Building a Bridge to Practice Using Letters to Student Lawyers

Stephen A Gerst, Arizona Summit Law School

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By Steve Gerst

Dear Student Lawyer:

I purchased a new carpet for my office from Carpet Emporium based on an advertisement for quality carpeting that included free installation. Although I am satisfied with the quality of the carpeting, I am totally unsatisfied with its installation. I have consulted with a carpeting expert who is willing to testify, if necessary, that as a result of the shoddy workmanship in the installation process the entire carpeting will need to be removed and replaced. I would like to know if I have rights that can be enforced in court, and what laws would apply to this situation.

Thank you for your anticipated response.

Rosemary

In my contracts classes I use teaching methods which demonstrate to students the usefulness of the material they are learning. Appellate decisions often involve situations that are not typical of the kinds of cases that form the “bread and butter” of the practicing lawyer. As a result, students often acquire a skewed view of the kinds of problems that they will be called upon for legal advice and representation. This is one of the reasons I created and incorporate a teaching method which I have titled, “Letter to Student Lawyer.”

The letters are presented to students in the following manner: Several days before a subject is covered by a reading assignment, I electronically post a “letter to student lawyer” which seeks information regarding a legal issue that is typical and common to the problems that clients bring to lawyers. The letters are similar to what one might find if one were writing to an “Ask a Lawyer” newspaper column.

The students are instructed to use the materials and cases in their reading assignments as their resource in drafting a response to the letter. Students are directed to deposit the responses in a designated electronic drop-box at a time before the beginning of the next class. The responses are not graded. They are, however, spot-checked to determine the level of understanding of the issues and legal principles involved, and the quality of the written communication. During class, I provide an opportunity for students to form groups of three to discuss their responses to the letter for approximately five to eight minutes. I then call upon one of the groups to begin a discussion on how a response to the letter should be structured and what information it should contain. This invites a full class discussion where I receive comments and questions from other students as we structure the outline and content of a response letter. After each class, I post my own sample response for students to use in improving the content and style of the response they drafted. At the end of the semester I review the drop-box for each student and award participation points based on the extent of a students’ participation in these assignments. The following is a sample response to the letter used in the beginning of this article:

Dear Student Lawyer:

I purchased a new carpet for my office from Carpet Emporium based on an advertisement for quality carpeting that included free installation. Although I am satisfied with the quality of the carpeting, I am totally unsatisfied with its installation. I have consulted with a carpeting expert who is willing to testify, if necessary, that as a result of the shoddy workmanship in the installation process the entire carpeting will need to be removed and replaced. I would like to know if I have rights that can be enforced in court, and what laws would apply to this situation.

Thank you for your anticipated response.

Rosemary


Dear Rosemary:

In the situation you described you entered into a contract with Carpet Emporium for the sale and installation of carpeting for your office. As a result you have enforceable rights in the event this matter cannot be resolved. Since the transaction in this case involves both the sale of goods (carpeting), and the sale of services (installation), a determination will need to be made by your attorney as to whether the law applicable to your situation is governed by state statutes known as the Uniform Commercial Code, or by common law which is based on court decisions. The UCC statutes, which govern the sale of goods, set forth specific warranties that are not as clear as cases under common law. The UCC also has limits on the time one can file legal actions that are different than contract actions brought under common law.

Courts have developed principles to resolve issues involving mixed transactions, where a sale involves both goods and services, such as we have in your case. In the majority of the states, the law is that if a transaction is “predominantly” a sale of goods, it is governed by the UCC of the state.

A minority of states make the determination of what law applies by looking at the precise cause of the complaint. In this case it appears that the sale of carpeting was the predominant purpose of the transaction you described.

On the other hand, your complaint arises out of the installation services that were part of the sale.

Your attorney will make a determination of which law applies in your state and, either negotiate a settlement for you, or file a lawsuit under the UCC or common law, whichever is applicable, to enforce your contract rights.

I hope this information is helpful to you.

Respectfully,

Student Lawyer

Student participation and reaction has been very positive. The following comments are typical of those received in a student survey:

“An effective approach…..because it involves application. I feel (the Letter to Student Lawyer)…has truly helped me learn and grasp the material effectively.”

“I have enjoyed the student letters. It provides a nice opportunity to review the material and put the rules into my own words.”

“Practice with the student letters helps to solidify our learning.”

“I especially like the student letters because they are not graded; however, it gives us the chance to put into practice what we just read.”

“I like the student letters exercises. They help me understand the concepts…not in textbook form but rather in real life scenarios.”
I have now used the Letter to Student Lawyer teaching method through an entire two-semester course. I have found that, in addition to the students enjoying the letter exercises, they are demonstrating a better understanding of legal principles, improvement in legal analysis and application, and a noted improvement in written communication.

Some of the benefits of this teaching method are:

1. Students develop and practice the skill of written communication in responding to questions that involve legal principles they are learning;

2. Students learn how application of legal principles is useful in solving practical problems they are likely to encounter in the practice of law;

3. Students learn how to extract legal principles from their reading assignments and apply them to the issues raised in the letters;

4. Students are provided with a means for consistent improvement of skills through self-learning, collaboration, feedback, and repetition.

5. Students learn how to speak and write the language of the law with confidence.

With regard to item number 5, above, Peter Kalis, chairman and global partner of K&L Gates, is quoted in The National Law Journal, in January 2012, as saying that he considers the criticism leveled against law schools misplaced. Law schools’ failure lies not in their inability to teach practical skills, but rather in their diminishing ability to produce lawyers “able to speak the language of the law with confidence.”

It is with this goal in mind that I hope the reader finds the information contained in this article helpful. If you would like more samples of letters and responses on issues related to contracts, please feel welcome to contact me.

Stephen Gerst is a professor of law at Phoenix School of Law. He can be reached at sgerst@phoenixlaw.edu.

A Mystery Statute Approach: How to Teach and Test the Legal Skill of Statutory Interpretation

By Cynthia M. Ho

Do you teach a class that focuses on statutes, rules, or code? Are you frustrated that students seem resistant to deciphering such language without study aids, even though this is what they need to do as attorneys? If so, I not only empathize, but have a possible solution to your frustration—what I dub a “mystery statute” approach to learning. Basically, to get students to focus on statutory language, rather than merely parrot what someone else (whether a professor or commercial outline) says the language means, I regularly use “mystery” statutes.

What is a mystery statute? The so-called mystery statute may be a real statute that was not