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MICROLAWYERING AND SIMULATIONS IN TRUSTS AND ESTATES COURSES

ALYSSA A. DIRUSSO*

INTRODUCTION

If practice makes perfect, law school is not yet a perfect experience for budding trusts and estates lawyers. The legal curriculum needs to include significant opportunities for students to learn through doing. When legal instruction is limited to purely academic study, students are deprived of important professional training.¹ As recognized in many other professional schools, practice presents an invaluable opportunity for learning the reasoning necessary to be competent in the field.² The benefits of integrating practice into legal education have been documented through psychological study. Through these studies, it was recognized that when comparing novice and experts, experts had developed “well-rehearsed procedures, or ‘schemas,’ for thinking and acting,” which allow experts to quickly apply this knowledge to current situations in a manner not developed in novice.³ The studies also revealed that the knowledge of experts is “conditioned, or related to contexts.”⁴ This evidence supports the proposition that purely academic legal education is merely a foundation for expertise, which can be developed only through the

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1. WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 8 (2007) (noting that the “law is not simply science in the making, nor is it a set of general techniques for managing social relationships; law is a tradition of social practice that includes particular habits of mind, as well as a distinctive ethical engagement with the world,” and as a result legal education “fails to provide grounding in an understanding of legal practice from the inside.”).

2. *Id.* at 10 (noting that it is during the practical instruction in these professional fields that “fundamental norms and expectations that make up professional expertise are taught.”).

3. *Id.* at 25 (citing Gary L. Blasi, *What Lawyers Know: Lawyering Expertise, Cognitive Science, and the Functions of Theory*, 45 J. LEGAL EDUC. 313, 313–97 (1995)).

4. *Id.*

actual practice.⁵ An ideal exposure to trusts and estates practice is gained through microlawyerling—a term I use to mean small-scale, real legal experiences. The term borrows from the concept of microlending. In microlending, budding entrepreneurs who need small amounts of capital to launch new enterprises receive modest loans from microfinancing institutions, empowering business owners to take action when traditional lending structures would not offer the opportunity to proceed.⁶ Although the investment is small,⁷ the impact can be substantial.⁸ So too in the classroom can enabling small-scale experience yield large-scale results.

Although clinics and externships can provide microlawyerling opportunities, not all law schools have the resources to offer experiences in trusts and estates to significant numbers of students. Fortunately, it is also possible to provide microlawyerling experiences to law students in traditional doctrinal courses as well as smaller skills classes. In this Article, I will describe two such activities and reflect upon the challenges microlawyerling presents in these contexts.

In addition to microlawyerling, simulations offer students the opportunity to develop skills in a practice-like context. Unbound by the restrictions of real legal practice, simulations are remarkably flexible and well-suited to a variety of classes. Like microlawyerling, simulations illustrate the importance of learning to do and not just to think. They can be critical in not only providing

5. See Gary L. Blasi, *What Lawyers Know: Lawyering Expertise, Cognitive Science, and the Functions of Theory*, 45 J. LEGAL EDUC. 313, 386–87 (1995) (arguing that while the case method creates a good foundation for individuals to later develop lawyering skills, those skills only develop through action problem solving).

6. See Molly Richardson, *Increasing Microlending Potential in the United States Through a Strategic Approach to Regulatory Reform*, 34 J. CORP. L. 923, 925, 928–29 (2009). Traditional financing options are not always available to small business owners due to high transaction costs and risks of nonpayment. *Id.* at 925 (citing Alexandra O’Rourke, *Public-Private Partnerships: The Key to Sustainable Microfinancing*, 12 L. & BUS. REV. AM. 179, 183 (2006)).

7. “In the United States, a microloan is usually classified as a short-term loan of \$35,000 or less, and the [Small Business Association] defines a microenterprise as a business with five or fewer employees.” Olivia L. Walker, *The Future of Microlending in the United States: A Shift from Charity to Profits?*, 6 OHIO ST. ENTREPRENEURIAL BUS. L.J. 383, 384 (2011) (citing Bill Burrus, *Lessons and Trends of Microcredit in the United States*, MICROFINANCEGATEWAY.ORG 1 (2005), http://www.microfinancegateway.org/gm/document-1.9.25968/26264_file_LESSONS_AND_TRENDS_pdf).

8. See Richardson, *supra* note 6, at 930; see also Walker, *supra* note 7, at 384. Due to the state of the economy, the use of microloans is currently at an all-time high in the United States. *Id.* at 385 (citing Tanya Mannes, *Federal Microloans Big With Small Businesses*, SAN DIEGO UNION-TRIB., Sept. 21, 2010, at C1). The Small Business Administration is the largest single provider of microloans in the United States. See *id.* at 386. The impact of these loans is multifaceted; microloans not only help small businesses increase revenue but also can aide in lowering unemployment rates. See *id.* at 383–84 (discussing three examples of how a microloan impacted a small business owner and the local economy).

experience and feedback in a safe setting, but in developing confidence in nascent lawyers. Later in this Article, I will explain many of the simulations I use in my three Trusts and Estates courses. To begin, I will describe the microlawyer projects.

I. MICROLAWYERING IN TRUSTS AND ESTATES COURSES

Although there are many benefits to be gained from offering students microlawyer experiences in the Trusts and Estates classroom, there are initial barriers to overcome. Real practice with real-world impact is traditionally consigned to clinics or externships for good reason: most notably, the restriction against unauthorized practice of law.⁹ Experiences offered outside of the supervision of a locally licensed attorney must remain respectful of this restriction. Fortunately, there are two exceptions to unauthorized practice of law restrictions that create opportunities in the trusts and estates context. First, drafting documents for oneself does not constitute the unauthorized practice of law.¹⁰ Second, nonlawyers may serve as fiduciaries whose obligations resemble those of lawyers, including serving as trustees.¹¹

A. *The Student-Self as Client: Drafting Your Own Will*

Drafting a student's own will presents an ideal opportunity for microlawyer. Because any person may draft his own will without violating the restrictions on unauthorized practice of law,¹² the barrier to action is lifted. Unlike simulations where students create documents for fake people, drafting a document that the student can use—which can actually have legal consequence and real-world impact—raises the stakes for how well a student has mastered doctrinal concepts. What happens if a bequest lapses? How exactly should one go about executing the will? When these events actually impact who could receive the student's possessions, and the consequences are real and not just hypothetical, students gain a greater awareness of how doctrinal rules shift who would take under the will and the importance of artful drafting.

9. MODEL RULES OF PROF'L CONDUCT R. 5.5 (2007).

10. See 28 U.S.C. § 1654 (2006) (stating that parties may plead and conduct their own cases personally); Edward D. Spurgeon & Mary Jane Ciccarello, *The Lawyer in Other Fiduciary Roles: Policy and Ethical Considerations*, 62 FORDHAM L. REV. 1357, 1361 (1994) (describing the situation in which a fiduciary duty arises); see also *State v. Pledger*, 127 S.E.2d 337, 339 (N.C. 1962) (“Any adult person desiring to do so may prepare his own will.”).

11. JESSE DUKEMINIER, ROBERT H. SITKOFF & JAMES LINDGREN, WILLS, TRUSTS, AND ESTATES 548–50 (8th ed. 2009) (stating that “[a] trustee may be an individual or a corporation,” and describing the fiduciary duties of trustees); see also *Estate of Doyle v. Hunt*, 60 S.W.3d 838, 847 (Tenn. Ct. App. 2001) (noting that a trustee “does not have to be an attorney in order to serve.”).

12. See 28 U.S.C. § 1654; Spurgeon & Ciccarello, *supra* note 10, at 1361; *Pledger*, 127 S.E.2d at 339.

A will-drafting assignment can be part of the basic Wills, Trusts and Estates course for any number of students. I have used the assignment in classes with as many as sixty-five or as few as twenty-two enrolled. The challenge for larger classes is finding the time to give individual assessments. Although I do grade wills individually and give feedback via comments and a rubric, and I think receiving this detailed feedback presents a better learning experience for the students, the first time I used the project it was pass/fail and did not have as much detailed feedback. This pass/fail option can be more workable for unusually large classes in which extensive feedback would be difficult.

I offer the will-drafting assignment over halfway through the semester, once students have completed all of the chapters that deal with wills, intestacy, and rights of spouses and descendants. It is before we cover trusts, so I instruct students not to draft a trust as part of their will, even if that would suit their particular circumstances.

The assignment sheet for the will-drafting project explains that each student will be required to draft, but not necessarily execute, a will for himself or herself based upon each student's personal assets and circumstances. Students are given the choice of two forms, which I post on The West Education Network (TWEN).¹³ The students are instructed to download the forms and edit them to suit their own estate planning needs. In addition to whatever edits may be necessary, students are instructed to draft (1) a provision disposing of specific items of tangible personal property and (2) a provision disposing of the residue of the estate (including contingent takers). They are told to identify beneficiaries by relationship to the testator, if any, otherwise hometown. Students are also required to consult the Martindale-Hubbell Law Digest¹⁴ or state statutes to determine the formalities for will execution required in their home state and edit the attestation provision accordingly.

In the spring semester of 2013, instead of working from forms, students used the estate planning document assembly software Drafting Wills and Trusts Agreements (DWTA)¹⁵ to create their own wills. Thompson Reuters

13. It is important to restrict the number of form choices, in order to assure your assessment is measuring the relative performance of students rather than the relative benefits of the form chosen. It is also essential not to give students the option of using whatever form they like, as some may have professionally-drafted documents. Fewer form options also allows for a faster grading process. I like to allow some options to give students exposure to a variety of forms (and an appreciation that there may be several good ways to go about a legal task), but this can be accomplished with as few as two models.

14. MARTINDALE-HUBBELL LAW DIGEST (2006).

15. For information on DWTA, see *Drafting Wills and Trust Agreements*, 4th, LEGAL SOLUTIONS, <http://legalsolutions.thomsonreuters.com/law-products/Treatises/Drafting-Wills-and-Trust-Agreements-4th/p/100009337> (last visited Jan. 7, 2014).

generously provided temporary licenses for the software that we downloaded onto library computers. Students were also permitted to download the licenses to their own computers, but few did because the software is not compatible with Apple products. It seemed the students may have put less thought into the drafting of the documents when relying upon the software—perhaps they expected the computer would do more of the heavy lifting—but the students were grateful to have exposure to technology used in legal practice. In future years, I hope to give students a choice between the forms and the software.

Students are given roughly a week in which to draft their wills, and to allow time for drafting, no reading is assigned to the class before the wills are due. On the day the wills are due, we have a “will workshop,” which lasts most of a class period (sixty to seventy-five minutes). In the workshop, students gather in groups of four, read each other’s wills, and provide feedback by writing comments on each other’s wills. To guide students in their assessments, I give them the grading rubric I use for scoring their wills. Although the comments from other students do not affect their grade, the review of other wills gives them an opportunity to see what other students have done well or poorly, gain more exposure to the other form option, and get feedback for how they could improve their own work. At the end of the workshop, students complete a report form describing what they learned from the exercise.¹⁶

At the end of the workshop, students submit their wills to me for assessment, which I grade using an assessment rubric. The criteria on the rubric include Drafting Clarity (zero to three points),¹⁷ Thoroughness (zero to three points),¹⁸ Creative and Analytical Thought (zero to two points),¹⁹ and Responsiveness (zero to two points).²⁰ Students can therefore earn up to ten

16. Students are given five points, out of a possible 100 for the course, for participating in the will workshop.

17. This criterion includes concerns such as: was the language chosen by the student clear and straightforward? Could an executor with no information beyond that provided in the will accurately carry out the terms of the will? Did the student choose language that communicated effectively? Are joint bequests, if any, drafted such that it is clear what would happen if one beneficiary predeceased the student? Is the will free from ambiguity?

18. This criterion includes concerns such as: does the dispositive plan thoroughly convey all of the student’s property, including property to be acquired after execution of the will? Does the will provide for alternate takers in case named beneficiaries fail to survive the testator? Is the residuary bequest thorough? Does the will name an executor and an alternate, and a guardian and alternate, if appropriate? Are the execution, attestation, and notarization provisions sufficient?

19. This criterion includes concerns such as: does the will reveal that the student formed an underlying plan for the disposition of his or her assets? Is it clear that the student thought about what he or she owned and who should receive it? Did the student adjust the form to suit his or her estate planning goals, rather than adjust estate planning goals to suit the form?

20. This criterion includes concerns such as: was the student responsive to the requirements of the project? Did the student complete the assignment as directed? Did he or she follow

points, or ten percent of their grade for the course, based on their performance on the will drafting exercise. In addition to completing the rubric, I make comments throughout the documents. When all of the assessments are complete, I return them to the students and we spend some time discussing common challenges with the project.

Student feedback from the will-drafting project has been very encouraging. Drafting documents is a critical part of a lawyer's job for which there is often little opportunity for practice. Will drafting gives students the opportunity to develop this skill in which the stakes for success—in wanting to serve your client well—are significantly elevated when compared to merely simulating practice. Reality is an important motivator.

B. The Student as Fiduciary: Serving as Trustee

Trusts and estates law offers another opportunity for real-world experience that does not violate unauthorized practice of law restrictions: the student as fiduciary.²¹ Lawyers, of course, are fiduciaries.²² The weight of a lawyer's responsibility to clients and the importance of that loyalty is a value that is difficult but essential to convey to law students. Perhaps the best way to understand it is to experience it.

In my Estate and Trust Administration class, an upper-level skills seminar limited to an enrollment of twenty, students serve as trustees of a real charitable trust. In preparation for the class, I draft a simple revocable charitable trust that is “created and shall be operated exclusively for charitable, scientific, educational and religious purposes, including, but not limited to, support and assistance of public charities that benefit children in the state of Alabama.” The underlying law is familiar to the students at this point—that the donor will convey legal title to the trustees and that the trustees will have fiduciary obligations—but the humility and dedication it takes to serve as a fiduciary may not yet have been realized.

I begin the class by explaining that serving as trustee means that someone has trusted you, and that earning and maintaining that trust is essential. I tell the students that I trust them. I use \$100 cash of my own money to fund charitable trusts for the class. The members of each small group (usually five groups of four students) sign the trust document as trustees. I sign each document as donor and hand over the cash to the group. The students then use

directions appropriately? Were beneficiaries properly identified, bequests of specific items of tangible property made, the residuary clause drafted, the attestation provision revised to reflect state law, formatting issues resolved, and other instructions followed?

21. *Estate of Doyle v. Hunt*, 60 S.W.3d 838, 847 (Tenn. Ct. App. 2001).

22. *See Spurgeon & Ciccarello*, *supra* note 10, at 1361–64 (thoroughly outlining a lawyer's role as a fiduciary).

Guidestar²³ to research and select a charity to receive the funds. I give the students a letter to mail to the charitable recipient that explains the project along with an envelope for mailing. Once the students have selected a charity, they address the envelope, enclose the cash and letter, and by its terms the trust is terminated.

Student comments demonstrate that the lessons I intend from this project hit home. Students have made remarks such as:

“While simulation for an in-class project teaches the concepts, the idea of writing your name to a document and holding yourself liable reinforces the ultimate authority given to a fiduciary.”²⁴

“Exercises like this provide true insight into the practical aspects of practicing law, especially when actual documents are enacted and backed with real funds for the benefit of an organization.”²⁵

Operating in the world of the pretend is always much easier than the real world . . . the real money element made me think about where the money could make the biggest impact . . . I would have made some different choices regarding the simulated distributions if I was actually dealing with real money.²⁶

It was harder to make the final decision of what charity to choose when dealing with real money and knowing the person who it belongs to. It is very final to sign your name and close the envelope. I can see how this may be difficult in the ‘real’ world because you want to make the ‘right’ decision based on the grantor's wishes. If you are unsure, they will not be around to ask. That is a big responsibility.²⁷

When students are given the opportunity to act as lawyers, it can be surprising and gratifying how well they perform. By allowing my students to serve as trustees, I have benefitted from their thoughtfulness and developing concept of the fiduciary obligation—they have brought to me connections with several worthwhile and underfunded charities. Our lessons in fiduciary responsibility reached beyond the classroom because of their active involvement. Microlawyering made an impact.

23. Guidestar is an online resource that provides significant information about nonprofits, including tax returns. See GUIDESTAR, <http://www.guidestar.org/> (last visited Jan. 7, 2014). Students and educators may access the advanced capabilities of the website for free by registering for an educational account. See *GuideStar for Education*, GUIDESTAR, <http://www.guidestar.org/rxg/products/resources/guidestar-for-education.aspx> (last visited Jan. 7, 2014).

24. Anonymous Student Evaluation (on file with author).

25. Anonymous Student Evaluation (on file with author).

26. Anonymous Student Evaluation (on file with author).

27. Anonymous Student Evaluation (on file with author).

II. SIMULATIONS IN TRUSTS AND ESTATES COURSES

Although microlawying has many benefits, because of the challenges it presents—in terms of navigating unauthorized practice of law restrictions as well as time and other resource allocation—simulations are a useful supplement or alternative to learning.

A. *Multi-State Performance Tests as Manageable Simulations in a Large Class*

A primary challenge to using simulations in a large class is time management. How can a professor provide meaningful practice-based experiences to a large number of students while still balancing the demands of the curriculum? Fortunately, a simple small-scale simulation—which has the added benefit of preparing students for the bar exam—can work well in a large class. This simulation is a Multi-State Performance Test, also called an MPT.²⁸

An MPT is a lawyering task that requires students to work with a restricted collection of sources. The MPT is divided into three parts: the task, the file, and the library. The task consists of a concrete job a new lawyer should be ready to perform in practice, such as drafting a will, writing a letter to a client, reviewing a document and providing commentary, or completing a legal memorandum.²⁹ The file consists of “source documents,” such as transcripts, medical records, newspaper articles, or other documents from which the student must deduce the facts that are critical to accomplishing the task.³⁰ The library also contains sources of law, such as cases, statutes, administrative rulings, or regulations.³¹ As part of a bar examination, the MPT takes 90 minutes.³²

I use an MPT in my Wills, Trusts and Estates class to expose students to a practice simulation related to trust law. In the project, students are given the task of writing a balanced research memorandum on the issue of whether a trust has been created or fails for lack of trust property or lack of res. The file includes a phone transcript, a police report, and a newspaper clipping. The

28. For information on MPTs, see *Overview of the MPT*, NATIONAL CONFERENCE OF BAR EXAMINERS, <http://www.ncbex.org/about-ncbe-exams/mpt/overview-of-the-mpt/> (last visited Jan. 7, 2014).

29. *See id.*

30. *See id.*

31. *Id.*

32. As of January 2014, forty-one states and territories include at least one MPT as part of the state bar exam. *See MPT FAQs*, NATIONAL CONFERENCE OF BAR EXAMINERS, <http://www.ncbex.org/about-ncbe-exams/mpt/mpt-faqs/> (last visited Jan. 7, 2014).

library includes three cases: *Speelman v. Pascal*,³³ *Brainard v. Commissioner of Internal Revenue*,³⁴ and *Barnette v. McNulty*.³⁵

Because Wills, Trusts and Estates is often a large class and I already provide individualized feedback on the will-drafting project, I do not individually grade student MPTs. Instead, I skim them and assess them on a pass/fail basis.³⁶ I also select a few to post as model answers on our class TWEN website, and we discuss the answer and common problems together in class. For professors who are able to commit the time to individualized assessment, the website of the National Conference of Bar Examiners gives guidance concerning what bar examiners look for in these projects and describes how they are scored.³⁷ Because of the flexibility of the MPT in terms of the scope of the task you can choose and the limited time necessary to commit to assessment, it can be an ideal entry-level simulation for large classes.

B. Client Counseling Simulations in Mid-Size Classes

Where time and class enrollment allow, more in-depth simulations can provide substantial opportunities for students to simulate practice in Trusts and Estates courses. I find that my Estate and Gift Tax class, which generally has between fifteen and thirty students, provides an excellent opportunity for simulations that focus on oral and written client counseling. I require two client counseling simulations, one oral and one written, each of which constitute twenty percent of a student's grade in the course.

The oral client counseling simulation occurs at the end of our unit on the gift tax. Students sign up for time slots in twenty minute increments during which they call me on the phone in my office. When they call, I assume the role of Ethel, a warm and wealthy grandmother who has concerns relating to whether various completed or contemplated transfers would have gift tax consequences. In addition to mastering the substance of tax law to a level of sophistication that allows the student to convey accurate legal advice, the students are also expected to demonstrate developing counseling skills. While we are talking, I take notes on the student's performance. Following the ten to

33. *Speelman v. Pascal*, 178 N.E.2d 723 (N.Y. 1961). This case was already familiar to students, as a condensed version of it appears in the 8th edition of our textbook. See DUKEMINIER, SITKOFF & LINDGREN, *supra* note 11, at 572.

34. *Brainard v. Comm'r of Internal Revenue*, 91 F.2d 880 (7th Cir. 1937). Excerpts from this case too appear in the 8th edition of the textbook. See DUKEMINIER, SITKOFF & LINDGREN, *supra* note 11, at 572.

35. *Barnette v. McNulty*, 516 P.2d. 583 (Ariz. Ct. App. 1973).

36. The pass/fail MPT accounts for five percent of a student's grade.

37. 2014 *Multistate Performance Test Information Booklet*, NATIONAL CONFERENCE OF BAR EXAMINERS, http://www.ncbex.org/assets/media_files/Information-Booklets/MPTIB2014.pdf (last visited Jan. 7, 2014).

fifteen-minute phone call, I complete the assessment rubric, which measures not only Substantive Accuracy of Legal Advice (zero to eight points),³⁸ but also Creative and Critical Thinking (zero to four points),³⁹ Asking Proper Questions (zero to four points),⁴⁰ and Client Rapport/Style and Responsiveness (zero to four points).⁴¹ In the class following the simulation, I return the rubrics to the students, and we discuss the project in detail.

The second client counseling simulation comes at the end of our estate tax unit on the gross estate. In this simulation, students must draft an email responding to a client (again, Ethel) who is concerned that a trust document drafted by a former attorney may raise issues relating to inclusion in the gross estate for tax purposes. Students are given a hypothetical trust document to analyze and base their response upon. I assess the emails using a rubric, which measures Substantive Accuracy of Legal Advice (zero to ten points),⁴² Responsiveness and Thoroughness (zero to four points),⁴³ Client Rapport/Style (zero to four points),⁴⁴ and Promptness and Professionalism (zero to two points).⁴⁵ It usually takes about two weeks to grade the student projects. Once I have completed grading them, I return them to the students, and we spend about thirty minutes discussing the project and common challenges. I find these simulations to be an excellent way to help bridge the gap between law

38. This criterion includes concerns such as: did the student understand the issues raised by the facts? Did the student accurately convey the law on the issues raised?

39. This criterion includes concerns such as: how well did the student handle questions he or she could not answer? Did the student offer creative planning alternatives to the client? Did the student add any of his or her own creative thought to the assignment, rather than merely repeat what we learned in class?

40. This criterion includes concerns such as: did the student understand the need to ask questions in order to give appropriate advice (whether client was married, recipients were married, children were of age, etc.)?

41. This criterion includes concerns such as: did the student come across as competent and poised, yet not patronizing? Was the student able to carry on a friendly conversation about sophisticated legal matters? Did the student play the role of an attorney? Was the student's phone call punctual?

42. This criterion includes concerns such as: did the student understand the tax issues raised by the trust document? Did the student accurately convey the law on the issues raised?

43. This criterion includes concerns such as: was the response well-suited to the needs of the client in terms of which topics were discussed and how much detail the student provided? Did the student convey enough information about the tax rules to inform the client, without flooding the client with unnecessary detail?

44. This criterion includes concerns such as: did the student come across as competent and poised, yet not patronizing? Was the student able to advise a client about sophisticated legal matters in the context of an informal email? Did the student play the role of an attorney? Did the student treat the client like a person and not just as a fact pattern?

45. This criterion includes concerns such as: was the response submitted within the time frame requested by the client? Was the response well-written and appropriately proofread?

school and practice, and it helps to reinforce the idea that the purpose of mastering tax law is to provide responsive legal advice.

C. Full Throttle: Practice Simulations in Small Skills Courses

In small skills courses, there is ample opportunity to provide large-scale exposure to the realities of trusts and estates practice through simulations. My Estate and Trust Administration class, a skills seminar capped at twenty students that focuses on Alabama probate and administration of trusts, is based almost entirely on simulated practice. The first part of the course, the estate administration unit, requires students to work in groups of four as part of a law firm that administers a fictional estate from start to finish. The second part of the course, the trust administration unit, requires students to work in new groups of four as part of an in-house corporate law department serving a small national banking association. The framework of the course allows ideal conditions for students to complete tasks similar to which new lawyers face in practice. The estate administration unit includes tasks such as drafting an engagement letter, preparing a Petition for Letters of Administration and Letters Testamentary, probating a will, drafting notice to creditors and determining where to publish it, writing letters to the client, and preparing an estate tax return. The trust administration unit simulates in-house practice and includes tasks such as drafting talking points for the business line on new trust legislation, assessing an investment portfolio for compliance with legal investment standards, petitioning a court for instructions in connection with the termination of a trust, and drafting a receipt and release.⁴⁶

These simulations also emphasize the importance of group work in the practice of an attorney. There are thirteen projects, which account for forty percent of a student's grade, and all of which are graded based on the group product; the group receives a score from zero to three along with written and oral feedback on each project. The class also requires students to observe probate court proceedings, to maintain a client file, and to write a practitioner-oriented manual on how to administer an estate in the state of the student's choice.

In-depth simulations like those possible in small seminar classes can provide a bridge to practice for students who are ready to progress beyond mere acquisition of substantive knowledge. To allow our students to be practice-ready when they graduate, it is helpful to provide meaningful opportunities for them to do the work of an attorney in a safe environment with abundant and thorough feedback.

46. The projects draw on my experience in the Corporate Law Department of Bank of America (and its predecessor, Fleet National Bank).

CONCLUSION

There are higher expectations for law school graduates now than there has been in the past. In addition to being well-educated and having a mastery of substantive doctrine and analytical thinking, new graduates are expected to be practice-ready. We can help students meet these challenges by providing significant opportunities to develop necessary skills in Trusts and Estates classes through microlawying and simulations.