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Stacey B. Lee

Johns Hopkins University Carey Business School

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Using Mind Mapping To Bridge The Gap In Teaching Health Law To Non-Law Students

*Stacey B. Lee, J.D. **

I recently attended the American Society Law Medicine & Ethics' Health Law Professors Conference and was surprised by the number of faculty teaching law courses outside of a traditional law school setting. As the only law faculty in a business school charged with teaching health law to MBA candidates, I have often felt like an odd duck. At the conference I appreciated the opportunity to meet and interact with health law colleagues teaching in a variety of different academic settings. It was comforting to learn that several of the challenges I face in teaching health law to business students are quite common among faculty teaching law to a population of non-law students. What I appreciated most, however, was interacting with a growing community of faculty, similar to myself, who are interested in sharing creative and original pedagogical approaches to engage non-law students in the study of law. In this brief note I share my experiences using a tool that has proven useful in this endeavor.

I. THE CONUNDRUM OF STYLE AND SUBSTANCE . . .

My recognition of the need for more innovative methods to engage students in the classroom was borne of frustrations I experienced when I first started teaching health law to business students. Unlike law students, only a handful of these students have any relevant legal experience or knowledge, and fewer still have more than a passing interest in the law. In addition, unlike public health or medical students, the majority of business students are not, and will not, be involved in the direct care of patients. To the extent that they continue their career in the healthcare industry, their main concern most likely will be assessing the business impact of healthcare regulations and requirements. In terms of the MBA curriculum at my institution, I am charged with introducing students to the legal profession, explaining the law's impact on firms in the healthcare industry, and helping them to refine the critical thinking skills necessary to discern potential business ramifications of that impact. Outside of this one

* Assistant Professor of Law at Johns Hopkins University Carey Business School teaching Business Law, Legal Issues in Medicine, and Business Aspects of Health Care.

semester course, no other law courses are offered as part of our curriculum. Simply put, their introduction to the legal profession at the graduate level starts and ends with my course.

Given these students and this curriculum, I wanted to design a course that places the complexities of health law into a business environment in a way that is digestible, and dare I say interesting, to non-law students. Keeping in mind what could realistically be accomplished in one semester, I quickly realized that a traditional law school approach – slogging through the minutia of healthcare regulations or the nuanced intricacies of legal theory – was not the right approach. To design a syllabus to achieve my course goals, I needed to take a step back and focus on the purpose of health law. Distilled to its primary components, health law is about how the law accounts for the distinctive characteristics of medicine and the unique relationships that form in medical encounters between providers, insurers, employers, family members, and most notably between patients and providers.¹ Health law’s content is derived from considering how the healing process occurs, what it means to be sick (including patients’ vulnerability and dependency) and what it means to care for individuals as a healthcare provider.²

While I was not sure what specific reading list could deliver all of this, I was positive that on a substantive basis, for students to grasp the core components of health law “context” would be critical. To understand how the complexities and nuances of healthcare law affect people and organizations, students must be able to place the law within the context of the healthcare industry and the actual experience of providers, payers, patients and businesses. Without such context, students could lapse into thinking that health law consists of nothing more than shoehorning standard contracts, torts, and other legal doctrines into a medical setting.

With the over arching objective of my curriculum fleshed out, I turned to the daunting task of finding a suitable casebook. While changing, the bulk of health law course material is written by law faculty and geared towards law schools. In large part, these texts do an excellent job of condensing voluminous judicial opinions, however, they tend to focus on appellate cases and omit many of the underlying facts that give rise to the dispute. In addition, these casebooks seldom contained the historical, political, and social “context” that I identified as the cornerstone of my course. To foster a deeper comprehension of health law and policy as well as our legal framework, I wanted students to have access to personal narratives and insights from expert witnesses and attorneys – information typically not

1. Mark A. Hall, *The History and Future of Health Care Law: An Essentialist View*, 41 WAKE FOREST L. REV. 347, 362 (2006).

2. *Id.*

included in the public record. It was my hope that such context would stimulate class discussions and afford a more nuanced appreciation of what factors contributed to the various health care decisions.

While it took several years and syllabi revisions, I ultimately gathered a set of course materials that borrows from a variety of sources including opinions, textbooks, supplements, and journal articles.³ In addition, I rely on several different media to deliver course content (including film, snippets of oral arguments, news clips, and types of documentaries). While this blend of content engages students and yields robust class discussion, I found student interest and comprehension waned during case law discussions. Notwithstanding the other media and sources I use in class, I found that I could not, nor did I want to exclude reading opinions. Simply put, legal analysis requires the reading and briefing of cases. This process along with at least some version of the Socratic Method is vital in refining students' critical thinking skills. This can be a tough sell to law students – but to business students who have little regard for “The Paper Chase, Professor Kingsfield's” approach, getting them to actively engage in robust case briefing presented a daunting stylistic challenge. Fortunately about two years ago, I discovered a tool which has proven to be almost essential in this endeavor – mind mapping.

II. MIND MAPPING: WHAT IS IT?

Mind mapping software uses visual diagrams to represent ideas, words, or other items related to and arranged around a central key concept.⁴ The elements of a given mind map are arranged intuitively according to the importance of the concepts, and are classified into groupings, branches, or areas, with the goal of representing the relationship among ideas and facts.⁵ The appeal of mind maps lies in the way it visually captures/portrays how we think and process information.⁶ Rather than using a linear outlining approach, mind mapping involves an organically associated diagram of words, concepts, tasks, decisions, or other information, linked to individual items as their associations demand.⁷

In executive MBA management courses, mind mapping is being used to generate ideas, represent complex concepts and relationships, classify

3. My syllabus incorporates sections of HEALTH LAW & BIOETHICS, CASES IN CONTEXT (Sandra H. Johnson et. al. eds, Aspen Pub. 2009); J. STUART SHOWALTER, THE LAW OF HEALTHCARE ADMINISTRATION (Health Admin. Press, 5th ed. 2008), and cases available through Westlaw.

4. See, e.g., TONY BUZAN, THE MIND MAP BOOK: HOW TO USE RADIANT THINKING TO MAXIMIZE YOUR BRAIN'S UNTAPPED POTENTIAL (Plume 1996).

5. Diane Murley, *Making Presentations Visual*, 99 LAW LIBR. J. 175 (2007).

6. *Id.* at 177.

7. *Id.* at 176-178.

related items, and enhance student thinking, studying, writing, and decision making.⁸ In the classroom, mind maps also provide an easily and efficient way to gather, interpret, and communicate vast amounts of information in a way that is not possible with traditional lecture techniques.⁹ I was introduced to mind mapping by a colleague who uses it to provide students an overview of what they will cover over the semester in his environmental finance course. His course map shows students not only the subject areas that he is going to address but depicts visually how these topics related to each other. During the course of the semester, rather than clicking on screen after screen of PowerPoint slides, he uses computerized mapping to illustrate real life applications of these concepts through the seamless integration of RSS feeds, PDFs, audio, spreadsheets, Word files, images, slide presentations, websites, as well as preselected data from databases, and the content of specific e-mails. The map's ability to display complex themes through the integration of these elements along, with the application's ability to visually illustrate interconnectivity among concepts and topics provided the "aha!" moment regarding case briefing that had eluded me.

III. MIND MAPPING AND CASE BRIEFING

One of the pioneers in mind mapping in the law school environment is Professor Jerry Kang at the University of California Los Angeles.¹⁰ Building on his approach has enabled me to craft an entirely new way to discuss case law. Each class session begins with a skeleton map of the assigned case. I typically have the case site as the central topic on the map. Using the IRAC format¹¹ I expand the branches of the map in accordance with the flow of conversation as we proceed from the background facts to the court's holding. The flexibility of mapping allows me to point to highlight key facts the branches of map in the facts section that played prominent roles in the court's reasoning. I can also easily new integrate material to supplement the information provided in the readings.

For example, when discussing the facts of *Canterbury v. Spence*, I include photos and an interview with Mr. Canterbury. I also include a brief video clip of the medical procedure mentioned in the opinion. This context gives more substance and energy to our class discussions. While I have a

8. See, e.g., Anthony J. Mento et al., *Mind mapping in Executive Education: Applications and Outcomes*, 18 J. MGT. DEV. 390 (1999).

9. *Id.*

10. Mindjet, Case Study Professor Jerry Kang, UCLA, http://www.mindjet.com/pdf/us/case_studies/Mindjet_UCLA_US.pdf.

11. This acronym refers to the typical law school approach of case briefing, where after summarizing the background facts; students identify the Issue in the case; the Rule of law in the case, the court's Application of facts to the law; and the court's Conclusion.

tendency to add more supplemental material than we have time to review in class, I invite students to explore this information in more depth after class and post their thoughts and questions on the class' case discussion board. In this regard, technology allows me to "bridge the gap" by including in the map resources that students can reference to learn more about the case, legal doctrine, and topics that I did not have time raise in class. In the case of *Canterbury* this supplemental material lead to a robust discussion in class and subsequently online regarding whether the "reasonable patient" versus the "professional patient" standard should govern informed consent jurisprudence.

Another noted benefit of mapping is how its interactive capabilities can be used to transform class discussions regarding legal doctrine. In my class, students struggled with the intricacies of the False Claims Act discussed in *U.S. v. Krizek*. In the past, I dreaded this class session. Walking students through the elements of the Act, the definition of key terms like "knowingly" and "claims" in addition to "upcoding" made for a confusing and tedious three hours. Now I am able to illustrate the complexity of these topics step-by-step as the class conversation unfolds.

For example, after going over the definition of a false claim I unfold branches of the map to further flesh out the key components of the definition, all the while providing students an entire picture of how these elements relate to each other. In PowerPoint, I would have to click back and forth among several slides to show these relationships. Because an entire case could not be presented on one slide, if a student asked a question about a topic I had addressed two slides ago, or would not address until two slides later, I did not have an easy way to get to that information and show how it pertained to the issues at hand. Mapping addresses this problem in two ways. First, it allows students to see the entire case analysis at one time. Second, by dragging and dropping branches of the map, branches can be modified or shortened in accordance with the flow the class discussion.

One of the biggest challenges I faced in teaching business law students was getting them to see how a case decided decades ago is relevant to what they are doing currently. To combat this, I added a "how it is relevant" section standard in all case maps. Sometimes this section links to current news articles or pending litigation involving similar facts or citing the case we are discussing. We then discuss the business implications and problems raised in these situations.¹² I find that these discussions are effective in helping students to think strategically about the law and make precedent more alive for the students.

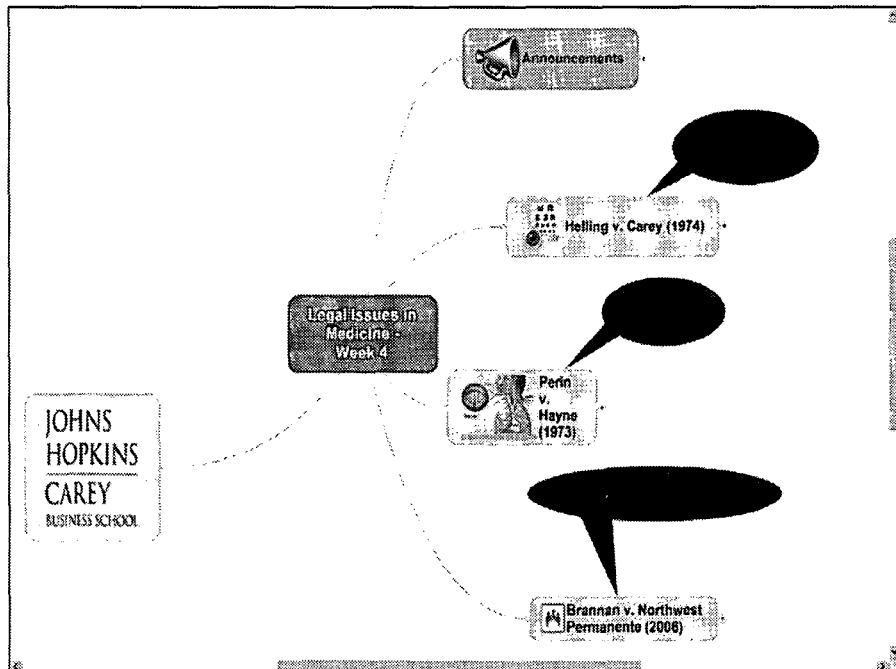
Though in no way required, I use a tablet in class. The ability to write on

12. The easiest way to find relevant and timely information for this section is to create Internet alerts for the cases and topics.

maps enables me to better respond to student questions. “Inking” allows me to add the answers into the map, draw arrows, open up branches, and clump and reclump information based on the nature of the conversations.¹³ The strength of this methodology is in its dynamic way of capturing the class dialogue based on the Socratic Method. Mapping a case allows me to visually deconstruct court holdings and legal theories in a way that traditional lecturing does not. The flexibility of the technology makes it possible to easily integrate student responses and ideas immediately into lectures. Students watch as I reorganize ideas and show relationships in real time. In addition, I can show how their particular comments relate to the “big picture”.

At the end of the class, maps are easily exported to Blackboard or they can also be emailed to students. As exported, students have the full functionality to edit the maps for their own use. Student feedback indicates that this editing capability is an excellent review tool when they begin to study for exams.

Figure 1 - Basic Skeleton Map



13. “Inking” is the process of using the stylus to write on the screen of the tablet.

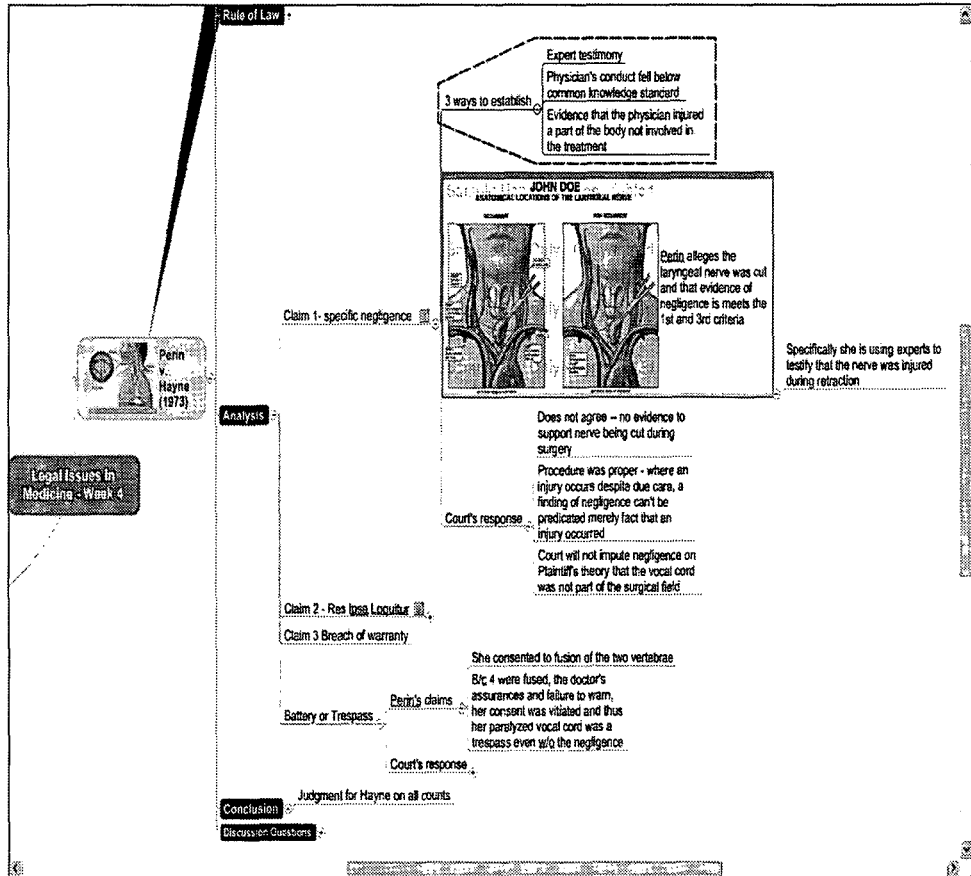
IV. STUDENT INVOLVEMENT IN MAPPING CASES

Throughout the course of the semester I map several of the cases we discuss in class. In addition, I require teams of students to each map an assigned case. Graduate business students on the whole are hungry for technology and not averse to trying new and creative ways to digest complex material. I do not teach law students, therefore I do not know if they have the same desire. However, by leading with a map in the first night of class in which I give an overview of the entire course, students typically respond with a lot of curiosity and interest in finding out more about using this method.

Requiring students to create their own maps not only decreases their reliance on canned briefs that are available on the Internet, but also encourages them to approach the case in a more dynamic way. Compared to class discussions in which student teams brief the case using the traditional approach, mapped cases yield more informed conversations where the students have a better command of the facts, legal analysis and business implications.

In explaining the assignment, I stress to students that a primary benefit of mapping is to create maps that uniquely work for them. Accordingly, I do not provide students a template for designing maps of cases. I do however, provide some general pointers for students about how to adapt mind mapping for case briefs using the IRAC method. A few examples are:

Figure 2 – Partially Expanded Map



- Work from the general to the specific; that is, have your most general idea (in this instance, the case name and court) centered in the mind map. Work from the center to the outer branches with the outermost branches consisting of class notes and personal thoughts on the case.
- Create at least five main branches. Work in a clockwise manner from facts, issue, rule, analysis, and holding/disposition. This is the format in which cases are typically written, so it is convenient to have the mind map follow a similar pattern.¹⁴
- An added requirement for all team maps is that they contain a “how is it relevant” section. This portion of the map must link the case to a current practical business situation. After addressing the business

14. Various samples of complete case maps I created and use in my Legal Issues in Medicine and Business Law courses are available at: <https://sites.google.com/site/staceyblee11/>.

implications, teams must be provide two strategic recommendations to address the situation.

There are several mind mapping applications available, free and otherwise. I prefer the functionality and sophistication of Mind Jet's Mind Manager. However, I have also created maps using free versions of MindMeister, FreeMind and XMind.¹⁵ All of these programs are suitable for case briefing. For the team based class project that I use in my classes, I require student to use an upgraded version of MindMeister. I chose this product because it is cloud-based, inexpensive, has an excellent tutorial video, is very easy to use, and most importantly allows teams to simultaneously collaborate on maps.

Midpoint through the semester I send out an anonymous questionnaire through Survey Monkey asking students specifically if they feel mind mapping (both creating them and classes where we use my maps) is adding to their understanding of legal concepts and case law. After using mapping for nine semesters, 91 percent of responding students feel that mapping cases makes a valuable contribution to their understanding of course content.

Outside of the team assignment, I also encourage students to use the free mind mapping software to create their own maps. Students who do typically remark that mapping increases their ability to memorize, analyze, understand, and communicate the particular subject matter presented in the case briefs. In class decisions, these students have a tendency to convey a deeper level of analysis and better clarity and precision in their comments.

A caveat for instructors: preparing the first mind map case for the classroom will take about two hours longer than creating a traditional PowerPoint presentation. The software itself is not complex and with any pointer/clicker or mouse one can expand the map. The time investment is in figuring out how to structure a map and finding the necessary links, feeds, and other supplemental information to illustrate aspects of the case. Some of general tips in creating maps (1) create a case map template; (2) bookmark sites and create Google alerts for information related to specific course topics and cases; and (3) keep the branches of the map relatively simple. Information can be easily added to maps in class as students bring up points. Accordingly, I caution against giving students maps that contain a complete and detailed analysis of the case. The goal of "instructor created maps" is to promote discussion. Case details should come from the students, not from the instructor. After mapping a few times, I found that I could create a case map in under an hour. In terms of teaching with maps, I

15. The free mindware applications are available at: MindMeister (<http://www.mindmeister.com/>), FreeMind (<http://freemind.sourceforge.net/wiki/index.php/Download>), and XMind (<http://www.xmind.net/>).

recommend a few dry runs before using maps in the classroom. Getting familiar with opening and closing branches of the map, dragging branches, and “inking” takes a little practice.

As a result of the increased student involvement in class, initially I mapped every case. I soon discovered that student pre-class preparation began to decrease. Students grew content to digest the material in class and review the exported maps afterwards. In large part incorporating the team mapping component into the course solves this problem. In addition, the class benefits from the variety of different case maps teams present.

V. CONTRIBUTION TO TEACHING HEALTH LAW

This pedagogical approach allows me to use case law to highlight the natural associations between legal issues raised in the medical and business communities. Mapping transforms the academic exercise of case briefing into a multi-dimensional analysis that more closely mirrors the complex strategic challenges business students will face throughout their careers. It is my experience that whether created by me or by teams, mapping cases increases student comprehension of health law and improves class discussions. This occurs in large part because creating case maps invites students to think about the legal issues in a contextual way that incorporates policy, political, economic, business, and social considerations.