

AALS Reception for New Law Teachers

This informal event will bring together the new law teacher community and we welcome anyone who attended the AALS New Law Teachers Workshop in the past several years, plus planning committee members and speakers from the Workshop. We hope the reception will provide an opportunity to reconnect with past attendees, and to bond with this year’s cohort of new teachers.

Call for Scholarly Papers for Presentation at 2020 AALS Annual Meeting

To encourage and recognize excellent legal scholarship and to broaden participation by junior faculty in the Annual Meeting, AALS is sponsoring a call for papers for the 35th annual AALS Scholarly Papers Competition. Those who will have been full-time law teachers at an AALS member or fee-paid school for five years or less on July 1, 2019, including any time spent as a Visiting Associate Professor or law fellow, are invited to submit a paper on a topic related to or concerning law. A committee of established scholars will review the submitted papers with the authors' identities concealed.

The competition winner will be recognized at the 2020 AALS Annual Meeting in Washington, DC.

Deadline: An electronic version of the manuscript and a cover letter (described below) should be emailed to scholarlypapers@aals.org no later than August 1, 2019, 5:30 pm Eastern Time.

Anonymity: The manuscript should be accompanied by a cover letter with the author's name and contact information. The manuscript itself, including title page and footnotes, should not contain any references that identify the author or the author's school. The submitting author is responsible for redacting self-identifying text or footnotes. Additionally, the manuscript should not contain any information identifying a specific journal or law review where the manuscript may have been selected for publication.

Eligibility: Faculty members of AALS member and fee-paid schools, including visiting faculty whose "home" school is also an AALS member or fee-paid school are eligible. Fellows, VAPs, and adjuncts are not eligible, nor are visiting faculty whose "home" school is not a member or fee-paid school. The competition is open to those who have been full-time law teachers for five years or less as of July 1, 2019 (for these purposes, one is considered a full-time faculty member while officially "on leave" from the law school). Time spent as a visiting faculty member (VAP) or law fellow will be counted toward the five-year maximum, but time away on family or medical leave will not be included. Co-authored papers are eligible for consideration, but each of the co-authors must meet the eligibility criteria established above. Authors are limited to one submission

each. A co-authored submission is treated as an individual submission by each author and precludes additional submissions by either author. AALS Scholarly Papers Competition winners are not eligible to compete again, though past Honorable Mention recipients are eligible.

Form and Length: Each submission should be prepared using Microsoft Word. There is a maximum word limit of 30,000 words (inclusive of footnotes) for the submitted manuscripts. The manuscript should be double-spaced in 12-point (or larger) type with ample (at least 1") margins on all sides. Footnotes should be 10-point or larger, single-spaced, and preferably on the same page as the referenced text. Papers that do not comply with the above formatting requirements cannot be accepted if they cannot be corrected before the submission deadline.

Papers are expected to reflect original research. Papers are not eligible for consideration if they will have been published before February 2020. However, inclusion of a version of the paper on the Social Science Research Network (SSRN) or similar pre-publication resource does not count as "publication" for purposes of this competition. Submitted papers, whether or not selected for recognition, may be subsequently published as arranged by the authors. Papers may have been revised on the basis of review by colleagues.

Statement of Compliance: The cover letter accompanying each submission should include a statement verifying:

1. The author holds a faculty appointment at a member or fee-paid school;
2. The author has been engaged in full-time teaching for five years or less as of July 1, 2019; please indicate years taught to verify eligibility, including any years spent as a VAP or law fellow;
3. All information identifying the author, author's school, or publication commitment has been removed from the manuscript;
4. The paper has not been previously published and is not committed for publication prior to February 2020; and
5. The author agrees to notify the AALS if the submitted paper will be published before February 2020.

Each author is to indicate up to four subject categories from the list below that best fit the paper. In the event that none of the listed categories captures the essence of the paper, the author should write in one topic under “other.”

Subject Categories: Administrative Law; Admiralty; Agency/Partnership; Agricultural Law; Alternative Dispute Resolution; Animal Law; Antitrust; Arts and Literature; Aviation and Space Law; Bank and Finance; Bankruptcy and Creditor’s Rights; Bioethics; Civil Procedure; Civil Rights; Commercial Law; Communications Law; Community Property; Comparative Law; Computer and Internet Law; Conflict of Laws; Constitutional Law; Consumer Law; Contracts; Corporations; Courts; Criminal Law; Criminal Procedure; Critical Legal Theory; Disability Law; Dispute Resolution; Domestic Relations; Economics, Law and; Education Law; Elder Law; Election Law; Employment Practice; Energy and Utilities; Entertainment Law; Environmental Law; Estate Planning and Probate; Evidence; Family Law; Federal Jurisdiction and Procedure; Foreign Relations; Gender Law; Health Law and Policy; Housing Law; Human Rights Law; Immigration Law; Insurance Law; Intellectual Property; International Law – Private; International Law – Public; Jurisprudence; Juveniles; Labor; Law Enforcement and Corrections; Legal Analysis and Writing; Legal Education; Legal History; Legal Profession; Legislation; Local Government; Mergers and Acquisitions; Military Law; National Security Law; Native American Law; Natural Resources Law; Nonprofit Organizations; Other; Organizations; Poverty Law; Products Liability; Professional Responsibility; Property Law; Race and the Law; Real Estate Transactions; Religion, Law and; Remedies; Science, Law and; Securities; Sexuality and the Law; Social Justice; Social Sciences, Law and; Society, Law and; State and Local Government Law; Taxation – Federal; Taxation – State & Local; Technology, Law and; Terrorism; Torts; Trade; Trial and Appellate Advocacy; Trusts and Estates; Workers’ Compensation.

Inquiries: Questions should be directed to scholarlypapers@aals.org.

AALS Statement of Good Practices by Law Professors in the Discharge of their Ethical and Professional Responsibilities

American law professors typically are members of two professions and need to comply with the requirements and standards of both. Law professors who practice law are subject to the law of professional ethics in force in the jurisdictions in which they are licensed to practice. In addition, as members of the teaching profession, all law faculty members are subject to the regulations of the institutions at which they teach and to professional guidelines that are more generally applicable, such as the Statement of Professional Ethics of the American Association of University Professors.

This Statement does not diminish the significance of these other sources of ethical and professional conduct. Instead, it is intended to provide general guidance to law professors concerning ethical and professional standards because of the intrinsic importance of those standards and because law professors serve as important role models for law students. This Statement is primarily directed to full-time law faculty, although much of the advice may also assist part-time faculty. The Statement also recognizes that full-time law faculty may have different responsibilities depending upon the nature of their school and the specifics of their faculty role and employment terms. The effort here is to provide guidance at a level of generality that can assist most full-time law faculty.

Law professors' responsibilities extend beyond the classroom to include out-of-class mentoring of students and other professional activities in support of students' professional development. Members of the law teaching profession should have a strong sense of the special obligations that attach to their calling. They should recognize their responsibility to serve others and not be limited to pursuit of self-interest. This general aspiration cannot be achieved by edict, for moral integrity and dedication to the welfare of others cannot be legislated. Nevertheless, a public statement of good practices concerning ethical and professional responsibility can enlighten newcomers and remind experienced teachers about basic ethical and professional tenets—the ethos—of their profession.

Although the norms of conduct set forth in this Statement may be relevant when questions concerning propriety of conduct arise in a particular institutional context, the Statement is not promulgated as a disciplinary code. Rather, the purpose of the Statement—couched for the most part in general aspirational terms—is to provide guidance to law professors concerning their responsibilities (1) to students, (2) as scholars, (3) to colleagues, (4) to the law school and university at which they teach, and (5) to the bar and the general public.

I. RESPONSIBILITIES TO STUDENTS

As teachers, scholars, counselors, mentors, and friends, law professors can profoundly influence students' attitudes concerning professional competence and responsibility. Professors should assist students to recognize the responsibility of lawyers to advance individual and social justice.

Because they function as role models, professors should be guided by relevant ethical and professional standards. In all their pursuits, professors should seek to model and encourage in others the highest standards of professionalism and civility.

Law professors should aspire to excellence in teaching and to mastery of the doctrines and theories of the subjects they teach. They should prepare conscientiously for class and employ teaching methods appropriate for the subject matters and objectives of their courses. The objectives and requirements of their courses, including applicable attendance and grading rules, should be clearly stated. Classes should meet as scheduled or, when this is impracticable, classes should be rescheduled at a time reasonably convenient for students, or alternative means of instruction should be provided.

Law professors have an obligation to treat students with civility and respect and to foster a stimulating and productive learning environment in which the pros and cons of debatable issues are fairly acknowledged. Teachers should nurture and protect intellectual freedom for their students and colleagues. If a professor expresses views in class that were espoused in representing a client or in consulting, the professor should make appropriate disclosure.

Evaluation of student work is one of the fundamental obligations of law professors. Examinations and assignments should be conscientiously designed and all student work should be evaluated with impartiality. Grading should be done in a timely fashion and should be consistent with standards recognized as legitimate within the professor's institution and the profession. A student who so requests should be given an explanation of the grade assigned.

Law professors should be reasonably available to counsel students about academic matters, career choices, and professional interests. In performing this function, professors should make reasonable efforts to ensure that the information they transmit is timely and accurate. When in the course of counseling a student, a professor receives information that the student may reasonably expect to be confidential, the professor should not disclose that information unless required to do so by university or law school rule or applicable law. Professors should inform students concerning the possibility of such disclosure.

Professors should be as fair and complete as possible when communicating evaluative recommendations for students and should not permit invidious or irrelevant considerations to infect these recommendations. If information disclosed in confidence by the student to the professor makes it impossible for the professor to write a fair and complete recommendation without revealing the information, the professor should so inform the student and respectfully decline to provide the recommendation unless the student consents to full disclosure.

Discriminatory conduct based on such factors as race, color, religion, national origin, sex, sexual orientation, gender identity and expression, disability or handicap, age, or political beliefs is unacceptable in the law school community. Law professors should seek to make the law school an inclusive and equitable community for all students and should be sensitive to the harmful consequences of professorial or student conduct or comments in classroom discussions or elsewhere that perpetuate stereotypes or prejudices involving such factors.

Law professors should not sexually harass students and should not use their role or position to induce a student to enter into a sexual or romantic relationship, or to subject a student to a hostile academic environment based on any form of sexual harassment. Sexual or romantic relationships between a professor and a student who are not married to each other or who do not have a preexisting analogous relationship are inappropriate whenever the professor has a professional responsibility for the student in such matters as teaching a course or in otherwise evaluating, supervising, or advising a student as part of a school program. Even when a professor has no professional responsibility for a student, the professor should be sensitive to the perceptions of other students that a student who has a sexual or romantic relationship with a professor

may receive preferential treatment from the professor or the professor's colleagues. A professor who is closely related to a student by blood or marriage, or who has a preexisting analogous relationship with a student, normally should eschew roles involving professional responsibility for the student.

II. RESPONSIBILITIES AS SCHOLARS

A basic responsibility of the community of higher education in the United States is to refine, extend, and transmit knowledge. As members of that community, law professors share with their colleagues in the other disciplines the obligation to discharge that responsibility. Law schools also have a responsibility to maintain an atmosphere of academic freedom and respect for diverse viewpoints in which knowledge can be sought and shared without hindrance. Law professors are obligated, in turn, to make the best and fullest use of that freedom to fulfill their scholarly responsibilities.

In teaching, as well as in research, writing, and publication, the scholarship of others is indispensable to one's own. A law professor thus has a responsibility to be informed concerning the relevant scholarship of others in the fields in which the professor writes and teaches. To keep current in any field of law requires continuing study. To this extent the professor, as a scholar, must remain a student. As a corollary, law professors have a responsibility to engage in their own research and publish their conclusions. In this way, law professors participate in an intellectual exchange that tests and improves their knowledge of the field, to the ultimate benefit of their students, the profession, and society.

The scholar's commitment to truth requires intellectual honesty and open-mindedness. Academic freedom enables and encourages a professor to state arguments and conclusions frankly, even if unpopular. Although a law professor should feel free to criticize another's work, misrepresenting facts or another's work is always unacceptable. Relevant evidence and arguments should be addressed, not elided or distorted.

When another's scholarship is used—whether that of another professor or that of a student—it should be fairly summarized and candidly acknowledged. Significant contributions require acknowledgement in every context in which ideas are exchanged. Publication permits at least three ways of doing this: shared authorship, attribution by footnote or endnote, and discussion of another's contribution within the main text. Which of these will suffice to acknowledge scholarly contributions by others will, of course, depend on the extent of the contribution.

To preserve scholarly integrity, a law professor should disclose material facts in each covered activity (defined below) concerning any receipt of direct or indirect payment for, or any personal or familial economic interest in, the subject of the publication. Disclosure is not required for normal academic compensation, such as salary, internal research grants, and honoraria and compensation for travel expenses from academic institutions, or for book royalties. Disclosure of material facts should include: (1) the conditions imposed or expected by the funding source on views expressed in the covered activity and (2) the identity of any funding source, except where the professor has provided legal representation to a client in a matter external to legal scholarship under circumstances that require the identity to remain privileged under applicable law. If such a privilege prohibits disclosure the professor shall generally describe the interest represented.

A law professor should also disclose the fact that views or analysis expressed in any covered activity were espoused or developed in the course of either paid or unpaid representation of or consultation with a client when a reasonable person would be likely to see that fact as having influenced the position taken by the professor. Disclosure is not required for representation or consultation that is sufficiently remote in time that

a reasonable person would not expect it to be disclosed. Disclosure should include the identity of any client, where practicable and where not prohibited by the governing Code or Rules of Professional Conduct. If such Code or Rules prohibit a professor from revealing the identity of the client, then the professor shall generally describe the client or interest represented or both. Covered activities include any published work, oral or written presentation to conferences, drafting committees, legislatures, law reform bodies and the like, and any expert testimony submitted in legal proceedings. A law professor should make, to the extent possible, all disclosures discussed in this policy at the earliest possible time. The earliest possible time should be when the professor is invited to produce the written work for publication or to make a presentation or when the professor submits the written work for publication or delivers the presentation.

III. RESPONSIBILITIES TO COLLEAGUES

Law professors should treat colleagues and staff members with civility and respect. Tenured law professors should be particularly sensitive to the terms of any debate involving their untenured colleagues and should so conduct themselves that those colleagues will understand that no adverse professional consequences would follow from expression of, or action based upon, beliefs or opinions contrary to those held by the tenured professor.

Matters of law school governance deserve the exercise of independent judgment by each voting member of the faculty. It is therefore inappropriate for a law professor to apply any sort of pressure other than persuasion on the merits in an effort to influence the vote of another member of the faculty.

Law professors should comply with institutional rules or policies requiring confidentiality concerning oral or written communications. Such rules or policies frequently will exist with respect to personnel matters and evaluations of student performance. The Family Educational Rights and Privacy Act (FERPA), for instance, has strict rules about student privacy and professors should become familiar with its requirements. If there is doubt whether such a rule or policy is in effect, a law professor should seek clarification.

An evaluation made of any colleague for purposes of promotion or tenure should be based exclusively upon appropriate academic and service criteria fairly weighted in accordance with standards understood by the faculty and communicated to the subject of the evaluation.

Law professors should make themselves reasonably available to colleagues to discuss teaching methods, content of courses, possible topics of scholarship, scholarly work in progress, and related matters. Professors should honor requests from their own law schools for evaluation of scholarship and teaching in connection with promotion or tenure decisions. Law professors should also give sympathetic consideration to similar requests from other law schools.

As is the case with respect to students (Part I), sexual harassment, or discriminatory conduct involving colleagues or staff members on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity or expression, disability or handicap, age, or political beliefs is unacceptable.

IV. RESPONSIBILITIES TO THE LAW SCHOOL AND UNIVERSITY

Law professors have a responsibility to participate in the governance of their university and particularly the law school itself. Although many duties within modern universities are assumed by professional administrators, the faculty retains substantial collective responsibility to provide academic leadership. Individual professors have a responsibility to assume a fair share of that leadership, including the duty to serve on faculty committees and to participate in faculty deliberations.

Law professors are frequently in demand to participate in activities outside the law school. Such involvement may help bring fresh insights to the professor's classes and writing. Excessive involvement in outside activities, however, reduces the time that the professor has to meet obligations to students, colleagues, and the law school. A professor thus has a responsibility both to adhere to a university's specific limitations on outside activity and to assure that outside activities do not significantly diminish the professor's availability to meet law school obligations. Professors should comply with applicable laws and university regulations and policies concerning the use of university funds, personnel, and property in connection with such activities.

When a law professor resigns from a university to assume another position, or seeks a leave of absence to teach at another institution, or assumes a temporary position in practice, government or other sector, the professor should provide reasonable advance notice. Absent unusual circumstances, a professor should adhere to the dates established in the Association of American Law Schools Statement of Good Practices for the Recruitment of and Resignation by Full-Time Faculty Members.

Although all law professors have the right as citizens to take positions on public questions, each professor has a duty not to imply that he or she speaks on behalf of the law school or university. Thus, a professor should take steps to assure that any designation of the professor's institution in connection with the professor's name is for identification only.

V. RESPONSIBILITIES TO THE BAR AND GENERAL PUBLIC

A law professor occupies a unique role as a bridge between the bar and students preparing to become members of the bar. It is important that professors accept the responsibilities of professional status. At a minimum, a law professor should adhere to the Code or Rules of Professional Conduct of the state bars to which the law professor belongs. A law professor may responsibly test the limits of professional rules in an effort to determine their constitutionality or proper application. Conduct warranting discipline as a lawyer should be a matter of serious concern to the professor's law school and university.

One of the traditional obligations of members of the bar is to engage in uncompensated public service or pro bono legal activities. As role models for students and as members of the legal profession, law professors share this responsibility. This responsibility can be met in a variety of ways, including direct client contact through legal aid or public defender offices (whether or not through the law school), participating in the legal work of public interest organizations, lecturing in continuing legal education programs, educating public school students or other groups concerning the legal system, advising local, state and national government officials on legal issues, engaging in legislative drafting, or other law reform activities.

The fact that a law professor's income does not depend on serving the interests of private clients permits a law professor to take positions on issues about which practicing lawyers may be more inhibited. With that freedom from economic pressure goes an enhanced obligation to pursue individual and social justice. For the same reason, engaging in law reform activities or advocating for improvements in law and the legal system is a valued role of legal academics.

Adopted by the Executive Committee, November 17, 1989

Amended July 12, 2017

NOTES

[illegible]

General Information

Consent to Use of Photographic and Audio Materials

AALS will have a photographer at general sessions and meals during the workshop and will also audio record these sessions. Photos taken during the workshop will remain the property of AALS and may be distributed or used in future marketing materials. Your attendance at the Workshop indicates your acceptance to be photographed, filmed, or recorded, and to AALS's use of your image, without payment of any kind, in program(s) and for other purposes designated by AALS in the future.

Continuing Education Credit

After the workshop, AALS can provide you with an attendance confirmation letter to support other continuing education documentation as required by your specific state's accrediting agency. To request a letter, email cleattendance@aals.org.

Luggage Storage

There is no fee for AALS attendees to store luggage at the Mayflower Hotel. To store luggage, please see an attendant at the bell stand.

Private Room for Parents

AALS will provide a room with electrical power, a refrigerator and a locking door for nursing parents who attend AALS meetings. Please visit the AALS Registration Desk for access to the room.

Session Materials

Materials provided by session panelists will be available after the workshop on the AALS website at <https://www.aals.org/events/nlt2019/>. If you are a speaker and you have not done so already, you may submit presentations or materials to be posted on the website. PDF files are preferable, and all files must be accessible.

Internet

In common areas:

Select SSID/Network: **Mayflower_CONFERENCE**

Access code: **AALS2019**

In guest room:

Connect to network: **Mayflower_GUEST**

Add last name, room number, and connect

Twitter

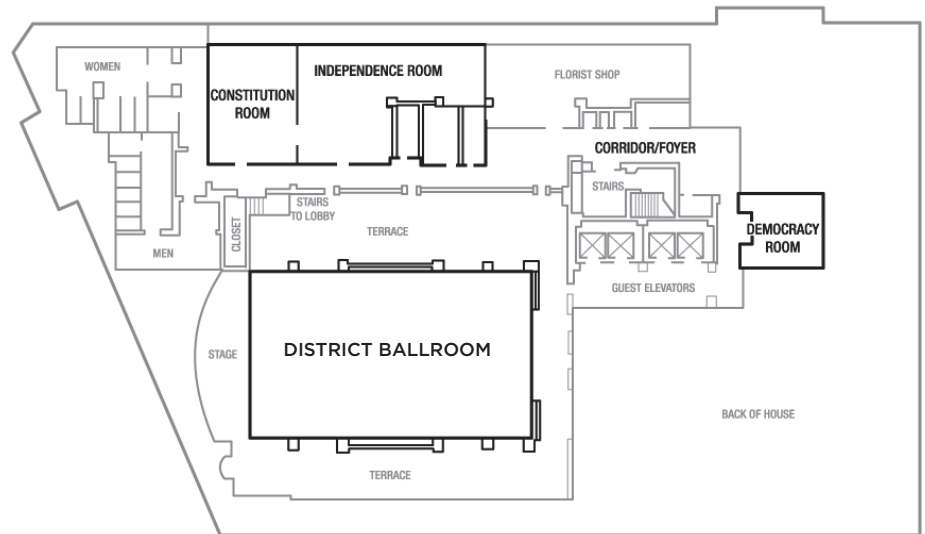
Tweet about your experiences during your time with us. Use hashtag **#AALSFLT**.

Evaluation

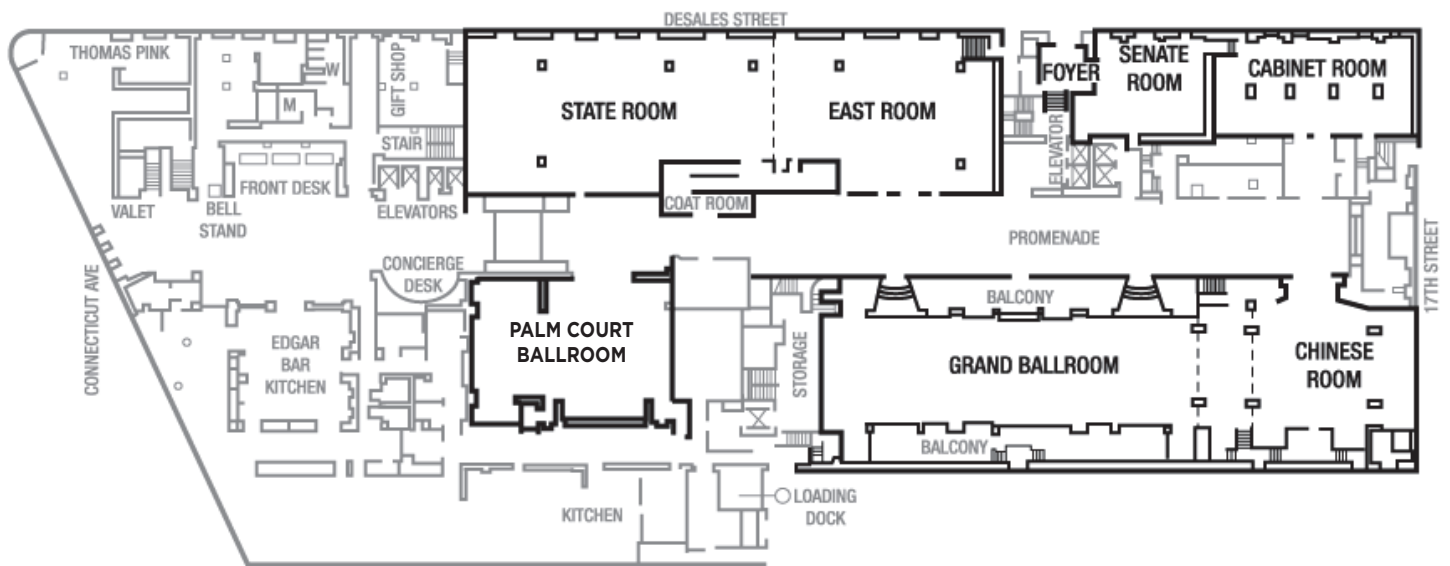
An evaluation will be emailed to you at the conclusion of the workshop. Your feedback and suggestions will assist the Planning Committee with improvements to the 2020 workshop.

The Mayflower Hotel Floor Plan

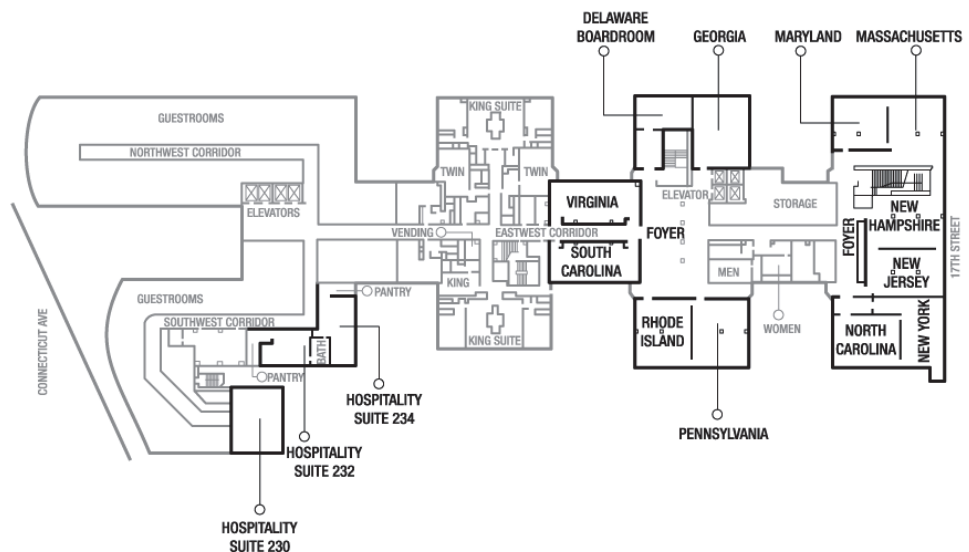
Lower Level



Lobby Level



Second Level



2019 **FACULTY RECRUITMENT CONFERENCE**
Thursday, October 3 – Saturday, October 5
Washington, DC

2020 **ANNUAL MEETING**
Thursday, January 2 – Sunday, January 5
Washington, DC

CONFERENCE ON CLINICAL LEGAL EDUCATION
Sunday, May 3 – Wednesday, May 4
Orlando, FL

WORKSHOP FOR NEW LAW SCHOOL TEACHERS
Thursday, June 4 – Saturday, June 6
Washington, DC

FACULTY RECRUITMENT CONFERENCE
Thursday, October 15 – Saturday, October 17
Washington, DC

2021 **ANNUAL MEETING**
Tuesday, January 5 – Saturday, January 9
San Francisco, CA

2022 **ANNUAL MEETING**
Wednesday, January 5 – Sunday, January 9
New York, NY

