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TEACH YOUR PUPILS TO BE STUDENTS OF THE LAW*

by

Peter M. Edelstein**

Introduction

No matter how talented an instructor is, if a student does not have the power to learn, the efforts of the instructor may not be effective. To use an analogy from Law 101, if the terms of an offer are communicated to one without the power to accept, no offer is made.

We do not expect our students to bring to our classrooms a meaningful knowledge of the law about to be taught and it may not be realistic nor fair to expect them to bring a knowledge of the tools and the skills necessary to learn that law.

It is amazing to think that students may somehow progress through twelve years of public school and four or more years of college without adopting or developing an array of practices designed to make their learning a more natural and graceful endeavor. Yet anecdotal evidence seems to indicate that many students do not profitably apply any conventional or consistent approach to their studies. Is there any one of us who has not been confronted by a student wanting to know *what did I do wrong?* or *how can I do better next time?* And you just want to shout, "Don't you know how to study? Don't you know how to take an exam?"

That feeling of frustration generates two inquiries: (i) is it possible for pupils to be taught to become better students? and, (ii) if so, can *we* do it? This article suggests that it is possible to teach students to enhance their abilities to study, learn, and take examinations, and that we, as their instructors, are the ones best situated to help them.

While most colleges and universities have learning and study resources available, many students do not take advantage of those resources because they may not be readily accessible or convenient or because the effort required is perceived as an additional burden. By addressing law-learning skills in our courses, we can take advantage of the students' presence and comfort in our classrooms, we can minimize the perception that we are adding to their workloads, and we can monitor their progress.

Students who know and apply learning skills are likely to achieve better results, are likely to have greater confidence in their studies, and are likely to find solace in merely having

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a set of guidelines to help them. If we focus our energies only on the transmission of the substance of our courses and exclude consideration of the methods by which the information is received and processed, we may be inviting continued frustration.

Based on the belief that by helping our students to become better learners, we can become more effective teachers, this article is intended to enable you to offer to your students an assortment of skills, techniques, and ideas that may assist them in our law courses (and in other courses), now and in the future. The material which follows is divided into three parts: I. Law Learning Skills, II. Guide to Briefing, and III. Exam Techniques. The information is addressed to the students and is designed to illustrate methodologies which will enhance their abilities to understand and learn the law. The suggestions are simple and informal and may be modified to accommodate your particular class environments. Permission is granted to any educator to photocopy or otherwise use or disseminate the material for noncommercial classroom purposes. Attribution would be appreciated. A bibliography is included to offer students additional "study" resources.

I. Law Learning Skills

Getting good grades in any course, involves more than studying *hard*. Good grades are usually the reward for those who study *right*. While studying is an intensely personal process, and everyone has their own methods and devices, there are some practices that may help you. Even if you consistently get good grades in your other subjects and are comfortable with your methods, if you desire to obtain or maintain better grades in your *law* courses, and to do so without exerting a punishing mental and physical effort, consider the suggestions that follow.

1. *Understanding and remembering.*

- Look at the *background*. The subject of law is more easily understood and its rules, principles, and doctrines more easily remembered if related to their social or historical backgrounds. As the law evolved, in many cases, it responded to social needs or pressures. If you appreciate the environment in which laws were formed or operate, they make more sense and the details can be more readily recalled. Some examples: the existence of "consideration" was (and is) considered evidence of "an intent to be legally bound;" U.C.C. 2-207, the "Battle of the Forms" section, was designed to modernize and expedite the process of making sales agreements, because the common law "mirror image rule" was inhibiting or preventing commerce; the doctrine of "promissory estoppel" offers legal help to a party unfairly damaged by relying on a naked promise and unable to sue for breach of contract. While not every rule, principle or

doctrine lends itself to an obvious social or historical analysis, try to understand those that do. You will be rewarded with a better grasp of the rules and easier recall of the details because you can relate them to meaningful applications.

- Look for the *logic*. The law and learning the law should be logical. Attempt to relate the legal points in an orderly fashion to determine a sensible result. The search for logic in the law will also assist in understanding and remembering the rules. For example, in the tort of *negligence*, even if the defendant acted carelessly (defendant had a duty to plaintiff, defendant breached that duty, plaintiff was damaged), if the defendant did not *cause* the damage to the plaintiff, there is no liability for negligence.
- Be *precise*. Knowledge of the definitions of words is fundamental to all meaningful communication. In the study of law, knowledge of the definitions of the various causes of action and related terms is essential because the definitions serve as analytical tools. For example, once you know the definition of "offer," you will be able to seek and identify its elements from a given fact pattern in order to determine if an offer exists. The study of law requires an appreciation of the concept of *precision*. If you learn the definitions exactly, you will learn to think precisely. Thinking precisely makes you comfortable with your knowledge, you will know what you know.

2. *Attend classes regularly.* Attending class is, in itself, an efficient form of studying. The classroom environment makes use of lots of your senses; (remember the five senses: touching, smelling, hearing, seeing, tasting). By using more senses, more sources are available to input the information and your ability to learn is enhanced. In class you *hear* the instructor, you *see* (and *touch*) your notes, you *see* the board, the text and your notes, you *hear* questions, you *hear* answers. And, there are relatively few distractions. Compare the number and quality of these sources to sitting in your room at night trying to read and understand the text. Attending class has additional benefits:

- You will be investing in the portion of your grade attributable to "class participation."
- You will get to know other students who can help you if you missed something in your notes, discuss the subject with you, or be a member of your study group.
- You will impress the instructor.

3. *Take accurate and complete notes.* Your notes reflect more than what your instructor said. They represent what he or she thought was relatively important, things you should know. It is not possible, nor is it good practice for an instructor to try to teach everything. Your instructor has distilled the information into a mass, manageable as to its quantity and desirable as to its quality. You are being sent a message: "The material I review in class is worth knowing." While it may be appropriate to examine students on areas not covered in class (especially if the student is so advised), most instructors will probably feel for reasons of fairness (or ego) that you should be examined on areas that were "taught." In class, think about what the instructor is saying. Attempt to capture the ideas and thoughts rather than struggling to transcribe every word. Your notes should memorialize and represent the essence of the lesson.

- If the instructor illustrates a point on the board, copy the illustration in your notes. His or her use of the board is indicative of special significance.
- Instructors often offer remarks about the substantive material in the form of hints or clues that can assist you with exam preparation. Include in your notes any comments about "exceptions," "general rules," "exam material," "name cases," etc.
- Conspicuously mark or "flag" anything that you did not understand or that needs more work, as a signal to return to that subject.
- Create your own "shorthand" to save time; for example "P," for plaintiff; "D," for defendant; "S. Ct.," for Supreme Court; "K," for contract.

Study your notes; learn them. In most courses, a knowledge and understanding of the notes is the *basic* element of exam preparation.

4. *Use a form for your note-taking.* In law school bookstores, "law school notebooks" are available. A page in a law school notebook, unlike a standard page, is divided into two sections by a vertical margin line: one-third is on the left side and two-thirds are on the right side. The practice is to take notes or brief cases on the right side of the page. Then use the left side of the page to insert explanations, additions, corrections, and other comments when the material is reviewed in class, or to write your own summaries when you review. This method of taking notes is useful and effective. It helps to organize your thoughts as well as your material. Review becomes much easier because all the related material is in one place. This note taking technique can be used

successfully in other courses.

5. *Participate in class.* If "class participation" is a component of your grade, you should participate for that reason alone. But there are other reasons:

- You will learn more by participating. You will necessarily have to think just to formulate a question, make a comment, or supply an answer.
- Participating in class is a form of studying. Hearing yourself say something reinforces your knowledge and builds your confidence. You are more likely to remember ideas, rules and concepts that can be associated with your participation or the participation of your classmates.
- Class participation signals to the professor that you are there, that you are interested, that you are making an effort. Do it!

6. *Review class notes regularly.* It is easier to chew, swallow and digest small portions, than to gobble and binge. When possible, review your class notes every day. Try to edit or rewrite them the same day you took them, and as you do so, think about what is described. Daily review of your notes accomplishes several purposes:

- It is a quick, informal form of study, which is relatively easy because the material is still fresh in your mind and limited in size and scope.
- It affords the opportunity to correct or complete them, while you still are aware of the omission or defect;
- It is an excellent form of warm up for the next class; (you will then not arrive in class cold and spend the first few minutes reorienting yourself);
- It establishes a rhythm to your learning routine that becomes a natural part of your life - not an intrusion.
- You will have a head-start when you commence your formal, dedicated, study sessions.

7. *Participate in a study group.* For most people, studying is not an exercise in fun. A study group is the closest thing to injecting an element of fun into your job as a student. Meeting with other students regularly during the semester or several times before an exam to review course material can be

rewarding, especially in the study of law (where differing positions caused the dispute). In any group some participants will have a better understanding of some matters than other participants. Members of the study group, in effect, teach each other. By speaking, arguing, or listening, you are more likely to understand the material. You are more likely to retain the rules, doctrines and concepts because you can associate them with the participation or presentations of members of your group. Your study group participants can fill gaps in your understanding. The exchange of ideas and questions becomes a form of review and self-testing. A few *caveats*: pick your study group members carefully (as in tennis, it helps your game when you play with a better player); don't waste time - eat and drink after the study session; appoint one person as "group leader," to schedule meetings, communicate with members, keep track of progress, note problems, etc.

8. *Plan your study schedule.* If you were about to start a new business you would probably prepare a business plan including financial goals and target dates. Consider a *study plan* an essential part of getting good grades. Your objective is to have the time and opportunity to study and learn the required material. Well in advance of the exam, plan your study schedule. Look at the body of material you have to master, consider the relative difficulty of the various portions of the material. Divide the material into realistic study segments. Using your calendar, plot days and hours to be devoted to the material. Then stick to the schedule.

9. *Organize your stuff.* Gather all study materials in the place you will study regularly: notebook, text, other resources, pencils, paper, etc. Place them where you will not have to get up to reach them. Once you are up, the refrigerator or the phone or the TV beckons. Use your study time efficiently. Do not waste it searching for your materials. Every time you move from your study posture, the efficiency of your study session is reduced.

10. *Start nice and easy; then get tough.*

- Survey the task ahead. Calculate how and when to study each part of the material. You might start by making a quick review of all class notes or by reviewing the Table of Contents of the text. This will provide a feel for the size and scope of the subject matter.
- Distill your notes by preparing an outline, or when appropriate, by using the Table of Contents from the text as your outline. Note the headings, subheadings, listings and itemizations. The outline will offer you perspective; you can see the total to be learned and the relationship of the parts. The outline may also serve as a checklist. For example, in the study of law of

Contracts, by making an outline or by looking at the Table of Contents you will determine that "offer," "acceptance," and "consideration" are basic requirements. You then see the tests for enforceability: whether assent was genuine; whether the parties had contractual capacity; whether the bargain was legal; and whether the agreement was in the required form.

- After the quick overview, slow down and methodically learn the material in small, manageable segments. Study one rule, one concept, one doctrine, one area, at a time. Do not move on until you are confident that you understand what you have reviewed.

11. *Empathize with the instructor.* Do not ask, "Do I have to know that?" Instead, try to imagine what the instructor wants or expects you to know. Think about hints or clues the instructor offered. Consider the relative time that was spent in class on the various subjects. Look at the scope and depth of various portions of your notes. Determine what was emphasized. It is not possible to know what will be asked on an exam, but it is possible to anticipate what is likely to appear.

12. *Learning means understanding.* Do not fool yourself. Memorizing a term or being able to recite a rule, doctrine or concept is not sufficient. After you read or after you study a segment, pause and think. Ask yourself frequently as you progress with your studies, *Do I understand? Can I apply this rule (concept or doctrine) to situations other than the one described in the notes or text?* Do not feel comfortable until you can apply what you think you learned. Make up hypothetical questions, work them through to a conclusion. If your text offers problems at the end of each chapter, use them as a form of self-testing.

13. *Use a pencil when reading.* It is a useful practice to make notes directly on your reading materials. The notes will help you focus and recall. A pencil can underline, it can make a *bold* underline, and it can allow you to write comments or explanations. A highlighter cannot readily be used to distinguish gradations of importance, nor can it be used to make marginal notes, interlineations, or to add other information.

14. *Use mnemonic devices.* If you have trouble remembering lists of things that have no logical relationship, use a memory aid such as an acronym. Assign a letter to each item to be remembered and create a code word or phrase you can use to recall the categories. The Statute of Frauds, for example, addresses six unrelated categories of promises that must be in writing to be enforceable. You could choose: "E," for promises made by an executor or administrator to pay the debts of a decedent personally; "A," for promises to pay the debts of

another (suretyship); "M," for promises given in consideration of *marriage*; "R," for promises dealing with the transfer of interests in *real property*; "G," for promises for the sale of *goods* having a value of \$500 or more; "O," for promises which by their terms cannot be performed within *one year*. Play with the letters to create a word or phrase like, "GO MARE" or "My Elderly Aunt Rose Gets Out." The word or phrase does not have to make sense; just pick something which will trigger your recall. With *all* difficult lists, assign each item a designated letter or word and then make up a code word or phrase.

15. *Skim reading assignments first.* When confronted with a reading assignment, before you start to read, quickly skim the chapter(s), article, or other material. This will give you an overview of the task ahead. It will give you an idea of how long the assignment will take and how complex it may be. It will also offer you a sense of the main ideas, the terminology, and the relationship of the parts to the whole. After the quick scan, then proceed with a careful and deliberate reading of the material.

16. *Schedule study sessions early and often.* Frequent, brief, dedicated study sessions are more productive than one major cramming session. There is nothing worse than picking up a thick notebook and heavy text right before the exam; your memory is dim, the task is daunting, and time is running out. Delay only adds to your pressure; you have to be concerned about the available time in addition to learning the subject matter. Plan sessions of moderate length that will not wear you out or bore you. Do not separate the sessions by too much time to avoid having to relearn the material.

17. *Seek help from the instructor.* The instructor, in most cases, will be able to assist you. He or she probably has helped other students with the same or similar questions. You should not feel reluctant to speak to the instructor. There is no stigma associated with a desire to learn. By seeking help you will be more comfortable with the subject matter and you will have demonstrated to the instructor that you are making an effort to learn the material.

By applying a methodology to learning the law you will find that you *can* master the required material. Merely applying the process will make you more comfortable and thus enhance your ability to learn.

II. Guide to Briefing

1. Why Brief?

Lawbook authors use selected cases to illustrate the application of the rules described in the editorial portion of the text. The cases usually contain background information about the dispute, a description of how the case came

before the appellate court, and the "opinion" of the judge which justifies, explains and amplifies his or her decision of the issues presented. The cases, however, were not written for the purpose of educating students of the law. They represent a documented result of the legal process.

"Briefing" or "abstracting" is the process by which a reported case containing a legal opinion written by a judge is *transformed* into a learning tool for law students and lawyers.

By briefing or abstracting, we convert a judge's opinion into a consistent format containing an abbreviated statement of the facts, a statement of the issue or issues, the decision or decisions, and a summary of the reasons or "holdings." Once in this form, the brief serves several functions: you will learn to analyze a body of facts in order to glean what is relevant to the legal subject you are studying; you will learn to determine from those facts the differing legal positions of the parties; you will learn to artfully formulate the legal questions the judge had to decide, in the form of legal "issues"; you will recognize the judge's decision; you will understand the reasoning and justification the judge used in making the decision; and you will be better able to analyze and compare the relative qualities of different opinions.

2. Form of a Brief.

To maximize the benefits of briefing, use a consistent form:

	<u>Caption</u>
	Citation
<u>Facts:</u>	
<hr/>	
<hr/>	
<hr/>	
<u>Issue: Whether</u> _____ ?	
<u>Decision:</u> Yes/No	
<u>Holdings/Reasons:</u> _____	
<hr/>	
<hr/>	

3. Components of a Brief.

"Caption." At the top of the page is the Caption. This is a statement of the name or title of the case. For example: *Jones v. Smith.*

"Citation." Under the Caption is the Citation. The Citation is a series of numbers and abbreviations that serve to identify and locate the case in printed (or computer) sources. For example: "123 N.Y. 2d 456 (1990)." The first numbers,

"123", refer to the volume in which the case is found. The next letters indicate the name or title of the volumes containing the case; for example "N.Y.S. 2d" refers to a set of books entitled "New York State Reports, Second Series." The next group of numbers refer to the page number in volume 123 of the New York State Reports, Second Series, on which the case appears. The last numbers, usually in parentheses, indicate the date the case was decided.

"Facts." The "Facts" portion of the brief is a summary of the facts reported by the judge in his or her opinion. Properly briefed facts should include all of the facts of the case relevant to the law you are studying, and should omit the irrelevant facts. For example, if you are studying contract law, references in the case to the weather conditions are probably irrelevant and therefore should not be included in the brief. If, however, you are studying negligence involving an automobile collision, references to the weather may be entirely relevant and should be part of the Facts portion of the brief.

The Facts should be an abbreviated report of the events that gave rise to the lawsuit and which will assist in understanding the decision.

There are two types of facts: "substantive" and "procedural." "Substantive" facts recite the "story;" that is, what generated the dispute between the parties and what their respective legal positions are. "Procedural" facts explain how the case came to be heard before a particular court. For example: the case may have been tried and "A" may have won; then "B", the losing party, may have appealed (to an intermediate appeals court) and this time "B" may have won; then, "A", the losing party may have appealed that decision, (to the court of last resort) and that final case may be the case reported in your text. In most undergraduate law courses the substantive facts are emphasized; however, pre-law students (or serious students) should note the procedural as well as the substantive facts in their briefs.

The cases in your text are usually reports of the highest court of a particular state, because it would not be wise to study cases stating law which could soon be reversed or overturned by a higher court.

"Issue." While there are many ways to pose a question, for consistency, the Issue of a case should be started with the word "Whether." For example: "Whether the objective test is used to determine the intent required to establish an offer?" By always starting with the word "whether" you are forced to frame the Issue to properly focus on a particular point of law and to invite a clear decision. Be careful to note that there may be more than one Issue in a case.

"Decision." If the Issue is framed properly, the Decision is limited to the words "yes" or "no".

"Reasons" or "Holdings." This portion of the brief justifies and explains the decision in light of, and by reference to, the facts and applicable rules of law. It usually is the largest portion of the brief (except in cases in which the facts are lengthy or complicated).

"Rule of the Case." To test the quality of your Issue, and as a finishing touch to the brief, try the following: using the Issue, delete the word "Whether," delete the question mark and invert the question to form a declaratory statement. If the statement sounds like the legal proposition for which the case stands, the Issue is well done. This statement is referred to as the Rule of the Case; write it in your notebook above the caption. It will expedite your review of the cases and help you learn the applicable law.

4. *Format of a Brief.*

It is customary to write briefs on the right two-thirds of your notebook page, leaving the left one-third blank. When the case is reviewed in class, you can then insert comments, additions or changes in the portion of the page previously left blank.

III. *Exam Techniques*

The first and most important rule of exam taking is "be prepared." If you have adequately prepared or even if you have not adequately prepared, the following techniques may help you squeeze out the highest grade possible.

1. *Relieve the pressure.* As soon as you are comfortable, on scrap paper, "off-load" anything that might be resting in a fragile condition in your memory including any mnemonic cues. This will free your mind to think and reason unburdened of short-term memory enhancing devices.
2. *Survey the exam.* Look over the entire exam before starting to answer any questions. Doing so will give you an opportunity to relax, as much as you can, and to determine the proper allocation of your time between or among parts of the exam or the various questions, and to mentally prepare for what is to come.
3. *Answer the questions you know first.* If the exam is an essay exam or contains an essay component, do the easiest ones first. This technique will relieve some of the mental pressure, build your confidence, and allow you to return to the more difficult questions later. Furthermore, you will be assured of getting credit for what you know before time runs out.
4. *Look for answers in questions.* Do the short-answer questions first (but after you have read the essays). The short-answer questions (particularly

multiple-choice), may contain answers or hints, or may refresh your memory. This information can be used to answer other short-answer or the essay questions.

5. *Guess on short-answer questions.* Generally, you are not penalized more for providing wrong answers than for providing no answers (but check with the instructor). Therefore, if you do not know the correct response to a *short-answer* question - guess. Do not leave any blanks. If you do not give any answer, you cannot receive any credit.

6. *Do not guess or give incorrect information on essay questions.* Essay questions are usually graded by the correctness and quality of the response. Incorrect information furnished as part of your answer will result in loss of credit. Therefore, unlike short-answer questions, do *not* guess. Similarly, do not offer references to case citations, sections of statutes, or names of rules or doctrines, unless you are certain of their accuracy. If in doubt, refer to the name of the case or common title of the statute or describe the rule or doctrine.

7. *Do not invite loss of credit.* Do not signal possibly incorrect answers by "flagging" the question or answer. Graders have been known to overlook a wrong answer. Do not help the grader do his or her job. If you make a mark to remind you to return to a specific question, erase or obliterate it before submitting the exam.

8. *Use definitions.* As you read the essay questions, identify the legal issues and write the definitions of the relevant terms or concepts. Once the definition is on your paper, use it as analytical tool. It will serve as a checklist from which you will be able to discern the elements of the cause of action or legal concept. If each of the elements is present in the facts, you can assume the existence of the cause of action, doctrine or rule. Even if you are confused or uncertain in your analysis of an essay question, by providing the definition(s) involved, you will earn some credit.

9. *Focus on issue identification.* As you read the essay questions, note all the legal issues that may be involved. A single contract question, for example, may contain issues related to offer, acceptance, consideration, illegal bargain, capacity, mistake, statute of frauds, and more. Make the examiner aware that you saw the issues. By noting all the relevant issues, you properly begin the process of legal analysis and, in the event your discussions or decisions are less than perfect, you will be rewarded with some credit for being able to identify the issues. Be careful not to read too quickly, or to read carelessly, or to let an obvious issue capture your entire attention; you will miss issues.

10. *Read the facts methodically.* When reading a law exam question, pause at every word or phrase of legal significance, make a tentative analysis to that

point, then proceed. Do not try to read the entire question, remember all the relevant facts, analyze them and then come to the proper conclusions at the end. This methodology will help you to identify the not-so-obvious issues, and assist you in appreciating the relationship of the various issues.

11. *Write well.* If you know the answers but express them poorly, you may not receive complete credit. Try to write clearly, simply, concisely, and precisely. Check your spelling and grammar. Plan your time so you can proofread before you submit the exam.

12. *Make notes.* When reading the essay questions, make notes on the exam or on scrap paper to highlight important facts, to help you recall your tentative conclusions, and to organize your thoughts. Fact patterns can be long and complex. Trying to retain too much information can be confusing. You may not be able to recall all of your thoughts when you finally compose your answer unless you made notes in the process.

13. *Outline the essays.* Before you start writing the answer to an essay question, draft a brief outline of your proposed response on scrap paper so your final answer is well organized and does not ramble.

14. *Be responsive.* Answer the question that is asked. Read the instructions carefully. Do not lose credit by giving information that is not responsive. Be conscious that in the pressure of the exam environment, it is possible to read a question carelessly, believe you recognize what is being sought, and begin to answer . . . the wrong question.

15. *Be relevant.* Answer the question that is asked with information pertaining to the issues raised. Offering irrelevant information can be a signal to the examiner that you did not see the issue, or if you saw it, did not know the answer. Irrelevant information increases the risk of an incorrect response.

16. *Use "keywords."* If a doctrine, concept, or rule of law has a name or title, use it. This is a quick and easy way of letting the instructor know that you identified the issue. For example, if you are answering a question involving an exchange of promises, use the word "consideration"; if answering a question involving reliance upon an intentional misrepresentation of fact, use the word "fraud." If an explanation is appropriate, state it after identifying the doctrine, concept, or rule of law. Use of the keyword signifies that you recognized the issue, even if you did not know all of the ramifications.

17. *Do not be conclusionary.* Illustrate your reasoning. Explain how you reached your decisions. Since credit is usually awarded on the basis of the quality of your written answer, and not merely the correctness of a particular decision, you should give the grader sufficient information to illustrate that you knew the reasoning supporting your decision. Do not assume that the

instructor knows anything other than what you include in your response. Do not think so fast that you merely put down the conclusion without evidencing your reasoning. If your answers to the essay questions are very short, you may be offering conclusions without proper explanations.

18. *Write something.* If time is running out on essay questions and you know the answer, put something down, even if it is merely a list of applicable keywords. You will get no credit if there is no answer. If you do *not* know the answer to an essay, put down anything *relevant* that will indicate to the instructor that you knew something about the subject. You may get lucky. Be careful, however, not to offer wrong or irrelevant information.

19. *Do not cheat.* Do not cheat or give the appearance of cheating. You do not need to cheat. Help is available from the instructor. Get it *before* the exam.

20. *Do not hope.* When studying (or not studying), don't even think, "My instructor won't ask that..." He or she will.

Conclusion

We should not assume that our students have acquired meaningful law learning or exam skills. By devoting some effort to those subjects, we will have given our students a gift of enduring value. And we will find that we have become more effective instructors. References to law learning skills and exam techniques can be easily incorporated as part of our class presentations. The ratio of effort to reward is so great that we should not ignore the issue nor leave the task to others.

The foregoing suggestions have been accumulated over many years of studying, taking tests, and teaching. Some are the results of the author's experiences, some were gleaned from other sources, and some seem to have evolved into the public domain. Three especially practical and appealing publications are: "How to Study, Suggestions for High School and College Students," Third Edition, Arthur W. Kornhauser, The University of Chicago Press, 1993, (originally published in 1924, and revised many times); "Legal Writing Style," Second Edition, Henry Wiehofen, West Publishing Co., 1980, and "Whip Smart, The Tricks of the Trade for Better Grades," by Lamar Graham, in Rolling Stone Magazine, March 23, 1995. On the Internet, explore Virginia Tech Study Skills Self-Help Information at <http://www.vt.edu/stdysk/stdyhlp.html>.

If you have any law learning, briefing or study suggestions, or exam tips, please share them with the author.

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STRESS IN THE WORKPLACE: A CASE STUDY

by

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CASE OVERVIEW

Mental-mental job-related stress claims have been debated across the country in the state courts and the state legislatures throughout the late 1980s and 1990s, with experienced practitioners on both sides of the issue taking opposite points of view regarding their compensability. Mental-mental claims are those claims in which mental stress at work causes a mental disability (nervous breakdown caused by emotional stress) without any physical corroboration. New York was one of the first states to resolve mental-mental workplace stress claims. In *Wolfe v. Sibley, Lindsay & Curr. Co.* 36 N.Y. 2d. 505, 330 N.E. 2d 603, 369 N.Y.S. 2d 637 (1975), the New York Court of Appeals for the first time held that the psychological or nervous injury precipitated by psychic trauma is compensable to the same extent as physical injury.

Recently, the state of Iowa has allowed recovery for mental stress claims, after its highest court resisted ruling on mental-mental claims for years. In the landmark case of *Dunlavey v. Economy Fire and Casualty Company* 526 N.W. 2d 845 (Iowa 1995), the Supreme Court for the first time considered the question of whether psychic trauma is a readily identifiable cause of psychological or nervous injury. The Court held that mental disorders, even if not accompanied by physical traumas to the body, constitute an injury under the Iowa workers' compensation statutes, Iowa Code Chapter 85 (1993). In *Dunlavey*, Francis C. Dunlavey filed a petition with the Iowa Industrial Commissioner against his employer, Economy Fire and Casualty Company, claiming that he had suffered psychological injury as a result of work-related stress. Economy Fire and Casualty Company argued that without any

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