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Training the Superstar Associate: Teaching Workplace Professionalism in Legal Writing Courses

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**Training the Superstar Associate:
Teaching Workplace Professionalism in Legal Writing Courses**

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A 2013 survey of human resource professionals concluded that new college graduates entering the workplace lack essential professionalism skills.¹ According to the survey, recent college graduates exhibit a number of unprofessional attributes, including: poor work ethic, lack of time management, abuse of information technology, inappropriate appearance, and a sense of entitlement.² More than one-third of the survey respondents indicated that the percentage of new college graduates who act professionally in the workplace had decreased over the past five years.³

At the same time that new college graduates – our incoming first-year law students – are increasingly displaying these unprofessional attributes, legal employers are emphasizing the need for new lawyers to have exemplary professional workplace skills.⁴ Indeed, many legal

¹ Center for Professional Excellence at York College of Pennsylvania, “2013 Professionalism in the Workplace,” (available at <http://www.ycp.edu/media/york-website/cpe/York-College-Professionalism-in-the-Workplace-Study-2013.pdf>) (York College Report).

² *Id.* at 9-11.

³ *Id.* at 8.

⁴ Professional workplace skills are important to success in the practice of law. *See* Susan Swaim Daicoff, *Expanding the Lawyer’s Toolkit of Skills and Competencies: Synthesizing Leadership, Professionalism, Emotional Intelligence, Conflict Resolution, and Comprehensive Law*, 52 SANTA CLARA L. REV. 795, 825-829 (2012) (identifying interpersonal skills such as practical judgment, managing one’s own work, and understanding others as “important to success in the legal workplace and in the practice of law”). Therefore, these skills are commonly identified by employers as important if not the most important skills for potential hires. *See* Susan C. Wawrose, *What Do Legal Employers Want to See in New Graduates? Using Focus Groups to Find Out*, 30 OHIO N.U. L. REV. 505 (2013) (reporting a hiring preference for attorneys who have well-developed professional or “soft skills” such as “a strong work ethic, willingness to take initiative, the ability to collaborate well with colleagues and clients, and the ability to adapt to the demands of supervisors”); *see also* Neil W. Hamilton, *Changing Markets Create Opportunities: Emphasizing the Competencies Legal Employers Use in Hiring New Lawyers (Including Professional Formation/professionalism)*, 65 S.C. L. REV. 547, 562 (2014) (concluding that some of the “most important

employers have become unwilling to invest the time and money needed to mentor or train law students, instead demanding that law schools teach students the skills needed to be “practice-ready”⁵ on the first day of their first legal job.

The convergence of these two trends means that, at the same time that new law students might be less prepared to behave professionally, their future legal employers expect them to begin work as polished and professional lawyers. It is for this reason that law schools must teach workplace professionalism skills. And because most law students actually begin their professional career well before they graduate, by working in the summer or part-time during law school, training in professional workplace skills should begin in the first year of law school.

This article details our efforts to increase the professional workplace skills of the students in our first-year legal writing classes. To do so, we created a series of videos that demonstrate how a new lawyer’s professional attributes and attitude can create either a positive or a negative impression on a supervising attorney. Nine “what not to do” videos highlight certain types of unprofessional behavior, much of which we have personally observed among the students in our legal writing courses. The “what not to do” videos are juxtaposed with one “what to do” video that is designed to illuminate exemplary professionalism workplace skills. In our view, these videos are a highly effective (and entertaining) tool to make our students aware that their success on the job depends not only on the substance of their legal work but also their office demeanor and interpersonal skills.

competencies” that employers look at when hiring new lawyers are “professional formation competencies or professionalism” such as judgment, initiative and ambition, and inspiring confidence).

⁵Lisa A. Kloppenberg, *Training the Heads, Hands and Hearts of Tomorrow’s Lawyers: A Problem-Solving Approach*, 2013 J. DISP. RESOL 103, 104 (2013) (a “practice-ready” law graduate is able to “hit the ground running” in the first legal job).

Legal Employers Demand Professional Workplace Skills.⁶

Numerous surveys and studies identify the professional qualities that legal employers seek in new hires.⁷ Predictably legal employers seek junior lawyers who have “strong fundamental practice skills”⁸ such as legal research, legal analysis and reasoning, problem-solving, and legal writing skills, among others. The importance of these so-called “hard skills” consistently has been identified as essential attributes of a junior lawyer.⁹ And yet legal employers also have begun to place great emphasis on the need for good professional “soft skills” in the workplace.¹⁰ Indeed, the emphasis legal employers place on soft skills, an emphasis that in some cases “threaten[ed] to dominate the discussion” about the essential qualities of new legal hires, has surprised those who have examined the issue.¹¹

In that regard, legal employers are no different than non-legal employers, who seek employees who can prioritize and manage work, display a positive attitude towards work, and

⁶ Professional workplace skills differ from concepts of professional values or “professional identity,” which focus on moral or ethical concerns. See, e.g., Patrick E. Longan, *Teaching Professionalism*, 60 MERCER L. REV. 659, 665-670 (2009) (defining “professionalism” as having six components: competence, acting in the clients best interest, service, fidelity to the law and its institution, and civility); Denise Platfoot Lacey, “*Embedding Professionalism into Legal Education*,” 18 J.L. BUS. & ETH. 41, 43 (2012) (describing professionalism as teaching students “to understand and commit to the values, behaviors, attitudes, expectations, and ethical requirements of a lawyer”).

⁷ See Daicoff, *supra* note 4, at 822-24 (describing several studies designed to identify essential skills of practicing lawyers); Wawrose, *supra* note 4, at 505 (describing focus group interviews of legal employers designed to elicit information about desired qualities of new hires).

⁸ Wawrose, *supra* note 4, at 522.

⁹ See Hamilton, *supra* note 4, at 571, 572 (using the phrase “technical skills” to describe “students' doctrinal knowledge, legal analysis, and research and writing skills”).

¹⁰ See Wawrose, *supra* note 4, at 522, n.87 (defining soft skills as “a cluster of personal qualities, habits, attitudes and social graces that make someone a good employee...”); Dan Schawbel, *The Soft Skills Managers Want*, http://www.businessweek.com/articles/2013-09-04/the-soft-skills-managers-want#rshare=email_article (September 4, 2013).

¹¹ See Wawrose, *supra* note 4, at 522 (“the focus on these skills caught us by surprise...); see Daicoff, *supra* note 4, at 822 (“[A] surprising number of nontraditional skills were also identified ... as important”).

work as part of a team.¹² Legal employers indicate that a junior lawyer must demonstrate a “strong work ethic,” which is described as working hard to complete an assignment competently and in a timely manner.¹³ Legal employers perceive that many new law school graduates seem “reluctan[t]”¹⁴ to put in the time and effort needed to demonstrate their best work. Indeed, many young people entering the workforce for the first time project an overly casual attitude about work, including “not being self-driven,” “not understanding what hard work is,” and “being willing to do work that is less than professional quality.”¹⁵ Indeed, instead of demonstrating a strong work ethic, many younger employees, both in and outside of the legal profession, exhibit a sense of entitlement by projecting the view that they expect all of the rewards of employment, including regular promotions, simply because they show up to work.¹⁶

Another important workplace skill identified by legal employers is the ability to prioritize assignments and manage one’s work. Legal employers want junior lawyers who are able to work independently without excess guidance or hand-holding from a supervising attorney.¹⁷ To be able to organize and complete work independently, a junior lawyer must possess an appropriate level of self-confidence that enables the lawyer to complete work without constant direction from others. Unfortunately, many new legal hires fail to understand that a key component of

¹² See Daicoff, *supra* note 4, at 822-824; Schawbel, *supra* note 11.

¹³ Wawrose, *supra* note 4, at 523-24; Tom Hentoff, *The Secrets of Superstar Associates*, Vol. 32, No. 3 LITIGATION (ABA Practice Section on Litigation Spring 2006) (the willingness to engage in hard work distinguishes superstar associates from their peers) (*Superstar Associates*).

¹⁴ Wawrose, *supra* note 4, at 523.

¹⁵ York College Report, *supra* note 1, at 10.

¹⁶ Wawrose, *supra* note 4, at 523-24; See *7 Reasons Why You Aren’t Getting Promoted*, <http://www.forbes.com/sites/dailymuse/2012/09/27/7-reasons-you-arent-getting-promoted/> (September 27, 2012) (labeling reason number 7 as “You Expect It”).

¹⁷ Daicoff, *supra* note 4, at 823 (identifying organizing and managing work as a necessary skill).

their work is to take responsibility away from a supervisor and that “an important part of their reputation is whether their work habits *cause* anxiety or *relieve* anxiety.”¹⁸ Instead of working independently, they are “overly reliant” on their supervising attorney to provide constant direction throughout the course of an assignment.¹⁹

Legal employers also seek new hires who can work well with colleagues, clients and others by demonstrating good interoffice communication skills. One important skill is the ability to display a “positive attitude” about work.²⁰ Other positive attributes include the ability to identify the real and perceived needs of others in the office and to treat all individuals, regardless of position, with respect.²¹ Legal employers want new hires who are able to interact well with a variety of individuals, including clients and non-lawyers.²² Unfortunately, due in part to an overreliance on technology, young people entering law school are increasingly deficient in oral communication and other social skills.²³ They often choose to communicate via text message or email even “when direct conversation is more appropriate.”²⁴ Thus, “unlike previous generations, [current first-year law students] come to law school needing basic training in interpersonal, listening and other social skills.”²⁵

¹⁸ *Superstar Associates*, *supra* note 14, at 2 (emphasis in the original).

¹⁹ Wawrose, *supra* note 4, at 526.

²⁰ Wawrose, *supra* note 4, at 529-30.

²¹ *Superstar Associates*, *supra* note 14, at 3 (understanding needs and treating office staff with respect).

²² Wawrose, *supra* note 4, at 529.

²³ Susan Stuart & Ruth Vance, *Bringing a Knife to the Gunfight: The Academically Unprepared Law Student & Legal Education Reform*, 48 VAL. U. L. REV. 41, 64-65 (2013).

²⁴ York College Report, *supra* note 1, at 9.

²⁵ Stuart & Vance, *supra* note 23, at 65.

Experienced lawyers repeatedly have advised new hires about the importance of these interpersonal skills in the workplace.²⁶ In fact, the most recent edition of the American Bar Association's Junior Lawyer Magazine included a reprint of a 2006 article entitled "*Secrets of Superstar Associates*" that focuses almost exclusively on the need to demonstrate a highly professional attitude in the workplace.²⁷

As legal writing professors who teach first-year law students, we have seen a downward trend in the presence of many of these important professional attributes among our students. As always, our students work hard to master the "hard skills" of legal analysis, research and writing, and the majority of them become competent legal researchers and writers by the end of their first year of law school. However, our students increasingly lack the oral communication and interpersonal skills needed to complement their legal research and writing skills. Having noticed this trend, we became concerned that some students might fail in the legal workplace not because of a weakness in their hard skills, but because of the way in which they presented themselves or their work product to a supervising attorney. Because we were concerned that a "technically" competent student might not succeed in the workplace due to non-technical deficiencies, we decided to address this problem proactively by discussing workplace professionalism in class.

We felt that, for several reasons, our first-year legal writing courses were well-suited to teach these professional workplace skills. First, it is quite common for many of our students to begin their first legal job just after their first year of law school. Students who perform exceptionally well in their first legal job likely will have greater opportunities to acquire a more

²⁶ *Real Attorneys' Perspective: Ten Tips for Succeeding As a New Attorney or Summer Associate*, U Law Today, March 30, 2010 (available at <http://today.law.utah.edu/careerbrief/real-attorneys%E2%80%99perspectives-ten-tips-for-succeeding-as-a-new-attorney-or-summer-associate/>).

²⁷ Tom Henoff, *The Secrets of Superstar Associates*, TYL American Bar Association (June 2014) (available at http://www.americanbar.org/publications/tyl/topics/professional-development/the_secrets_superstar_associates.html).

prestigious or preferred position when they graduate. And the opposite is true as well. Lack of success in the first legal job could adversely affect a student's future employment prospects. Given the reality that many students begin their career while still in law school, it is necessary to teach these skills in the first year.

Second, of all first-year courses, the legal writing course operates in the most office-like manner. In most legal writing classes, the assignments simulate a practice situation in that students receive research and writing assignments from their professor, who acts in the role of "supervising attorney." Students typically meet with their legal writing professor several times a year in one-on-one conferences that mimic a discussion that might take place in private practice. In addition, the legal writing course focuses on the hard skills – legal analysis, research and writing – that the student must use in that first legal job, since most assignments given to new hires or working law students typically are legal research and writing assignments.²⁸ Finally, any interoffice discussions about research and writing assignments likely would be the basis upon which a supervising attorney would judge the professional demeanor and "practice-ready" attributes of our working students and new graduates.

Developing Our Professionalism Videos

Once we decided that it would be valuable to educate our first year students about professional workplace skills, we began to consider the various methods by which we could best deliver the information. Almost immediately, we determined that our students might better appreciate how unprofessional demeanor can detract from their work product if they observed how unprofessional behavior can sneak into everyday interoffice discussions. So we decided to

²⁸ See Lawrence Rosenthal, *Are We Teaching Our Students What They Need to Survive in the Real World?: Results of A Survey*, 9 No. 3 Persp: Teaching Legal Res. & Writing 103 (2001) (reporting the most common summer assignments to be the written objective memo (48%) and research without full memo in support (18%)).

create a series of videos that are conversations between “a junior associate” and a “supervising attorney.”²⁹ We play the role of the supervising attorney and a few former students graciously agreed to play the role of the junior associate.

At the end of the school year, we wrote a script for each conversation and videotaped the conversations in our law school offices. Our IT department assisted in producing and editing the conversations, creating a seamless video of ten conversations. Each conversation starts with a descriptive title and concludes with a takeaway statement about the particular professionalism attribute. We showed these professionalism videos to our class for the first time in the fall of 2013.³⁰

Description of Professionalism Videos

The videos provide nine examples of “what not to do” and one model example of “what to do” when a junior lawyer is asked to orally report research results to a supervising attorney. The videos cover a variety of professionalism topics that we had seen arise during conferences, including: attitude, attention to task, organization, and timeliness, among others. Each video segment is a few minutes long and is intentionally “over the top” to elicit student responses and spur classroom discussion.

When we showed the videos in class, we asked students to consider the following questions. How might the supervising attorney perceive this associate’s legal abilities and professional demeanor? How can this associate convey a better impression of his or her

²⁹ A similar video was created by Ann Shields and JoEllen Lewis of Washington University School of Law and shown at the Second Annual Western Regional Legal Writing Conference as part of a presentation on the topic “Oral Presentation of Research Results.”

³⁰ We are happy to share both the script and our videos with others interested in integrating professionalism skills into the classroom.

preparedness for practice? And after each video segment, we pause to have a discussion about what students viewed.

What follows is a description six of the videos we created, the professionalism concerns we hoped to address, and the in-class discussion generated by the videos.

The Complaining Associate

The Complaining Associate video is designed to show students how they might inadvertently give the impression of both a poor work ethic and an inappropriate sense of entitlement. During this conversation between supervising attorney and junior lawyer about a particular research assignment, the junior lawyer makes several comments about the difficulty of the assignment, even commenting that completing the assignment required him to cancel plans for dinner with a friend. The junior lawyer concludes the conversation by telling the supervising attorney that she “owes” the junior lawyer some reward for having worked so hard to complete the assignment. The takeaway from this video reads: “Some assignments may be difficult, but portray yourself as willing to work.”

As with most of the videos we created, this scenario is an adaption of an attitude that we have seen in class, where some students complain about the complexity or length of an assignment. Students might complain about work assignments in an attempt to let us know that they are working hard in our class. They also might make complaints in the hope that we will lighten the requirements for future assignments. Whatever our students’ motivation might be when they complain to us, displaying such an attitude in the workplace could have devastating consequences, as the video demonstrates.

First, the video illustrates the simple proposition that no one likes to hear complaints, and that a new hire in any office should not be complaining about having to complete a work

assignment, even if the assignment required additional effort. Most students also understand that the video illustrates an inappropriate sense of entitlement, as demonstrated by the comment that the supervising attorney must “owe” the junior lawyer a perk for having completed the assignment. However, our students did not seem to understand what might be the most negative consequence of the junior lawyer’s attitude, namely that, by complaining about the level of difficulty, the junior lawyer may have given the supervising attorney the impression that his ability to conduct legal research is limited. We advise our students never to make such complaints, even if the assignment truly was very difficult. A junior lawyer never wants to give the impression that he cannot take on more difficult or complex tasks.

The Off-Track Associate

The Off-Track Associate video illustrates the associate who is so determined to think outside the box that she goes astray in her research. In this conversation, the junior associate previously had been asked to research the viability of a self-defense argument for a client. However, the associate states that she had been researching an insanity defense. The supervising attorney explains why she had asked the junior associate to research self-defense. While acknowledging that self-defense was her assigned research task, the junior associate exclaims that she had thought her supervisor would appreciate research on all possible defenses. The supervising attorney tries to focus the conversation on the assigned research, a self-defense strategy, but the junior associate replies that she has not completed *that* assignment yet. A bit exasperated, the supervising attorney inquires what facts suggested an insanity defense. To that question, the junior associate responds that their client made a comment that his wife was “driving him crazy!” The video ends a short takeaway, which reads: “You can think outside the box, but be sure to complete the assignment.”

This video scene demonstrates the pitfalls of not addressing the issue assigned and asks students to consider how an associate might raise the topic of an additional legal issue that was not part of the original assignment. This situation is almost certain to occur in our students' first legal position. It is important that they understand that, while supervising attorneys do want new hires to think creatively, such creative thinking should not occur at the expense of the assigned task. In class, we challenge students to consider what the junior associate could have done differently to avoid the impression of being unprepared.

Surprisingly, students did not readily suggest that the junior associate ought to have asked the supervising attorney early on if she should research the insanity defense. This reluctance to ask questions is common with many students as well as junior associates. Many see asking questions as a sign of incompetence while, in fact, seeking clarification can be a sign of good judgment. Both professors and supervising attorneys appreciate thoughtful questions asked in advance of an assignment's due date. Such questions indicate that the individual is thinking actively about the client's needs, is excited and motivated about the assignment, and is sensible enough to ask before wading further down an unintended path. As one article explains:

If you are having trouble understanding an assignment or can't find what you think you've been asked to look for, don't wait until the assignment is due to ask for further direction. No one wants you to have spent hours heading in the wrong direction (remember, time = money). Again, ask for more information, clarification, direction, more details.³¹

The Over Prepared Associate

The Over Prepared Associate video also underscores the importance of good judgment. In this short scene, the associate comes into the supervising attorney's office carrying copies of

³¹ Deirdre Sullivan, *The Class They Didn't Teach In Law School: Junior Associate 101*, BGC Attorney Search (available at <http://www.bcgsearch.com/article/60733/The-Class-They-Didnt-t-Teach-in-Law-School-Junior-Associate-101/>).

hundreds of cases and even a few hard bound reporters. The supervising attorney looks surprised when the junior associate enters her office with this amount of material, joking that the associate must have been in the stacks! The junior associate remarks that she has found a lot of good material, yet she begins the discussion by reviewing a case decided in 1890. When the supervising attorney asks for something more recent, the associate references a very recent decision, but asserts that she'd like to start with the 1890 case in order to give a full report of her research. The video ends with a voiceover of the supervising attorney remarking, "This is going to take forever." The takeaway from this video reads: "Your research should be thorough, but focused on relevant material."

Again, this is a situation that is likely to happen to our students during their first job. Many students think more cases equal better research results. They may have the right answer due to very complete and thorough research, but that fact goes unnoticed because they don't have the judgment to select only the relevant cases. This video reminds students that the supervising attorney's time is precious, and she will not be impressed with a mound of paper; what she really wants is for the junior lawyer to identify and analyze only the most relevant cases. The associate who will leave a favorable impression is the associate who comes in with a few, on-point cases that provide the necessary information.

The Apprehensive Associate

The Apprehensive Associate is one who lacks confidence and thus hesitates when presenting his research to the supervising attorney. This video includes several voiceovers where the junior associate internally questions the quality of his research. For example, the supervising attorney asks the associate whether he has Shepardized the cases. The associate, in his head, thinks, "I did, but what if I missed something?" So instead of responding with a confident,

“Yes,” he responds with an unsure “I did, but I want to do so one more time to make sure I didn’t miss anything.” To make matters worse, he then throws the project back to the supervising attorney with a question, “Or would you like to do that?” The takeaway for this video reads: “You may feel nervous, but be confident in what you know.”

This video amply demonstrates one of the main concerns of legal employers, specifically that some new hires require constant hand-holding or reassurance. How many times has a legal writing professor had a student come to a conference and ask the professor to identify the most relevant cases or to confirm that the research is finished? Students must understand that supervising attorney does not have the time or inclination to double-check a junior lawyer’s research. From the start the junior lawyer must both demonstrate good judgment, focusing on the most relevant cases, and display confidence in the quality of his work. As one senior attorney remarked, new attorneys must “tak[e] ownership of their work and be[] proactive about their careers. New lawyers must remember to work in a way that will earn them new work. In law, second chances can be scarce.”³²

The Unprepared Associate

Our students sometimes need to be reminded of the obvious. In the Unprepared Associate video, the junior associate arrives empty handed at the supervising attorney’s office for a scheduled meeting. He takes a seat and the supervising attorney dives into a recitation of a factually complicated story. The junior associate sheepishly interrupts to ask for a piece of paper. The supervising attorney responds to this request while continuing on with the facts of the case until the junior associate again interrupts to ask for a pen. An annoyed supervising

³² Grover A. Cleveland, *Helping New Grads Be Better Lawyers Faster*, Vol. 39 No. 3 LAW PRACTICE MAGAZINE (American Bar Association Publication May/June 2013) (available at http://www.americanbar.org/publications/law_practice_magazine/2013/may-june/helping-new-grads-be-better-lawyers-faster.html).

attorney shoves a pen in the direction of junior associate. The conversation ends with the junior associate asking the supervising attorney to start over. The takeaway is simple: “Always have a pen and a pad of paper with you.”

Again, this video is borne of our own experience with our students. This situation also apparently is common in the workplace, causing experienced attorneys to advise junior lawyers: “Never come talk to me without a pad and pen. Nothing makes partners more nervous than not taking notes.”³³ In our legal writing courses, we have had many students come to meet with us without the ability to take notes simply because they do not have paper or a pen. Even when cautioned not to “let this happen this summer,” at least one student did repeat the mistake during her summer employment, although she was embarrassed enough after one incident to learn the lesson. She said that, for the rest of the summer, she felt like a *Blue’s Clues*³⁴ character — always walking around the office with a pad of paper and pen; she told incoming first-year students never to meet with a supervisor without a pen or a piece of paper.

The other “what not to do” videos describe various other potential workplace issues, including the pitfalls associated with missing or just barely making a deadline (*the Last Minute Associate*), not supplying the supervising attorney with research results in readable form (*the Paperless Associate*), poor listening skills (*the Overly Enthusiastic Associate*), and discussing the research process in technical jargon (*the Terms and Connectors Associate*). Each of the videos is available on YouTube using the following link:

<https://www.youtube.com/watch?v=yVq1Us026eg&list=PLw3H9KjkoihUGQ7YjljnrPTzgG4Fi60-R>

The Good Associate

³³ *Superstar Associates*, *supra* note 14, at 2.

³⁴ *Blue’s Clues* is a children’s television show that was shown on Nickelodeon. See www.nickjr.com/blues-clues.

After showing students several examples of what not to do, we show students a video that illustrates the proper way to present research results to a supervising attorney. We ask students to identify ways in which this associate demonstrates the professionalism, preparedness, and polish that a supervising attorney wants to see. Students are quick to point out that the associate is professionally dressed, and he apparently completed the assignment well in advance of the deadline. He clearly conveys that he has completed the necessary research. He also is able to provide the supervising attorney with copies of the most relevant cases, and he is able to articulate why he has selected those cases. He demonstrates an interest in the assignment and a willingness to work, asking the supervising attorney if there is anything else he can do on the assignment. The takeaway of this video: “Strive to have your demeanor match your legal competence.”

Conclusion

Many of our students understand how to behave professionally but simply do not adopt that professional demeanor while at school. Other students, however, may not be aware of either the need to act professionally or the appropriate attitude to display. Either way, there is no better time than the first year of law school to remind students that they must make a conscious effort to act professionally. Junior lawyers, including law students working part-time, should not treat their first job like a dress rehearsal for the real world. From the first time that they step into a professional situation, our students are going to be judged based on both their legal skills and their interpersonal skills.

These professionalism videos were our way of integrating professionalism skills training into a legal research and writing class. Our hope is that, after viewing and discussing these

videos, students recognize that the complete professional is one who not only researches and writes well, but one who exhibits workplace habits and traits of the superstar associate.