

# **Integrating Doctrine & Introductions to Skills: Examples to Spark Ideas for Your Own Class**

## **CURRENT ISSUES IN CONSTITUTIONAL LITIGATION: A CONTEXT AND PRACTICE CASEBOOK**

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## **A. Calls for change in legal education**

Carnegie Foundation for the Advancement of Teaching, *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION* (2007)

- “Most law schools give only casual attention to teaching students how to use legal thinking in the complexity of actual law practice. . . The result is to prolong and reinforce the habits of thinking like a student rather than an apprentice practitioner . . . engaged with the problems of clients.”
- Carnegie recommends that
  - “[t]he teaching of legal doctrine . . . extend beyond case-dialogue courses to become part of learning to ‘think like a lawyer’ *in practice settings*”
  - law schools integrate teaching of doctrine, skills, and values
  - students be given opportunities for frequent practice and feedback

Both Carnegie and Best Practices for Legal Education (Clinical Legal Education Association (2007) recommend:

- law schools integrate teaching of doctrine, skills, and values
- give students opportunities for frequent practice and feedback

Beyond Best Practices (forthcoming 2015)

## **B. Integrate introductions to legal skills in doctrinal courses** **Context & Practice Casebook series (Carolina Academic Press)**

- Dean Michael Hunter Schwartz (Arkansas) & Professor Gerry Hess (Gonzaga)
- Toolkits to help law teachers implement recommendations of Carnegie and Best Practices - Casebooks & detailed Teachers’ Manuals
- Torts, Contracts, Administrative Law, Evidence, Sales, Constitutional Law, International Business Transactions, Employment Discrimination, Energy Law, Wills, Trusts and Estates, Advanced Torts, *more*

### **Goals of Context & Practice Casebook series**

1. integrate teaching of doctrine & skills
2. vary teaching methods
3. reflect on roles of lawyers and develop students’ professional identities
4. provide multiple opportunities for feedback

#### **1. Integrate teaching of legal doctrine & skills**

Teachers’ Manuals include detailed suggested exercises that integrate doctrine & with introductions to legal practice skills. Examples:

- draft discovery requests
- evaluate a case
- conduct client or witness interview

## **2. Vary teaching methods**

Casebooks & Teachers' Manuals suggest multiple teaching methods. Examples:

- think-write-pair-share
- small group role-playing or law practice simulation, *e.g.*, negotiate a contract, brief the client, interview a witness
- small group discussion
- write about a concept, *e.g.*, synthesize multiple cases; examples or non-examples of a concept
- draft a legal document, *e.g.*, contract clause or statute to address problem
- preparing and asking questions of guest speakers

## **3. Reflect on roles of lawyers and develop professional identity – examples**

- teach ethical professional behavior by, *e.g.*, giving students opportunities to apply rules from cases, statutes to realistic law practice problems
- free write – *e.g.*, “what dilemmas do lawyers practicing in this area face?”
- bring real life into the classroom via
  - o news stories, photos, YouTube videos, documentaries
  - o documents (contracts, injunctions, tax returns, government reports)
  - o interviews with practicing lawyers and judges
  - o field trips
  - o guest speakers

## **4. Provide multiple opportunities for feedback - examples**

- multiple choice quizzes
- short answer or essay analysis of realistic problems
- verbal presentations and oral arguments
- role-plays – simulations requiring practice-related performances

## **C. Three examples of integrating skills and doctrine that I teach**

- Pro bono program - *Pro Bono Research Project*
- Hybrid clinic/writing - *Public Interest Research and Writing*
- Doctrinal course - *Current Issues in Civil Rights Litigation*

### ***Pro Bono Research Project***

- Students do free legal research for non-profits, government
- Research Request Form – included handout
- students fill real legal research needs in the public interest community
  - o while improving research, writing & oral skills
  - o culminates in sending memo/research to outside lawyer

### ***Public Interest Research and Writing*** – hybrid clinic/writing course

- o excerpt from course syllabus – included in handout
- o student evaluation – included in handout

## **D. Hybrid clinic & doctrinal course use same casebook**

CURRENT ISSUES IN CONSTITUTIONAL LITIGATION: A CONTEXT AND PRACTICE CASEBOOK (Carolina Academic Press 2d Ed. forth. 2015)

- Casebook includes voices other than appellate judges:
  - appellate oral arguments
  - appellate briefs
  - jury instructions
  - government policies
  - consent decree
  - non-profit reports
  - interviews with civil rights lawyers
- Doctrinal summaries & questions to guide student reading
- Factual background on police, corrections, social workers
- Companion website
- Each book chapter structured around a Law Practice Simulation, including
  - interoffice debate among attorneys for a single client deciding whether to appeal or whether to seek certiorari;
  - a jury charge conference;
  - briefing the client to decide the next steps in the litigation;
  - a settlement conference before a federal appellate mediator;
  - testimony before a legislative body;
  - appellate oral arguments

Guide to Simulation – in book, in handout; Evaluation of Simulation – in TM, in handout

## **E. Incremental ways to integrate skills into doctrinal teaching**

Law practice exercises in doctrinal classes, *e.g.*

- brainstorm documents to seek in discovery to prove a claim
- explain litigation advice to a non-lawyer client
- discuss incentives to settle
- draft email assigning research to junior lawyer
- brainstorm ways to research current law in jurisdiction

Guest talks by practitioners, clinicians, legal writing

### **Example of exercise that integrates doctrine & introduces skill**

- Drafting client interview questions to develop evidence to satisfy a legal standard
- Exercise requires drafting narrow questions focused on eliciting facts about whether an off-duty police officer acted under color of law when he assaulted the client, a bartender

Conduct that violates state law can still be action under color of law if the off-duty police officer was “clothed with the authority of the state” and “using or misusing authority of the state.” It depends on factors such as:

- whether defendant placed anyone under arrest
- whether defendant was wearing police clothing
- whether defendant carried a police weapon
- whether defendant identified himself as a police officer
- whether defendant used his government authority to pursue a personal goal

**Exercise to help students develop professional skills**

- synthesizing rules from multiple sources of law
- applying doctrine to real evidence – bar video
- using a client interview to build a factual record
- communicating with the client in language the client will understand
- collaborating to draft client interview questions

**Accessible to different learning styles by using variety of teaching methods**

- Visual materials – the partially filled in chart, the security camera video
- Collaborative learning – small groups draft client interview questions
- Reading & paraphrasing
- Immediate feedback – by listening to client interview questions drafted by other students

## **F. Integrating skills and doctrine – snapshot of courses from around the country**

- integrate doctrinal/writing courses
  - *Introduction to Lawyering* integrates Contracts, Civil Procedure, or Torts with LRW (Baltimore); each professor who teaches legal writing also teaches 2-credit ‘Introduction to’ Contracts, Civil Procedure, or Torts (Maryland)
- integrate doctrinal/skills in practicum
  - for 3Ls, two-week skills immersion followed by full semester practice-based simulation (Washington & Lee)
- collaborations between clinics and legal writing program
  - assign One Ls to research real problems faced by clinic clients (Seattle)
- collaborations with non-profits, government that integrate clinic/pro bono/writing
  - One Ls analyze facts that mirror real litigation contemplated by a non-profit and share results with the non-profit (Denver, Seattle, New Hampshire)
- specialized legal research courses
  - securities or NY civil litigation (Brooklyn)
- integrate clinic/writing in hybrid clinics
  - upper level students research, write, and orally present real legal memos for government agency or a non-profit (Rutgers)

## Guide to Law Practice Simulation 7

### Description

This Simulation involves briefing the client, who is trying to decide whether to settle or appeal a federal district court decision. The district court decision is the *Holloway v. Brush*, 220 F.3d 767 (6th Cir. 2000) majority's discussion of absolute immunity for social worker Brush. The appeal would be to the fictional Twelfth Circuit where the issue of whether social workers are entitled to absolute immunity is a question of first impression.

Four students are attorneys for the social worker. Two think the client should settle. Two think the client should appeal. One student is the client—the local government agency that employs the social worker. The social worker would seek absolute immunity only; she would not seek qualified immunity.

The client is not a lawyer but is a high level city manager. The client will need to understand the risks and benefits of the choice to appeal or to settle.

To prepare, consider issues such as:

- Be sure to communicate with your client without jargon, in language your client can understand.
- What are the practical consequences of the decision facing the client? Are there any risks to appealing? How will the resolution of this case affect the city social workers' ability to invoke absolute immunity in future cases?
- Is it relevant to a settlement decision that this would be a question of first impression? Or that the mother is sympathetic?
- Why isn't this situation just like *Ernst*?
- By withholding relevant information from the court, did Brush undermine the judicial process?
- Isn't any preparation, evaluation, and formulation of recommendations which may or may not be made to the court entitled to absolute immunity—like *Ernst*?
- Does the city have an institutional interest in establishing absolute immunity for social workers?

### Purpose

- Better understand absolute immunity for government employees by comparing variations in how absolute immunity is applied, including *Kalina*, *Ernst*, and *Holloway*
- Explore attorney roles in shaping doctrine by understanding *Ernst* and *Holloway* as attempts to analogize the functions of social workers/child protective service workers to prosecutors
- Prepare for law practice by simulating interoffice settlement discussion among attorneys with different views of the case and advocating different strategies
- Prepare for law practice by explaining strategic litigation choices to a client who may have different views and may be sophisticated but may not fully grasp legal terms
- There is no need to do any research—the relevant cases are in the casebook. You may rely on the Sixth Circuit decision in *Holloway* as non-binding authority.

### Structure

- Attorneys advocating appeal of adverse trial court decision—Question & Answer with client (8 minutes)
- Attorneys advocating settlement—Question & Answer with client (8 minutes)
- After about 15 minutes, questioning will be opened up to the entire class
- All attorneys—Question & Answer with client and rest of class (15 minutes)
- Please prepare a question for every simulation, even if you are not one of the students playing a role.
- To ensure full class participation, and as a courtesy to your fellow students, please close your laptops during law practice simulations.

### Exercise 5-A

#### When does an off-duty police officer act under color of law?

- Based on your reading of Barna, Martinez, Anderson, and the circuit jury instructions, what factors are weighed in evaluating whether an off-duty police officer acted "under color of" law?
- In the chart below, at the two ends of the spectrum are the easy cases: clearly private action on the left and clearly action under color of law on the right. In the blank middle area in the chart, write down some of the factors you think courts or juries rely on in determining if an off-duty police officer's conduct was action under color of law.



### Exercise 5-B

Search YouTube for the bar surveillance video of an off-duty Chicago police officer attacking a female bartender. Based on the bar security tape only, and not on any added editorial content, consider the following scenario.

Suppose your law firm has agreed to represent the bartender and has assigned you to interview the victim later today. You know that the person who attacked the bartender was an off-duty police officer. You have only the bar's video surveillance tape. Assume that the only defendant will be the off-duty police officer. Focusing solely on the question of whether the off-duty police officer was acting under color of law, what questions will you ask your client at the meeting?

### *For further discussion*

Can a private actor engage in state action? A private party can be held to have acted under color of state law under § 1983 where the private party has engaged in state action under the (1) public-function test, (2) the state-compulsion test, or (3) the nexus test. The Sixth Circuit briefly summarized these three tests in a recent First Amendment case. The case concerned whether a private contractor who trained public park rangers to cull wild deer

## Rutgers School of Law-Camden Pro Bono Research Request Form

The Pro Bono Research Project of the Rutgers-Camden Law School offers free legal research services to public interest law practitioners. The goal of the project is to match upper level (2L, 3L or 4L) law student researchers ("Research Associates") with supervising attorneys and organizations that can benefit from the students' legal research skills. Research Associates may provide written or oral legal analysis or may gather legal research materials such as judicial decisions or legislation. Research Associates typically devote a minimum of 20 hours to the project within one semester.

**You must be an attorney to request legal research from the Rutgers School of Law – Camden Pro Bono Research Project. You must also be willing to directly supervise and evaluate the Research Associate undertaking your research project.**

This Research Request Form has been designed to help you focus the research request and to anticipate likely questions the Research Associate may have. Please complete the Research Request form carefully to save time for both you and the Research Associate.

**I. Description of legal organization requesting legal research**

Please check off the type of public interest legal organization you represent:

- |   |   |
|---|---|
| <input type="checkbox"/> Local government       | <input type="checkbox"/> Attorney in private practice requesting research for a pro bono client |
| <input type="checkbox"/> State government       | <input type="checkbox"/> Legal services program   |
| <input type="checkbox"/> Federal government     | <input type="checkbox"/> Public Defender  |
| <input type="checkbox"/> 501(c)(3) organization | <input type="checkbox"/> Other (please explain)   |

Please provide a brief description of your legal organization (e.g., mission; client base; services provided)

NAME OF ORGANIZATION:

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ADDRESS:

---

TELEPHONE:

---

E-MAIL ADDRESS:

---



WEBSITE ADDRESS:

---

YOUR NAME (and contact information if different from above):

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LANGUAGES NECESSARY FOR RESEARCH PROJECT:

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**II. Timeline for pro bono legal research project**

Preferred date for Research Associate's completion of pro bono research project:

Outside date for useful completion of pro bono research project:

Today's date:

**III. Description of the public interest legal research project you would like to assign to a student Research Associate**

What service would you like a Research Associate to provide (e.g., draft a research memo, draft a brief, provide you with an oral briefing on the analysis of the issue, etc.)?

Please identify the **legal issue** you would like researched as precisely as possible.

Please describe any **key facts** the Research Associate will need to analyze the legal problem. If applicable, please attach any key documents (e.g., client interview, lease, contract, federal regulation, deposition etc.).

Should the legal research be limited to particular **jurisdictions**? If so, please list all relevant jurisdictions.

Should the research be limited to a particular **time period**?

What are the most likely sources of law applicable to your public interest legal issue (e.g., federal appellate case law, federal environmental regulations, New Jersey court opinions of any level etc.)

- If any of the sources of law that the law student may need to analyze your legal issue are not likely to be available on Westlaw, Lexis or Google Scholar, or through the Rutgers-Camden Law Library, where should the Research Associate locate the relevant sources of law?
- Are any particular websites or blogs likely to be useful to the Research Associate in researching your legal issue?

If you were starting to research this legal issue, where would you begin?

Approximately how long do you predict a law student may need to analyze your legal issue, including any time necessary to draft a memo, brief or other legal document?

Are there any specific requirements for the Research Associate who volunteers to assist you with this legal research project?

#### **IV. Supervision of the Rutgers-Camden Law Student Research Associate**

Supervision is required for all research projects. The supervising attorney need not be a staff member of the non-profit entity seeking advice; however, the attorney must have a formal relationship with the group, e.g. be a board member, and must also be willing to commit to supervision and evaluation.

The Rutgers-Camden Pro Bono Research Project encourages the assigning attorney to briefly meet with the Research Associate twice if possible: once shortly after the student begins work and again when the student has finished the initial project and is ready to brief the assigning attorney on the research results. The meetings should take place in your office.

- Are you available to briefly meet with the Research Associate (in your office) shortly after the student begins work?
- Are you available to briefly meet with the Research Associate (in your office) when the student has finished the initial project?
- If applicable, please indicate how often you would like interim updates on the research from the student.
- Please indicate the best way for the student to contact you (e-mail, phone, in-person):

Do you or does your organization currently carry legal malpractice insurance?

In the extremely unlikely event that Rutgers-Camden Law School or a current or former Rutgers-Camden law student or member of the faculty, staff or administration is named as a defendant in any lawsuit arising from the research project you request, would your malpractice insurance provide coverage?

If not, do you agree to indemnify and hold harmless the Law School, its faculty, staff and administration, and its students?

**Disclaimer: Please note that the Research Associates are not attorneys and that the Pro Bono Research Project of Rutgers-Camden Law School is not a legal referral or similar service and is not able to provide legal advice.**

By making a request for the assistance of a Research Associate, you acknowledge: (i) you will delegate or assign to the Research Associate only such tasks or projects as are appropriate for a non-attorney to perform; (ii) you have an obligation to supervise, review and evaluate the work of the Research Associate; (iii) it is your responsibility to maintain direct contact with your client, if applicable; and (iv) you are responsible for the use or application, or the consequences thereof, of any work product, in whatever form, of the Research Associate. Use of the Research Associate's work product shall in no way be construed to create an attorney-client relationship, and you agree that this representation shall be effective as to any third-party claimant.

The Law School assumes no responsibility, and makes no claim, promise, guarantee or warranty, express or implied, as to the accuracy, completeness, adequacy or legal enforceability of any work that a Research Associate may conduct for you. Any statement, testimonial, endorsement, opinion or recommendation contained in a Research Associate's work does not constitute a guarantee, warranty or prediction regarding the ultimate result or outcome of a particular matter.

By using a Research Associate's work product, in whatever form, you agree that the Law School, its faculty and staff, and the student are not responsible for: (i) any information included in or omitted from such work product; (ii) any person's, including your own, reliance on the Research Associate's work product, whether or not the Research Associate's work product is complete, current or correct; (iii) the consequences of any actions that you or any other person takes or fails to take, whether or not based on information provided by or as a result of the Research Associate's work; (iv) any person's, including your own, satisfaction with the quality of the Research Associate's work, whether relating to competence, diligence or otherwise; and (v) the failure of the Research Associate or the Law School (including its faculty, staff and administration) to respond to or consult with you or any other person with respect to the Research Associate's work.

Your use of the resources available through the Rutgers-Camden Law School's Pro Bono Research Project, including, without limitation, use of a Research Associate and use of briefs, memos or other materials drafted by Law School students, constitutes your agreement to hold the Law School, its faculty, staff and administration, and its students harmless from any consequences resulting from such use, and to indemnify them for reasonable expenses, legal or otherwise, incurred as a result of any claims arising from your use of the aforementioned resources.

Not all requests will be appropriate for student assistance; acceptance is at the discretion of the law school and may depend on student availability. Please bear in mind that student schedules mean research may not be immediately available, and will not be available during certain times during the year.

**You must be an attorney to request free legal research from the Rutgers-Camden Law School Pro Bono Research Project. You must also be willing to directly supervise and evaluate the 2L, 3L or 4L student Research Associate undertaking your research project.**

\_\_\_\_\_  
Signature of attorney requesting pro bono research

Date: \_\_\_\_\_

The Rutgers-Camden Law School Pro Bono Research Project  
Co-Directors: Sarah E. Ricks, Clinical Professor &  
Jill Friedman, Acting Asst. Dean, Pro Bono and Public Interest

**Please return this completed and signed form to:**

Dean Jill Friedman  
Rutgers University School of Law - Camden  
217 N. 5th St.  
Camden, NJ 08102  
856-225-6263  
jill.friedman@rutgers.edu

## **Public Interest Research and Writing**

Fall 2013

Tuesday and Thursday 4:00 – 5:15 pm in Room 210  
opportunity to orally brief attorney from the Philadelphia Law Department,  
either the Appeals Unit or the Civil Rights Unit, by appointment

**The syllabus depends on progress on individual research projects.**

**Professor Sarah Ricks**

*Email:* sricks@camden.rutgers.edu

*Telephone:* 856 – 225 - 6419

### **Course Description**

Welcome. This is a hybrid clinical and writing course. Every student will research and write his or her own research memo for a real local government agency, the Philadelphia Law Department. Each memo or research project will address a real legal topic requested by either the Appeals Unit or the Civil Rights Unit of the Philadelphia Law Department. Most topics will concern constitutional law or 42 U.S.C. Section 1983 litigation. Each student will submit the writing project in stages to the group for peer review and peer feedback.

Research and writing skills can be strengthened both by practice and by reading and responding to the writing of others. This course is structured to allow students to take the lead in providing written feedback to other students. By assessing and integrating peer feedback, the writer will stay in control of and be responsible for his or her own writing. I will facilitate the feedback and provide additional review.

The first few weeks will focus on (1) concepts of 42 U.S.C. Section 1983 and constitutional litigation, (2) principles of advanced legal research, writing, and (3) constructive feedback, and (4) familiarizing yourself with the legal work of the Philadelphia Law Department Civil Rights Unit and Appeals Unit. For the remainder of the semester, most weeks the group will respond to research strategies, outlines, or draft memos written by other group members. During some weeks, class meetings may be optional. During some weeks, the course may rely on distance learning techniques and not meet in person; then, class participation will primarily be via postings to the course webpage.

At several times during the course, you will distribute your draft research plan, outline, or memo to the group. You may include instructions on what kind of feedback would be useful to you. Assigned students will read your draft/outline and submit written comments by a date stated on the syllabus. Students will provide written feedback and occasionally will provide oral feedback during a class meeting. We may be able to schedule an oral briefing with the assigning attorney from the City of Philadelphia Law Department, at a time convenient to the outside attorney. Comments and questions from other writers will help you develop a strong and cohesive work product. Please keep copies of all of your written feedback on other students' work to turn in with your portfolio.

## **Student evaluation of Public Interest Research & Writing**

This was one of the best classes I've had at law school. Prof. Ricks really treats us like practicing attorneys. The topics for the memos were interesting, and it was great providing our work to an actual supervising attorney. The class format was very helpful, and it was a unique experience to have other students peer editing my work. I would recommend this to anyone who wants to improve their writing and research skills - it really pushes you to produce a strong final paper.

**This class cast you as the author of a research memo for a real client. The research and writing process was in incremental steps: online and live research refreshers, case list, outlines, oral feedback and many drafts. What steps were most useful?**

Almost every step was very useful. The research refreshers were extremely important for the memo, and as the course progressed, it became clear that doing research for an actual client is very different from other classes. The case list was useful for developing the structure of the memo, and the many drafts were necessary in reaching a strong final product. The constant feedback definitely helped me improve my structure and wording in the memo. The only part that turned out to be less useful was the initial outline because the structure and cases changed so much from that initial layout (but still, it was necessary for the very first rough draft).

**This class cast you as the supervising attorney for research memos for a real client by asking you to give feedback to other authors at each stage of the process. Did experiencing this new role help you develop your own skills?**

Absolutely. Every time I read someone's memo, I found things I liked and things I didn't like (and was able to incorporate these things into my own memo). On top of that, this was the first time in my legal career where I was able to help someone else improve their memo, and I think that will be incredibly helpful in any future jobs.

**I offered feedback in writing, email, and in person in class. Was that feedback useful in developing your own research and writing skills?**

Very useful. The constant feedback was one of the best parts of the class. Not only did I enjoy the class discussions about emerging areas of law, but I also was able to improve my writing and research skills throughout the entire semester.

**The research memos in this course were requested by a real local government client and will be used by the client. Does the fact that your work will actually be used by a client affect your motivation?**

This was the most practical course that I've had at Rutgers. Knowing that my work was being sent to an actual client made me that much more motivated to have a polished memo. The oral presentation just reinforced that point. After presenting my memo to the client, I really felt like I accomplished a lot - and hopefully helped the client learn about a new area of law.

**Do you think the process of researching, writing, and orally presenting your work in this class will affect how you will handle assignments in your next legal job?**

As I've said before in this feedback, this was an extremely practical course. I believe that the researching, writing, and oral presentation will help me in any future legal position (law firms, judges, etc.). Writing and presenting my memo was all about catering to my audience (an extremely busy client who deals with a ton of different law) - this will particularly be useful in future jobs.

**Three Credit Version Topics  
By 50 Minute Hour**

**Student Class  
Preparation**

**Classroom Learning**

Hour 29	<ul style="list-style-type: none"> <li>• § 1988 Attorney's Fees, Prison Litigation Reform Act; Selected Recurring Procedural Issues</li> </ul>	Finish reading Casebook pp. 437-73; answer all questions and exercise 10-A; cases are <i>Sole, Roberson, Walker, Dearmore, Jones</i> , Prison Litigation Reform Act, and cases summarized	Discuss assigned cases, Exercise 10-A, statutory material, report by non-profit, recurring procedural issues
Hour 30	Qualified Immunity <ul style="list-style-type: none"> <li>• Development of doctrine in the circuits</li> </ul>	Read Casebook pp. 475-507, 510-516; answer all questions and Exercise 11-A (skip 11-B); cases are <i>Harlow, Lewis, Hope, Brousseau, Pearson</i> including brief, <i>Butera</i>	Discuss assigned cases; Exercise 11-A
Hour 31	Qualified Immunity <ul style="list-style-type: none"> <li>• Development of doctrine in the circuits</li> </ul>	Read Casebook pp. 507-510, 517 – 33; answer all questions & exercises; cases are <i>Carr, Espinosa</i>	Discuss assigned cases; Exercise 11-B
Hour 32	Review	Prepare for multiple choice quiz on topics selected by professor	Multiple choice quiz and in-class discussion of answers; brainstorm questions for Simulation 8
Hour 33	Qualified Immunity	Prepare for Simulation 8	Law Practice Simulation 8; brainstorm questions for Simulation 9
Hour 34	Qualified Immunity	Prepare for Simulation 9	Law Practice Simulation 9
Hour 35	Professional Development	Google biographies of guest speakers	Video of Guest Panel on Preventing and Remediating Police Misconduct -- available on Casebook website. Includes counsel for non-profit advocacy organization, defense counsel, civilian complaint review agency

## Evaluation of Simulation #7 Current Issues in Civil Rights Litigation

In-house counsel all represent a City social services agency that has just received an adverse district court ruling. One advocates appeal to the 12<sup>th</sup> Circuit. Two advocate settling now. Client asks questions to decide the next step in the litigation.

### Preparation

- Coordinated roles to ensure effective participation

### Organization

- Began with an overview & organized in a logical way
- Creative and took control of the subject matter

### Substance

- Compare how absolute immunity is applied, including *Kalina, Ernst, Holloway*
- understand *Ernst, Holloway* as attempts to analogize social workers to prosecutors
- understand practical considerations – likelihood of success, risks, relationship with social workers and child protective service workers in the field

### Delivery

- understand decision facing Target Audience – senior management
- simulated interoffice settlement discussion among client & attorneys
- tone matched audience – management client who is sophisticated but may not fully grasp legal terms, respectful but not too formal, avoided legal jargon
- eye contact, audible, did not read too much

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1. Advocates settlement after adverse district court ruling - Kayleen

2. Advocates settlement after adverse district court ruling - Hop

3. Advocates appealing adverse district court ruling to 12<sup>th</sup> Circuit - Andrew

4. Client – chief executive of social service agency - Graham - asks lots of Qs