

The Socratic Method Meets the Information Age

Law schools teach law students to think and write “like lawyers.” Today’s changing economy, legal and informational climate and the average consumer of legal services (THE CLIENT) cause today’s lawyer, law schools and law students to confront the question-what does it mean to think and write “like a lawyer?” Does the process meet the client’s goals? Is it realistic? Cost effective?

Law schools have for generations taught their students to problem solve through the Socratic Method. Get to the answer through careful study, a consideration of all possible options. Each option is fact and legal theory tested. No shortcuts. Explain how you get to the answer, why the other options were discarded and why the selected answer is the most appropriate. In short, as we learned in elementary math class, show your work! No credit is given for the right answer if there is no support provided.

There is no doubt that the Socratic Method is a valid process that produces solid results and teaches “would be” lawyers much about legal reasoning and analysis. But, is it workable outside of law school, in the law firm environment where, in this information age, often times, the lawyer with the most timely and complete response grabs and keeps the client’s attention and business? Is it workable where clients don’t care or want to know about the discarded options, but want to maximize their gain as quickly as possible? Is it workable where the clients demand that lawyer hours and cost be kept to a minimum?

The answer is yes and no. The goal of the Socratic Method is appropriate everywhere and in the law school environment, the mechanism is as well. Outside of law school, the mechanism breaks down. What administrators, professors and students alike must realize and appreciate is that the problem solving process is significantly truncated in the law firm environment. In the many small and medium size law firms, like those where I began and continue my career, and where many law students will one day find themselves, timeliness is key. The deadlines clients place on a response from their counsel are often tight and are sometimes immediate. The best comparison in law school to this type of urgency is the law school exam. Yet, in many cases, the exam is a take home or 24 hour process, with access to all literary resources provided to the exam taker while access to other colleagues is forbidden. The exam taker is expected to block out life and all other interruptions while formulating a response.

This is exactly the opposite environment that a new lawyer will be confronted with in most law firms. Often, the associate is tasked with providing a response to a client’s question without the benefit of a full 24 hours to research and consider all options. The assigned associate may be unaware of the client’s background/may not even know all of the background on the client/ or the history of the problem at hand. Without a doubt, the junior lawyer will be expected to perform without having a semester to study the subject matter in preparation of

the response. Often, the best the associate can hope for is to respond in time with a workable answer that he or she was at least able to “run by” a colleague for approval.

In the information age, e-mail plays a major role as the primary method of communication between lawyer and client. Instant questions, instant responses expected. In recent years, with the downturn in the economy, clients are asking lawyers to provide services at discounted rates. Most clients will not allow two or three lawyers to a file, even with a large or complex matter. In many firms, associates are tasked with responding to client inquiries in the absence or unavailability of a more senior lawyer and/or in keeping with a client request that legal services be rendered in the most cost effective manner. A law firm’s refusal to accommodate the client in this way will cause the client to seek out other counsel, often at an even more discounted rate. The level of discount is where today’s lawyer is often asked to compete.

Now, more than ever, the client’s focus is on getting the answer, fast, for the lowest cost. These client goals do not fit perfectly with the Socratic Method taught in law schools. Forget considering every option. Your client wants the best one, faster than the competition can get it. The client expects that its lawyer adds value to its business or other situation. This “value add” proposition must be evident in your approach to problem solving for your client. Today’s lawyer must be flexible, not tied to a process. Clients expect their lawyers to be reachable and responsive, not uncertain. Thinking “outside of the box” is encouraged. Innovation and creativity are applauded, as long as they are demonstrated quickly and appropriately.

As a new lawyer, it is unrealistic to think that other cases, client problems and/or life will not interfere with your counseling. In practice, unlike in law school, you do not have the luxury of uninterrupted time to consider each problem presented exhaustively prior to reaching a decision. The right mix for practical problem solving incorporates the tenets of the Socratic Method, with realism, creativity and pure instinct. Work with the tenets of the Socratic Method, consider the client’s reality, and develop a healthy appreciation for the fact that client deadlines are real.

Unlike in law school, in practice, the client’s needs and goals should drive the process, not the scholastic exercise for its own sake. It is difficult to teach how the new lawyer’s life in practice will feel. Some things are better shown, or demonstrated in reality than in the abstract. “Client Interaction 101” was not on my law school course schedule. Perhaps a class or curriculum built around that model should be considered. We all recognize that law students need to learn the invaluable, basic skills such as legal writing, reasoning and comprehension in law school, but they also need exposure to the reality of their career as practicing lawyers.

Legal clinics often provide the best training ground for this particular skillset in the school curriculum. These clinics should be encouraged and integrated into the “core curriculum,” as they are the best opportunity for the soon-to-be lawyer to problem solve with a real life client and problem on a real world deadline. Clinics are the best “hand on” experience available to law students. Why not make it a requirement? One reason may be that clinics totally supported by the law school are expensive to staff and operate. There is certainly a cost component to the law school in operating such a clinic which cannot be overlooked.

Another alternative may be to consider a partnership of sorts with the local legal assistance programs in your city. The community ties aspect should be appealing to the school. Most cities have at least one, if not more, free or small-fee-for service legal assistance programs looking for reinforcements. This experience, coupled with the traditional Socratic Method and legal theory taught in the classroom, will produce a new lawyer competent and more equipped to handle today’s lawyer/client relationship.

Today’s new recruits to the legal profession are joining at a time like no other. It is exciting. Opportunities are provided to new lawyers to navigate the “front line” of some client relationships. These candidates cannot abandon their practical reasoning and life skills through law school, in the exercise of the Socratic Method, or in the process of learning to think and write “like a lawyer,” nor can they be so tied to a process that they are

incapable of adjustment “on the fly.” In addition to the traditional skills law students learn in school, they must be afforded the chance to develop their own creativity and an ability to hone the “gut” instinct. The recipe for today’s competent lawyer is made up of equal parts of all of those things. Law schools and their students must begin to demand equal exposure to all, to the traditional law school components, the Socratic Method and legal theory and writing, but also to the reality of the practice, in the form of practical exposure to clients and their problems on a real world timeframe. In this manner, law schools will shepherd their students, better equipped, into the realities of the practice of law.

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