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Memorandum

To: Members of the Curriculum Committee

From: Ken Hirsh and Wayne Miller

Re: Course Proposal: Introduction to Technology in the Law Office

For several years Wayne Miller and I have been working toward a proposal to teach a new course in this subject. We have surveyed other law schools and published that information in our attached article, "Law School Education in the 21st Century: Adding Information Technology Instruction to the Curriculum." In the article we espouse our belief that exposing law students to the uses and implications of technology they are likely to experience and rely upon in their practice is a fundamental duty of law schools today. There is only a handful of schools doing this now, and Duke is especially well suited to offering such a course. Our facilities are unsurpassed and our clinical and trial advocacy faculty already include some elements of practice technology in their courses. Wayne and Ken are nationally recognized as leaders in their respective fields of instructional/educational technology and law school computer technology, and Ken is one of a few law school technologists with a J.D. and practice experience. This course would offer students another option for meeting the ABA practice skills requirement. After more than three years of investigation and review, we are ready to launch this initiative for spring 2007.

Course Materials

This new field does not yet have a standard textbook. Instructors at other schools draw from published articles and, as you might expect, web sites. We anticipate that some, if not much, of the materials that we will use in this course when taught are not available today. Below are some examples of the existing materials that would be included in course reading assignments:

Selected chapters in:

Computerized Case Management Systems by Andrew Z. Adkins, III.

The Digital Practice of Law, 5th ed. by Michael R. Arkfeld

Electronic Discovery and Evidence by Michael R. Arkfeld

Winning with Computers: Trial Practice in the 21st Century, John C. Tredennick, Jr.,
Editor

Articles from Law Office Management, LLRX.com, LAW.com, ABA Legal Technology Center, digital-lawyer.com, Legal Technology Institute, Courtroom 21 Project, etc.

Student Evaluation and Class Status

The course will be two credits, meeting either twice weekly for one class period or once weekly for two periods. As a course surveying technology in practice, the instructors will evaluate the students on their grasp of the concepts and how they implement them in practice. A major part of the grade will be based on the student's participation in hands-on practice using fact scenarios provided by the instructors. A coherent suite of scenarios, representing situations an attorney could well face in practice, will give a context for practicing the skills covered in the course. Those skills will include using law firm practice management systems, conducting non-traditional research, communicating with the client, making a courtroom presentation, and submitting a written analysis of the experience. Supplementing these experiences will be participation in discussions both virtual (using a variety of communication technologies) and in class. At the end of the semester pairs of students will present and lead discussions on the problems and issues that they have selected. Working in pairs will encourage teamwork as well as demonstrate the students' knowledge and interest in the skills taught.

We propose that in the first offering grading will be on a pass/fail basis. This will allow us to observe student performance and develop criteria for assigning grades in this first-of- its-kind class. If, however, the Curriculum Committee believes pass/fail is inappropriate, we believe that we can develop criteria as we finalize the syllabus. Ideal size for the class will be 6 - 12 students.

Instructors

Ken Hirsh and Wayne Miller will be the primary instructors in the course. Guest speakers will be integrated (using relevant technologies such as videoconferencing) where appropriate. For example, a law firm I.T. manager may give insight into particular practices in a firm and members of our trial practice faculty would participate to ensure thorough and current coverage of courtroom technology.

Syllabus

Required Text: Michael R. Arkfield, The Digital Practice of Law: A Practical Reference for Applying Technology Concepts to the Practice of Law, 5th ed. (Law Partner Publishing, 2001)

Week 1 Introduction

An overview of technology in law practice: historical development, current uses of technology including email, online research, case and document management systems.

Reading Assignments: Arkfield, chapter 1.

Excerpts from the ABA Annual Technology Survey
David Whelan, Director, ABA Legal Technology Resource Center, "Law Practice Management: How to Structure and Improve Your Practice," online at
<<http://www.abanet.org/tech/ltrc/presentations/famlaw2001/famlaw2001/frame.htm>>.

Week 2 Office Practice - Administrative Tools
Timekeeping and Billing Systems, Client and Conflicts Management

Reading Assignments: Arkfield, Chapter 7.
Molly Kilmer Flood, "Practice Control: A Purchasing Guide for Practice Management Software," online at <<http://www.abanet.org/tech/ltrc/publications/sfbpracmangement.htm>>.
Molly Kilmer Flood, "Brave New World: Law Office Software for the Law Student," online at <<http://www.abanet.org/tech/ltrc/publications/bravenewworld.html>>.

Lab exercise: Open case in Time Matters; students will keep time throughout the semester and bill their client for services rendered

Week 3 Large and Complex Case Management
Document management, including data mining, electronic discovery, indexing and retrieval of information

Reading Assignments: (TBD)

Guest speaker: Firm I.T. Manager with experience managing complex case data.

Week 4 Knowledge Management
Systems for organizing and sustaining the intellectual capital of a law practice: indexing and retrieving information contained in brief banks, memos, e-mails, and other firm internal documents.

Reading Materials: Catherine Sanders Reach, "KM101: Assistive Technology for Knowledge Management Initiatives," online at <<http://www.abanet.org/tech/ltrc/publications/km101.html>>.
Susan Hensel, "Putting Knowledge Management to Work," Pennsylvania Lawyer, September/October 2003 at 24.

Lab: Exercise with instructors: students to interview instructors as senior partner and then develop and file memo regarding whether firm should settle case.

Week 5 Client Communications
Effective use of E-mail, web sites and other electronic communications.
Professional responsibility perspectives of conducting the business of the legal profession with e-mail. Protection of metadata in shared documents. Consideration of security and privacy issues. Impact of the Code of Professional Responsibility.

Reading materials: J. Brian Beckham, "Production, Preservation, and Disclosure of Metadata," 7 Columbia Science and Technology Law Review 1 (2005).

"Ethical Issues Involving Lawyer and Judicial Participation in Listserv Communications," Formal Opinion No. 514, Los Angeles County Bar Association, Los Angeles Lawyer, January, 2006 at 41.

Week 6 Trial Practice Technology

Evidence and document management. Presentation of evidence. Simulations and video documentation. The state-of-the-art courtroom.

Reading Materials: Arkfield, chapter 8.

Frederic I. Lederer, "The New Courtroom: the Intersection of Evidence and Technology: Some Thoughts on the Evidentiary Aspects of Technologically Presented or Produced Evidence," 28 Sw. Univ. Law Review 389 (1999).

"The Use of Technology in the Jury Room to Enhance Deliberations," Courtroom 21 Research Report (2005).

Week 7 The Internet Beyond Legal Research

The place of the Internet in today's law office: practical tools and tips for applying the Internet to solving your client's problems. Business and competitor research, Internet service firms such as financial institutions and corporate services.

Reading Materials: Arkfield, chapter 4

Catherine Sanders Reach and Molly Kilmer Flood, "Tips, Tricks, and Tools: Taming the Internet," online at <<http://www.abanet.org/tech/ltrc/publications/webtips.html>>.

Weeks 9-13 Student Presentations and Hands On Skills

For the remainder of the course students will present their reports and continue work on the case scenarios, taking advantage of systems such as client management, document management, courtroom presentation, email, and video production.

Students will present and write on a technology (analysis of features vs. needs, etc.) or legal practice concept (e.g., email privacy), based on individual readings and work. Students will finish the semester by writing an analysis of their work on the simulated case, the problems and solutions that they encountered. An important part of this analysis will be to evaluate the scenarios as well, so that over time we will be able to provide as challenging and well-conceived a set of practice skills activities as possible.