

YLD News

The newsletter of the Illinois State Bar Association's Young Lawyers Division

Student loans and the reality of repayment

BY ARSENIO L. MIMS

Attending and completing law school is a goal that many individuals have. Nevertheless, one factor that most take into consideration when making their law school decision is the amount of debt they may incur. This is an important task, especially when considering the fact that the interest rates on loans for graduate or professional students are generally higher than those for undergraduate students. See Federal Student Aid, <<https://studentaid.ed.gov/sa/types/loans/interest-rates>> (last visited November 12, 2015). According to <<http://www.lsac.org/jd/financing-law-school/financial-aid-overview>> “[t]he cost of a law school education [can] exceed \$150,000 . . . [of

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How to successfully ask for a raise

BY LYND SAY A. MARKLEY

In many law firms, compensation reviews are often like Chicago weather—unpredictable and unpleasant. There can be an uncertainty about when is the appropriate time to ask for a raise, causing hard feelings on both sides. As a one-time Associate and Partner of a law firm, I've been on both sides of the fence when it comes to raises and it's difficult for all parties involved if the process isn't handled professionally. Here are my top tips for anyone asking for a raise:

1) Be scheduled

If compensation/performance reviews are not discussed during

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Boosting your online presence through Facebook advertising

BY JULIE PIRTLE

Facebook is an underutilized marketing tool for most law firms – most lawyers use it personally but are unaware of the professional benefits it can provide. I have spoken to many attorneys who just do not understand the role Facebook can have in their business except as a way to look into other litigants, look up potential staff, and spend time during the day for brain breaks (some take longer breaks than others). By creating a Facebook profile for your business, you have the ability to reach hundreds of potential clients, enhance your online organic search results and overall increase your business's online presence.

According to Facebook.com/business, more than a billion people use Facebook. If you have any experience with online marketing, you know that search engine optimization (SEO) is key to your success in online marketing and that the all-powerful Google prefers businesses to increase their online presence organically i.e. not just filling your website with a list of frequently searched words but rather making your internet presence valuable by creating buzz, providing information, and the like. Facebook helps create that buzz and bolsters your SEO all while helping you reach potential clients.

If your firm does not already have a dedicated Facebook page, you need one, immediately. Your firm's Facebook profile should include a link to your website, your address and telephone number. You can even create a "call now" button within a couple of minutes. Creating a profile creates one more area of cyberspace that your information reaches. It is important to be thorough when creating your profile and use pictures, include pictures of your office, you and your staff.

After you create a profile, ask your "friends" to like your page. Ask your staff and friends to invite their friends to like your page. And then start posting to

generate new likes. Share news articles that relate to your area of practice, and post about the things going on in your office such as if someone in your office recently received an award or had an article published. If the law in your field is changing, post snippets of how those changes will impact your potential clients and what they need to do to protect themselves.

When you post generally, you will reach all of your likes. If you want to reach more people, you can "boost" your post. When you boost your post, you set a budget (\$20 will get you a long way) and you choose who you want to reach. Your post will then show up on the feeds of people who do not currently "like" your page. This is how you generate new likes, and will show up in the newsfeeds of users you target as a "sponsored" ad. The more likes you have, the more people your boosted posts reach (i.e. the more potential likes and clients you reach and the more online presence you create).

You can also run Facebook Ads, which are much like boosted posts, except they run either in newsfeeds or along the side of Facebook users newsfeeds. You can start and stop these ads at any time, or pause them at any time if you want to run the campaign later.

Boosting and running Facebook Ads are extremely inexpensive forms of advertising, with ads starting at \$5. Even if your new clients are not reporting they found you via Facebook, odds are good you are gaining solid firm name recognition by doing so. Facebook is another area that you can ask your former (happy, only happy) clients to review you, and your profile will bear how many reviews you have and assign a number of stars to your firm, much like Yelp and Google. Free and cheap advertising should not be ignored. ■

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OFFICE

ILLINOIS BAR CENTER
424 S. SECOND STREET
SPRINGFIELD, IL 62701
PHONES: 217-525-1760 OR 800-252-8908
WWW.ISBA.ORG

EDITORS

Vincent Oppedisano
Marie K. Sarantakis
Maxine Weiss Kunz

MANAGING EDITOR / PRODUCTION

Katie Underwood

✉ kunderwood@isba.org

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How to successfully ask for a raise

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your final interview, I recommend addressing them as part of your overall package. By providing all parties involved with a clear time frame, an employee is saved the anxiety of the unknown and for the partner it prevents random requests for compensation at a time that's usually less than ideal.

2) Be prepared

Prepare answers to the following: Why do you deserve a raise? What positive impact have you demonstrated? What qualities do you have that will serve the firm in the future (meaning you are worth the investment)? List out the qualities you have now that will benefit your employers in the future and give concrete examples. Refer to hard financial data on your performance, too.

3) Don't be entitled

Several years ago, an associate in my firm attended her compensation review with only one factor in mind that—apparently, she was due an obligatory one-year salary increase. She had no idea what positive or negative impact she brought to the company, nor did she seem to care. On a side note, this first year associate had taken 17 days of vacation—not including 'half' days. Although her raise request was done with a straight face, it was hard to avoid disbelief on mine. The asker should be prepared to demonstrate objectively and subjectively, why they deserve an increase in pay.

4) Be aware of your firm's financial climate

A successful request for a raise will depend a lot on timing, even if the meeting is scheduled. Look at the circumstances going on at your office: Did your law firm just lose a huge trial or a big client? Are you hearing about budget cuts? If so, it might be good to delay the meeting for a few weeks.

5) Be conscious of your value

There are many reasons why you might

not be an ideal candidate for a raise and the best thing you can do is hear these out, improve upon them and try again. If you are denied a raise based on some performance issues, commit to your employer that this is going to change and ask for a six-month performance review.

7) Be calm

Appearing hot and defensive when you ask for a raise won't go well. You have to be an advocate for yourself while remaining level headed - not an easy thing to do. Be in a good place before this discussion by trying to schedule it at a time when you are not rushed, hungry or stressed out. Visualize the success of the meeting on a regular basis as much as possible before it happens and, if you are into this sort of thing (I am!), mediate beforehand. Calm, cool and collected are three huge assets any employer would want to celebrate.

8) Be creative

Cash flow is a problem in most businesses. If your employer informs you that you deserve a raise but money is too tight, be prepared with a creative solution. An idea from my business (plaintiff's personal injury and wrongful death), would be asking for a percentage of the cases you work on as you resolve them or an increased percentage of business you bring in to the firm. Other ideas are amenities: gym or club memberships, increased vacation days and a flexible schedule. Try to think about all of the possible ways you can get what you want, without breaking your employer's bank to get it.

9) Be clear

Ask for what you want, plus a little more. This is a negotiation. You want room to move. If you're granted your first demand that's wonderful, but the odds are strongly in favor of a counter, which is less than your wildest dreams. If you build in room to move in your request, you can have real dialogue that also makes you look even more reasonable.

In the end, assuming you and your

employer share mutual respect and value, you'll be able to move towards an agreement that works for everyone. The above steps are a good place to start. ■

Chicago-based attorney, Lyndsay Markley (www.lmarkleylaw.com and Twitter: <https://twitter.com/lyndsaymarkley>) has dedicated her legal practice to fighting on behalf of persons who suffered injuries or death as the result of the wrongful or careless conduct of others. Her 2015 accolades include 10 Best Personal Injury Attorney for Client Satisfaction status from the American Institute of Personal Injury Attorneys, Premier 100 Trial Attorney status from the American Academy of Trial Attorneys and Illinois' Rising Star status from Super Lawyers.

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Student loans and the reality of repayment

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which) [t]uition alone can range from a few thousand dollars to more than \$50,000.” With those numbers in mind, people are required to decide whether investing in a legal education is truly “worth it.” For those of us who have decided a legal education is “worth it,” and who needed to borrow student loans we had to choose between federal, private, or institutional loans, or in some circumstances a combination of the three. Nonetheless, no matter which method you chose to finance your legal education, the harsh reality of paying back your student loans sets in sooner than later following your law school graduation. The purpose of this article is to provide the reader with some information about the different repayment options they may have for their student loans following the completion of their six-month grace period.

However, before looking at repayment options, it is important to know how the Court of Appeals has ruled when it comes to the dischargeability of student loans. The Seventh Circuit has stated, “[s]tudent loans are generally not dischargeable in bankruptcy unless the debtor proves that excluding the loans from discharge ‘would impose an undue hardship on the debtor.’ To determine which situations constitute an ‘undue hardship,’ [the Court has] adopted the *Brunner* test for student loan discharge proceedings, which requires a debtor to show that: (1) [he/she] cannot maintain, based on current income and expenses, a ‘minimal’ standard of living for [himself/herself] and [his/her] dependents if forced to repay [his/her] loans; (2) additional circumstances exist indicating that this state of affairs is likely to persist for a significant portion of the repayment period; and (3) [he/she] made good faith efforts to repay the loans. A debtor must satisfy each element of the *Brunner* test in order to have his loans discharged.” *Tetzlaff v. Educ. Credit Mgmt. Corp.*, 794 F.3d 756, 758-59 (7th Cir. 2015)(internal citations omitted).

If one cannot prove excluding their student loans from discharge would impose an undue hardship on them, their student loans will stick with them for the remainder of their life, unless they pay the loans off, or are one of the select few who qualify for student loan forgiveness. For those individuals who borrowed federal loans to finance their education there are seven different repayment plans which consist of: (1) the Standard Repayment Plan, in which the payments are a fixed amount of at least \$50 per month for up to 10 years, and a person will pay less interest for their loan over time under this plan than they would under other plans; (2) the Graduated Repayment Plan, in which the payments are lower at first and usually increase every two years for up to 10 years, and a person will pay more for their loan over time than under the 10-year standard plan; (3) the Extended Repayment Plan, in which payments may be fixed or graduated for up to 25 years, and a person’s monthly payment will be lower than the 10-year standard plan; (4) the Income-Based Repayment Plan, in which a person’s monthly payments will be 15% of their discretionary income for up to 25 years, their monthly payments will be lower than payments under the 10-year standard plan, but they will pay more for their loan over time than they would under the 10-year standard plan, and if they have not repaid their loan in full after making the equivalent of 25 years of qualifying monthly payments, any outstanding balance on their loan will be forgiven; (5) the Pay As You Earn Repayment Plan, in which a person’s maximum monthly payments will be 10% of their discretionary income for up to 20 years, a person’s monthly payments will be lower than payments under the 10-year standard plan, and if they have not repaid their loan in full after they have made the equivalent of 20 years of qualifying monthly payments, any outstanding balance on their loan will be forgiven; (6) the Income-Contingent

Repayment Plan, in which a person’s payments are calculated each year and are based on their adjusted gross income, family size, and the total amount of their Direct Loans for up to 25 years, a person will pay more for their loan over time than under the 10-year standard plan, and if they do not repay their loan after making the equivalent of 25 years of qualifying monthly payments, the unpaid portion will be forgiven; and (7) the Income-Sensitive Repayment Plan, in which a person’s monthly payment is based on their annual income for up to 10 years, and a person will pay more for their loan over time than they would under the 10-year standard plan. See Federal Student Aid, <<https://studentaid.ed.gov/sa/repay-loans/understand/plans>> (last visited November 12, 2015). However, although one may select or be assigned a repayment plan when they first begin paying their student loans they can change their repayment plans at any time. *Id.*

It is also important to note that one must repay their student loans even if they do not complete their education, cannot find a job, or are unhappy with the education for which their loan paid for. See Federal Student Aid, <<https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation>> (last visited November 12, 2015). Nonetheless, there are certain circumstances that may lead to one’s federal loans being forgiven, canceled, or discharged, which consist of: (1) closed school discharge; (2) total and permanent disability discharge; (3) death discharge; (4) false certification of student eligibility or unauthorized payment discharge; (5) unpaid refund discharge; (6) teacher loan forgiveness; (7) public service loan forgiveness; (8) Perkins Loan cancellation and discharge. *Id.* However, when lawyers hear about loan forgiveness they are more likely than not to hear about the Public Service Loan Forgiveness Program (“PSLF”) which forgives the remaining balance of a person’s Direct Loans after they have made 120 qualifying

monthly payments under a qualifying repayment plan while working full-time for a qualifying employer. See Federal Student Aid, <<https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/public-service>> (last visited November 12, 2015). Organizations that are recognized as qualifying employers under the PSLF are government organizations at any level, not-for-profit organizations that are tax-exempt under Section 501(c)(3) of the Internal Revenue Code, and other types of not-for-profit organizations that provide certain types of qualifying public

services. *Id.* The types of loans that qualify for PSLF are any loan received under the Direct Loan program, and loans under the Federal Family Education Loan Program or the Federal Perkins Loan Program may become eligible if a person consolidates them into a Direct Consolidation Loan. *Id.* However, only qualifying payments that one makes on the new Direct Consolidation Loan can be counted toward the 120 payments required for PSLF. *Id.* Furthermore, it is important to note that if a person has both Direct Loans and other types of federal student

loans that they want to consolidate to take advantage of PSLF if they consolidate their existing Direct Loans with the other loans they will lose credit for any qualifying PSLF payments they made on their Direct Loans before they were consolidated. *Id.* In such situation a person may want to leave their existing Direct Loans out of the consolidation and consolidate only their other federal student loans. *Id.* ■

Arsenio L. Mims is Law Clerk for the Hon. Michael M. Mihm United States District Court, Central District of Illinois, Peoria Division.

Networking DOs and DON'Ts

BY NATALI MARQUEZ-PONCE

Networking is particularly important for new attorneys to build relationships that can provide mentorship, job opportunities, and build their reputation. The following are a few do's and don'ts of networking:

DOs

1. Brand

Develop your personal brand. Think of yourself as a product. What do you want people to think when they hear your name? Determine where your brand is strong and where you can develop yourself further. Take advantage of free in-person CLEs, seminars, and other events tailored to developing yourself in the legal community; whether it's how to dress for success or build up your resume.

2. Non-Legal

Join non-law related organizations or activities, whether you're volunteering your time to a charitable organization or on a sports league. It is important to attend events and activities you are passionate about because that is when you are able to build lasting personal relationships and expand your book of business. Also, bring your business cards with you everywhere! I have made the mistake of not having one on me and it is quite embarrassing.

3. LinkedIn

LinkedIn is like an electronic Rolodex. When you receive someone's business card, add them on LinkedIn as soon as possible – if you have the mobile app, you can even add the person that same day. Improve your own page so that people within your LinkedIn network looking for an attorney in your industry can consider hiring you.

4. Books and Sports

One of the most daunting tasks when networking is figuring out what to talk about other than the law. The most common topics I have discussed are books and sports. Sports are easy because most of us follow our college teams and can discuss how they are doing in comparison to other college teams. Books are also great conversation starters because even if the other person has not read the book, they'll ask you to tell them more about it, and they'll likely think of another book or topic related to what you just described to them. These two topics are sure to get your conversation started.

5. Research people

If you can obtain a guest list for a networking event in advance, take some time to research the people you want to

meet. Learn about their most recent court victory, their hobbies, or any other interests you are comfortable discussing. I don't recommend regurgitating everything you read about the person, but do say that you looked forward to meeting them at the event and why.

DONT'S

1. Get drunk

It's easy to keep going up to the open bar for a refill, but when you are at a networking event, you want to keep your wits about you to portray the best version of yourself. I highly recommend limiting yourself to two drinks at the event.

2. Negativity

Don't complain. Stay positive in what you have to say. If you somehow end up talking about a negative experience, say what you learned from it and how it has made you a better person/attorney.

3. They can't help me

Every opportunity is a networking opportunity. Treat meeting every new person like a potential job or client. Be your best self and leave them with a lasting positive impression. ■

Things I wish I knew as a law student

BY SEAN E. MILLER

Despite all the doom and gloom about the legal profession, being a lawyer can be extremely rewarding and exciting work. The unfortunate part about that is you have to get through law school first. I have never heard any attorney say, “Boy, I wish I could go through law school again.” While being a law student is not the most enjoyable thing in the world, it helps to know that other people have gone through the same thing you are going through. In the hopes of making your time a bit easier, I’ve compiled five things I wish I knew when I was going through law school.

5. Ignore advice on how to study

You’ve been accepted to law school. You clearly know what you’re doing when it comes to studying and have a system down that, thus far, has worked for you. Stick to it. Law school is not a time to experiment with new study methods. Final exams require you to analyze and apply complex material that you have been learning for the last four or five months in a single instance, so trying out a new way to study is, unfortunately, not a luxury that is as available as it may have been in undergrad. I tried the “type up a 100+ page outline” routine for a few of my classes my first year rather than sticking to memorizing flashcards as I had done in the past. It turns out I did better on the exams where I used flash cards to study with rather than the outline. Whatever the method to your madness, I would recommend you do not deviate from it.

4. Treat law school as your job

More than likely, you probably won’t work during law school. In fact, you can’t work more than 20 hours per week if you’re enrolled in a full time program. Make law school your new job. Work 40+ hours per week and make yourself available when the work needs to get done. But every job lets you take breaks and your new job as a law student should be no exception. Take time for yourself and to be with friends and family. Law school should take up a

majority of your time, but it does not need to completely consume your life. One of the most important skills I learned in law school is knowing when to put the books down and take time for myself. Structuring your day around dedicated work times helps you not only be productive, but to take a much needed break every once in a while.

3. The open book exam is NOT your friend

It’s easy to think that open book finals are not as difficult as closed book finals. That outline you typed (or got from someone who already took the class) seems like a nice security blanket. But the important thing to remember is that the professor wants to see that you not only know the law but that you can apply it to a certain fact pattern. Flipping through 100+ pages of an outline to find the black letter law only wastes time that you would otherwise be devoting to analyzing the law and applying it to the facts. Even if the professor allows you to bring in books and notes to the exam, treat it as a closed book test. Not only will it pay off in the short term for your law school grades, but it will also help to prep you for the mother of all closed book finals: the bar exam.

2. Things do get better

Law school is an expensive form of hazing with books. And the professors know it. My constitutional law professor told our class that first year is “like a mugging.” After doing fairly well in undergrad, it’s easy to get discouraged in learning complex material and not getting all A’s (shudder at the thought). The important thing to remember is that your goal is to become an attorney and every other attorney has been through the same thing; it’s totally doable. And being a lawyer is worth all the work and pain. It’s a profession that is full of tough work, but it is fun, exciting, and extremely rewarding. Oh and there’s no final exam at the end of

the semester when you are an attorney.

1. Whatever you do, don’t be a gunner

Nope. No. Just don’t. This comes from experience. Admittedly, the first couple weeks of law school, I was a gunner until I posed a hypothetical to my contracts professor and she promptly posed it right back at me. Gunners will be a constant presence in law school, from the first day of class to the last day of your final year (yes, there are even last semester law school gunners). My theory why gunners do what they do is a sense of over confidence; a belief that they have such a mastery of the material to a point where they can pick the professor’s brain about minutiae that does not help with the classes understanding of the material or, at worst, won’t be on the final. I’m not saying don’t ask questions. But you have a finite amount of time to learn a lot of complicated material and a semester can go by quickly. Your time is better spent learning and mastering the material than trying to play “Stump the Professor.” ■

Sean E. Miller is an associate attorney with Sgro, Hanrahan, Durr & Rabin, L.L.P. in Springfield. He concentrates his practice on civil litigation and estate planning.



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Bar examination scores decline, presenting a challenge for law schools—and for the profession

BY DANIEL THIES

The trials facing American law schools are intensifying. In addition to soaring costs, high student debt levels, and declining enrollment, law schools are now facing an additional challenge: increasingly poor bar examination scores and declining bar pass rates. Like many of the serious challenges facing legal education today, this problem cannot be solved without increased engagement from practicing lawyers and judges.

The first hint of a problem came from the July 2014 bar examination. The results of that exam showed that the nationwide mean score on the Multistate Bar Examination (“MBE”) declined by 2.8 points to 141.5, the largest drop in 34 years. (MBE scores are equated so that they can be compared across administrations). As a result of this decline, the percentage of test-takers achieving a passing score declined between 2.9% and 8.7%, depending on the jurisdiction. Illinois’s results were not exempt from this trend. In Illinois, the overall pass rate dropped 4.3% to 80.9%, and the pass rate for first-time test takers fell almost two points to 87.1%.

Until recently, the cause of this decline was unclear. A malfunction in the ExamSoft software that applicants used to upload their test answers after the first testing day in July 2014 caused significant stress that may have contributed to a one-time dip in scores. In Illinois, a small increase in the score required for passing may also have lowered passing rates.

But the recently released results from the July 2015 examination show that these factors are not the only, or even the most significant cause of the decline. In 2015, the nationwide median score on the MBE dropped *another* 1.6 points below 2014 scores, to 139.9, the lowest level since 1988. This result rules out the theory that the dip was solely the result of the ExamSoft debacle, which was not a factor

in 2015. As a result of this decline, pass rates in Illinois for the July 2015 test are expected to drop as well.

So what is the likely cause? One possibility is that as fewer people choose to pursue a legal education, law schools have begun to fill their classes with students with lower credentials who are less likely to pass the bar. The number of applicants to law schools has fallen from 87,900 in 2010 to 55,700 in 2014. During the same period, first year enrollment fell 27.7%. Overall, a stunning 80% of applicants in 2014 were admitted to law school.

To make matters worse, the decline is greatest among students with better credentials. From 2010 to 2013, for example, the percentage of entering law students with an LSAT of 160 or above dropped by nearly 20%, from 40.8% to 33.4%, and the percentage with scores at or below 149 increased by over 50% from 14.2% to 22.5%. Students with LSAT scores in this lower range are at high risk for not passing the bar exam. In short, smart people are no longer going to law school in the numbers that they once did, and law schools are struggling to cope.

These statistics are sobering. But the solution is not simply to point fingers at the law schools, for the challenges implicate us all. The number of talented people who are choosing not to pursue a legal education speaks poorly of the profession as a whole. And a consistent decline in the abilities of prospective lawyers threatens the quality of legal services that our profession can provide to the public. The failure of our system of legal education to ensure that prospective lawyers are capable is a problem for the entire profession.

What is needed now more than ever is a call to action for the legal profession to become invested in legal education. Practicing lawyers and judges know better

than anyone the knowledge and skills that are necessary for new lawyers to succeed. As the ABA’s influential 1992 *MacCrate Report* on legal education commented, “[I]egal educators and practicing lawyers should stop viewing themselves as separated by a ‘gap’ and recognize that they are engaged in a common enterprise—the education and professional development of the members of a great profession.”¹

What does this mean practically? To start, lawyers should view themselves as part of the system of legal education, and should actively work to train new attorneys. Whether serving as a mentor at a local law school, hosting an extern or summer law clerk, signing up to teach as an adjunct professor, or simply giving a speech to law students, practicing lawyers and judges have a crucial role to play in improving legal education.

At an institutional level, bar associations need to be actively engaged with supporting legal education and legal educators. Over the past several years, the ISBA’s Special Committee on the Impact of Law School Debt on the Delivery of Legal Services, and its Task Force on Law School Curriculum and Debt, have presented a wealth of information on this topic and have proposed various steps that law schools and bar associations could take to improve legal education.

The challenges facing law schools are real. But lawyers cannot simply dismiss these issues as “somebody else’s problem.” Lawyers must be informed and engaged. Only then can they provide the unique insights gleaned from years of practice that are crucial to the education of every aspiring lawyer. ■

1. ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP 3 (1992).

Negotiation hooks

BY IRYNA SOKHATSKA

William Shakespeare, the greatest English poet and playwright, said, “We know what we are, but know not what we may be.” The article is focused primarily on studies helpful in understanding negotiation insight that one, unfortunately, can’t always control but for sure should be aware of. The negotiation hooks described in the article are not exhaustive and only the most important ones are analyzed here. The information is based on studies provided by Professor of Psychology and Pedagogical Proficiency, member of the International Academy of Information Technologies, Sheinov V.P, in the book “The Art of Controlling People,” 2005.

“Good communication skills are vital to a successful, rewarding practice. You need to communicate well with your clients, staff, partners, associates, other lawyers, and vendors. Improving your communication skills will let you express yourself with more confidence”¹ and some knowledge of negotiation insight or so called “negotiation hooks” will let you achieve the results fast and smoothly. It will also let you recognize techniques by which you could become a marionette in someone’s skillful hands. Some guidelines, like these, will make a difference because “before anything else, getting ready is the secret to success.”² Here are some rules and techniques to remember:

1. The “Two yes” or Socrates’ rule³

(Socrates is a classical Greek philosopher born circa 470 BC, in Athens, Greece).

Under this rule the most important question should be preceded by at least two simple short questions, which will be answered positively by your counterparty for sure. In this case most likely (s)he will say, “yes” to the most important question too.

Why and how does it work?

By saying “yes” our blood fills with specific hormones—endorphins (the brain’s

“feel-good” chemicals) that lift our mood. After two portions of “yes,” the next “yes” will be a result of a pleasant feeling caused by hormones. One portion of “yes” is not sufficient and can’t switch momentarily our blood to the “pleasant” condition.

“Solomon, the writer of Proverbs, was right when he wrote, “Pleasant words are as a honeycomb, sweet to the soul and health to the bones,” Proverbs 16:24.”⁴

If some question requires “no,” put it into “pleasant form” to create appropriate basis for negotiations. For example, almost any negative question can be answered: “Excellent question!” or “I’m glad that you ask that.” Of course, all further statements should be worded preferably positive, if possible, too.

If there is doubt about the “positive response,” take your time and keep silent. Silence is golden when you can’t think of a good answer.⁵

Homer’s rule⁶

(not Homer Simpson from “The Simpson Family” but Homer, an ancient Medieval Greek who was born sometime between the 12th and 8th centuries BC, known for “Odyssey” and “Iliad” as well as for speeches that provided models in persuasive speaking and writing).

The core of Homer’s rule is that the order of the arguments matters: it influences the persuasiveness of the speech. The most persuasive speech will be based on the following order of arguments:

- Strong;
- Middle strong;
- The strongest.

Why is that order preferable?

Strong arguments create confidence and if there is confidence, the next arguments will be perceived as having more strength. The need of the strongest argument at the end of the negotiation is desirable because this is the time when the counterparty makes the decision – it’s “the last shoot time.” Even if making the decision is

postponed, the memory peculiarity will come into play: as a rule, everything that was at the end and at the beginning of the discussion is remembered very well. The middle of the discussion is usually remembered the worst.

As to the weak arguments - they have to be excluded from negotiations at all. Even one weak argument attracts the counterparty’s attention and ruins confidence. The effect of one weak argument is often compared with an effect of a software virus. And here is an example of a weak argument:

A: It’s too late for me to quit drinking.

B: It’s never late to quit.

A: Excellent, then I will do it somehow later on.

One more point - the strength (weakness) of the argument should be evaluated from the counterparty’s prospect.

3. Pascal’s rule⁷

(Blaise Pascal, 19 June 1623 – 19 August 1662, was a French philosopher, mathematician, physicist and writer).

Very often the counterparty doesn’t agree only because (s)he wants to avoid humiliation or embarrassment. For most of us, it’s difficult to admit that we are sometimes wrong or lack knowledge, or experience. That’s in the human nature.

So, under Pascal’s rule if you stalemate the counterparty, there is little or no chance to compromise or find a favorable solution for both sides. Let the party save the face—that’s the key under Pascal’s rule.

Let’s turn to IRS for the example:

As ridiculous as it sounds, the federal government requires that money acquired through illegal means be reported and taxed just like legitimate income. It’s right there on the official IRS tax instructions: “Income from illegal activities, such as money from dealing illegal drugs, must

be included in your income on Form 1040, line 21, or on Schedule C or Schedule C-EZ (Form 1040) if from your self-employment activity.⁸

The nuance of the income form and the line referenced above is the following: there is no mentioning about “illegality.” Here is how the line is spelled: “Other income. List type and amount.”

“Saving face” (in addition to some other factors and reasoning) is, thereby, present as well.

4. “Psychological Aikido” rule

The psychological aikido’s main principle is the same as a classical physical aikido: using the force of the other party to gain control; switching the counterparty’s attention to succeed.

How does that work in negotiations?
One of the excellent examples of this

approach is the fairytale “A fox and a crow.” A crow was on the tree having a piece of cheese in the beak. The fox wanted to obtain the cheese and started to praise the crow saying, “Sing, sing, please, your voice is so sweet, so unique.” After a couple of similar compliments the crow forgot about the cheese, opened the beak to sing, so the cheese fell down and was happily eaten by the fox.

If the crow had had the negotiation training, the crow would have taken the cheese out of the beak before singing. To sum up, don’t be distracted by something pleasant since it can be counterparty’s maneuver. “Think twice before you speak, because your words and influence will plant the seed of either success or failure...”⁹

On a final note, remember that being focused and alerted helps to realize and avoid negotiation hooks. There are no ideal negotiators but there are a lot of very well

trained, experienced and educated ones among whom you may be (or, hopefully, already are).

Iryna Sokhatska is a practicing lawyer in a global outsourcing product and application development company, SoftServe, Ukraine, and an International LL.M student at IIT Chicago-Kent College of Law, Chicago, Illinois. isokhats@kentlaw.iit.edu

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9. Napoleon Hill

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Eight tips for law students taking the MPRE

BY MARIE K. SARANTAKIS

The Multistate Professional Responsibility Examination (MPRE) is a two-hour multiple-choice exam that consists of 60 questions tailored to test examinees' competency of the standards that regulate attorneys' professional conduct. Almost all states, with the exception of Maryland, Wisconsin, and Puerto Rico, require completion of the exam, with the satisfactory minimum score for passage varying on the jurisdiction. Accordingly, the vast majority of law students attending school in Illinois will at some point sit for the MPRE. Here are a few tips to keep in mind when preparing to take the exam:

1) Register early

Rather than waiting to take the MPRE near the time you take the Bar exam, ease your mind by knowing that you don't *have* to pass the first time around. That isn't to say that you shouldn't try your best or expect the worst, rather there is a sense of comfort in knowing that you have a second bite at the apple should you need one. The fact of the matter is that you likely will pass the MPRE the first time around, but schedule your exam on the contingency that you won't. (*Keep in mind that if you plan on practicing in more than one state, you will need to meet the minimum score for each jurisdiction*).

2) Don't underestimate the difficulty of the exam

Many students initially dismiss the challenging nature of the test. In part that may be because they consider it to be an ethics exam and accordingly believe that differentiating between right and wrong will be intuitive. However, the MPRE is not testing to see whether you are an ethical person, rather it is testing your understanding of the model rules and application will require having a strong foundational and working knowledge of the rules and their respective exceptions.

3) Take an online free prep course

There is no need to spend any financial resources studying for this exam. BarBri, Kaplan, and Themis currently offer complimentary online lectures, outlines, and practice quizzes as a way to promote their bar study materials. Take advantage of these complimentary programs. However, be sure to review the terms of their agreements, as some companies may be asking you to commit to their study program for full-fledged Bar Prep moving forward. As a soon-to-be-attorney, it's never too early to start reading the fine print. Also note, that if you prefer learning with a book, rather than an online class, many of these companies will provide free outlines and practice exams at their promotional tables when visiting law schools.

4) Don't overthink the correct response

Everyone has a different approach to fielding multiple-choice questions. One method that is particularly useful for the MPRE is to read the question, pick out your instinctual response, then slowly reread over all of the possible answer choices again, seeing if you again come to the same conclusion. Trust your instinct but don't neglect to thoroughly review the subtle distinctions of each response.

5) Narrow down your answers

A number of questions will be in the form of two yes and two no responses with different reasonings. First, decide whether the answer is yes or no, eliminating the remaining glaringly wrong answer choices. They are just a distraction and this simple elimination improves your odds of getting



Marie K. Sarantakis

the question correct by 50%! Another method to eliminate wrong answer choices is to check if any two answers say the same thing. If they do, they must necessarily both be wrong, as there can only be one right answer.

6) Your law school's Professional Responsibility course may not be sufficient to prep you for the MPRE

Your professor may or may not go over all of the material that will be tested on the MPRE. This class will serve as a strong foundation so that you will be able to better retain and understand your MPRE study materials and the rules themselves.

7) Do not leave any answers blank

You are not penalized for selecting the wrong answer. Therefore if you run out of time, you are better off guessing (and have a one in four chance of being right), rather than leaving the answer blank.

8) Be organized

Surprisingly, the most difficult part of the exam for many is not the exam itself. There are specific instructions that must be followed on exam day and it would serve you well to prepare the night before. For example, you need to be sure to go online and print your admission ticket and thoroughly review all relevant instructions for exam day. You will be expected to bring certain items to the exam (such as pencils, a government-issued ID, and a passport photo in a clear plastic bag) and leave other personal property behind (such as a watch, beverage, or cell phone). On the day of the examination give yourself plenty of time to locate and familiarize yourself with the testing center. ■

Marie Sarantakis is a third year law student at The John Marshall Law School. She serves as a member of the ISBA Young Lawyers Division, ISBA Family Law Section Council, and ISBA Special Task Force on Rule 711. If you have any questions regarding the MPRE, you can contact Ms. Sarantakis at msarant@law.jmls.edu.

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How to use LinkedIn to its maximum potential

BY ERIN WILSON AND MARIE SARANTAKIS

LinkedIn can be a powerful tool for networking, regardless of your purpose or particular industry. Howard Lamm, an Enterprise Account Executive for LinkedIn, shared some ways in which to maximize one's professional profile.

1. Connecting

At a very basic level, you can contact people you know and those who you wish to know better. The website is a tool to reach out to new contacts and expand your network when growing your business or trying to land a new job.

2. Sharing status updates

Keep friends and colleagues in the know. You never know what opportunities may come from telling others what you are working on. For example, there may be an opportunity to collaborate with a reputable name in the industry or someone may be seeking your niche expertise.

3. Joining professional groups

By teaming up with like-minded

professionals you can bounce ideas amongst one another for inspiration. Additionally, you may be made aware of some opportunities that you did not know existed.

4. Following others

If you follow other individuals or companies, you can read and share their content, as well as participate in discussions. By engaging material drafted by industry leaders you will enhance your competence in a given field.

5. Interacting with job recruiters

You can search for available positions by browsing openings that match your skill set. Many recruiters are now using LinkedIn to find potential candidates, so be certain to keep your profile current and professional contact info visible.

6. Exposure to potential clients

While our ethical obligations prevent us from directly soliciting clients, marketing

one's name is perfectly acceptable. Clients can only find you if they know you exist.

7. Building a company page

LinkedIn is a great opportunity to promote not only yourself, but also your business. You can create a company profile and invite others to follow the page. The content and frequency of your posts will determine your web presence, which will help you stay relevant and boost your presence in the industry. ■

Erin Wilson practices family law and works at O'Connor Family Law, PC. She serves as a member of the ISBA Young Lawyers Division, Women and the Law, and Assembly. Ms. Wilson can be found on LinkedIn at <<https://www.linkedin.com/in/erin-wilson-8a34008>>.

Marie Sarantakis is a third-year law student at The John Marshall Law School. She serves as a member of the ISBA Young Lawyers Division, ISBA Family Law Section Council, and ISBA Special Task Force on Rule 711. Ms. Sarantakis can be found on LinkedIn at <<https://www.linkedin.com/in/mariesarantakis>>.