

ICLE in Michigan Law Schools

By Rebekah Page-Gourley

For almost 60 years, the Institute of Continuing Legal Education (ICLE) has provided resources and education for Michigan lawyers.¹ It might seem counterintuitive that an organization focused on *continuing* legal education would also have a role to serve in law schools. But as past entries in the *Bar Journal's* "Future of Law" column have highlighted, Michigan law schools are increasingly offering experiential learning and skill-building opportunities that ICLE has helped support. ICLE collaborates with law schools, complementing their developing curricula with practical insights and guidance from experienced Michigan lawyers. In this respect, the same sorts of online and other resources that many practitioners rely on for continuing legal education purposes do double duty as training materials for future attorneys. Working closely with professors, ICLE has provided many students with access to resources that help support their clinical and classroom work and jump start their preparation for life after graduation.

Providing context

Law school is often the first place students hear about elemental legal definitions, legal theories, and sources of law. Contextualizing these abstract concepts is one of

the most challenging aspects of law school. Kathy Smolinski, director of the Legal Advocacy for People with Cancer Clinic at Wayne State University Law School, explains that "ICLE has a huge depth and breadth, but it's also accessible and online where students live so it helps them climb law school's steep learning curve."²

Numerous Michigan professors have put ICLE resources at their students' disposal to help them get oriented. As one example, some professors use chapters of various ICLE books on Michigan law topics to demonstrate how those topics fit within the broader legal scheme and provide links to the rules, cases, and statutes discussed if students wish to explore further. Timothy Innes, former head of public services at Western Michigan Cooley Law School's Auburn Hills campus, notes that "ICLE books do a wonderful job of synthesizing even the most complex issues of Michigan law and presenting them in an easy-to-understand and digestible format."

Building research skills

Students are often introduced to ICLE in advanced legal research courses and clinics. Sometimes ICLE representatives visit the law schools to discuss resources with the students. Other times, faculty work with ICLE to create lesson plans to orient students to the resources or present differ-

ent ICLE options to them throughout the duration of the course.

In advanced legal research courses, students use ICLE resources to strengthen legal research skills they learned as 1Ls and develop new ones. This is particularly important for students who plan to stay and practice in Michigan as graduates. Jane Meland, interim director of the Michigan State University College of Law Schaefer Law Library and professor of advanced legal research, notes that ICLE "helps students understand Michigan-specific rules and leads them to the best Michigan primary sources on a legal topic." But all students, whether they plan to stay in Michigan or not, benefit from seeing that they aren't limited in their research choices to only sources with a national scope.

Gary Bauer, a longtime professor at Cooley, adds that ICLE's Michigan focus helps students develop the practical research skills that some of the bigger national research providers don't foster: "With ICLE, it isn't difficult for students to find what they need, and they're more likely to be able to access legal resources quickly and efficiently when the need arises later."

Supporting clinical practice

Law students get the most hands-on use of ICLE resources in the clinical setting. This stands to reason, as students in law-school

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clinics are not really behaving like students at all but are rather expected to act (and think) like practicing lawyers representing actual clients.

“Clinics are always reinventing the wheel,” says Paul Reingold, recently retired director of the Civil-Criminal Litigation Clinic at the University of Michigan Law School. “We want the student to think things through. ICLE allows students to tackle an issue just the way a real lawyer would. It’s not a pre-prepared package for them.”

In Reingold’s experience, ICLE’s most practical materials—things like checklists for preparing witnesses, how-to kits for handling depositions, and trial preparation demonstrations and resources—are essential in the clinical setting. Sometimes new clinic students inherit cases that are headed to trial soon. It’s not always a months-long preparation process: “They may have to get up to speed, pick a jury, and try the case early in the term. There’s no syllabus for that,” Reingold said. ICLE resources—combined with instruction from professors—help students to quickly get the guidance they need.

Smolinski agreed, noting that while most firms have template forms, she discourages students in her clinic from using them. Instead, she directs the students to ICLE.

“I love it when there’s more than one form so students see that you can draft one particular type of document a few different ways,” Smolinski said. “Lots of different examples are preferable because that allows students to actually think things through. They can see that a document they’re preparing can comply with the law but still have their own personal stamp on it in order to best advocate for their clients. That is client-centered lawyering at its best.”

Introducing real lawyers

Students who use ICLE resources, whether in a legal research setting, in a clinic, or for a specialized project, get the benefit of learning directly from the Michigan practitioners who help produce these resources, many of whom are recognized statewide as experts in their fields. Adjunct faculty are increasingly vital in law schools as a way of exposing students to specialized legal knowledge; ICLE resources build on that by allowing students to tap experts with a broad range of backgrounds and perspectives.

For example, Reingold advises his clinic students, “When in doubt, do what other lawyers do—call the author!” On one occasion, several of Reingold’s students were unable to resolve a difficult real property issue even after looking at a relevant ICLE book chapter. They called the contributor who had written the chapter and learned that he had just returned from a national conference where the students’ thorny issue was one of the main topics of discussion. It was a revelation for the students, who were comforted by that knowledge. They realized, “No wonder it seemed hard—no one knows the answer!”

Smolinski also appreciates how ICLE resources get students comfortable with ambiguity, which practitioners know all too well is often the case when helping a client resolve a problem.

“One of the biggest fallacies law students subscribe to is that the law is black and white, when in fact there are so many shades of gray,” Smolinski said. “ICLE gives clinic students the opportunity to look something up and identify both what’s said and what’s not said. This allows them to hone their ability to interpret the law and apply it to the facts.”

Using ICLE resources in clinics also helps students learn that even authoritative texts have a particular audience in mind. The most straightforward secondary resources still have a point of view based on the author’s background and practice focus. Reingold has seen clinic students pick up on that in the ICLE book chapters—noting whether the author is plaintiff’s or defense counsel, for example. He sees this as a big part of being a lawyer, likening it to thinking about the makeup of the Supreme Court when reading an opinion. Who wrote the opinion? Who joined the majority and who dissented? This is how students go beyond learning the simple rules of black-letter law and learn instead to be sophisticated analysts and advocates.

Supporting the transition to practice

Going from law student to bar passer to practicing lawyer can be a challenging transition, especially as new lawyers increasingly seek to develop solo practices right after law school. In an effort to prepare students for practice, law schools are offering more skills-focused opportunities such as drafting classes, practice area-focused seminars, and programs like Bauer’s “Solo by Design,” which “immerses students in the business end of legal practice in a practical manner.” Further, even before the onset of COVID-19, many schools were moving toward providing more of these learning opportunities using remote instruction.³ Needless to say, this trend toward distance learning and online legal education has accelerated since the pandemic, driving law schools across Michigan and the country to provide many or all of their courses remotely until the situation improves.⁴

Professors use ICLE’s resources to help facilitate this practice-based approach by showing students what the practice of law looks like. For example, how-to kits outline what a lawyer does for a given legal transaction, step by step. Online seminar demonstrations allow students to watch actual lawyers introduce evidence, argue motions, and conduct client meetings. Classroom preparation helps but doesn’t completely take the place of observing real lawyers in action and learning their methodology. The demonstrations bring to life the substantive

law the students learn in their clinics and coursework. And using asynchronous online materials helps students more thoroughly learn what they need to know. For example, students can rewind and rewatch online content as often as they want until they're comfortable with the lessons they're being taught.⁵

All this helps give students a feeling of security. By using ICLE resources, Bauer says, students learn that "there is help out there after graduation and that they are not alone when it comes to finding someone to connect to and resources that are practical and real with more substantive information. With ICLE, they get up-to-date information from practicing attorneys. They also get tips and tricks on the law as applied, not just theory." Moreover, because students access these materials for classroom purposes in the same online manner as many practitioners do when using them for continuing legal education, students can preview how they might fulfill their professional obligations after joining the bar to stay current on changes in the law and develop new skills.⁶

For Smolinski, ICLE also provides peace of mind for instructors. "We live in the time of Google," she explains. "I don't care if that's where you start, but you can't end there. I'm much more comfortable knowing students find what they need using ICLE resources."

Looking to the future

ICLE continues to analyze the best ways to work with Michigan's law schools to help students while they are in school and as they transition into practice. As schools continue to shape their approaches to legal education to meet the demands of the market and the legal profession, ICLE hopes to continue to play an evolving role. Communication with students, clinical instructors, law librarians, and other law school faculty and staff will be essential. Increased emphasis on demonstrations, how-to guidance, and accessible content will help as ICLE continues to help law schools prepare future Michigan lawyers. ■



Rebekah Page-Gourley works with ICLE contributors to update and edit ICLE publications and online resources in the litigation, negligence, and employment law practice areas. She plans and develops new products and leads several initiatives geared toward building and maintaining a diverse contributor base and improving outreach to law students and new lawyers. Page-Gourley also works with Michigan law school librarians and staff to help law students use ICLE's resources in their clinics and practical classes.

ENDNOTES

1. While its original focus was publishing print books and producing live seminars, ICLE has grown to include a collection of searchable online content, including forms, how-to kits, books, checklists, and on-demand seminars (webcasts with legal discussion, insights, and practical demonstrations). For more information, please see icle.org.
2. All quotations in this article are from emails or phone conversations between the person quoted and the author.
3. To be sure, whether and to what extent law schools could or should teach their students via distance learning pre-pandemic was far from settled. See, e.g., Lieberman, *States Limit Spread of Online Education*, Inside Higher Ed (January 23, 2019) <<https://www.insidehighered.com/digital-learning/article/2019/01/23/new-york-maintains-restrictions-around-online-programs-amid>> [<https://perma.cc/3NQ4-AZQQ>]. In August 2020, the ABA revoked its previous law-school accreditation standard dealing with distance learning and folded that standard into the rules addressing substantive changes in law school programs ("Standard 105"), see Ward, *Law schools should have flexibility in responding to 'extraordinary circumstances'*, ABA House of Delegates says, ABA Journal (August 3, 2020) <<https://www.abajournal.com/news/article/various-legal-ed-proposals-approved-by-aba-house-of-delegates>> [<https://perma.cc/SSP5-B8FS>]. The end result is that "[a]n ABA-approved law school may grant up to one-third of the credit hours required for the J.D. degree for distance education courses. . . . If a law school wishes to grant more than one-third of the credit hours required for the J.D. degree for distance education courses, it must apply for a substantive change under Standard 105. . . ." *A Guide to ABA Approved Distance Education*, ABA (December 14, 2020) <https://www.americanbar.org/groups/legal_education/resources/distance_education/> [<https://perma.cc/78S2-BEBE>]. All websites cited in this article were accessed February 9, 2021.
4. See, e.g., Becker, *What Will—Or Should That Be Might?—Law School Look Like This Fall?: Teaching Law in the Midst of a Pandemic*, 99 Mich B J 44 (August 2020).
5. Many legal educators emphasize that students' ability to self-direct their learning is a key component of effective distance education. E.g., Swift, *Give It a Try, It's Not So Bad: Utilizing Distance Learning in First-Year Legal Research and Writing Courses*, 32 The Second Draft 30, 31–32 (Fall 2019), available at <https://www.lwionline.org/sites/default/files/2020-07/Volume%2032%2C%20No.%202_1_0.pdf> [<https://perma.cc/5JVR-QMPB>].
6. For example, many states adjusted their CLE requirements in light of the pandemic to expand lawyers' ability to satisfy their CLE obligations by taking online classes. E.g., *CLE Resources and Rules Updates: Changes during the COVID-19 Crisis*, Cooley LLP (September 21, 2020) <<https://www.cooley.com/news/insight/2020/2020-04-01-cle-resources-and-rules-updates>> [<https://perma.cc/SS6H-JKR4>].



MONEY JUDGMENT INTEREST RATE

MCL 600.6013 governs how to calculate the interest on a money judgment in a Michigan state court. Interest is calculated at six-month intervals in January and July of each year, from when the complaint was filed, and is compounded annually.

For a complaint filed after December 31, 1986, the rate as of January 1, 2021 is 1.330 percent. This rate includes the statutory 1 percent.

But a different rule applies for a complaint filed after June 30, 2002 that is based on a written instrument with its own specified interest rate. The rate is the lesser of:

- (1) 13 percent a year, compounded annually; or
- (2) the specified rate, if it is fixed—or if it is variable, the variable rate when the complaint was filed if that rate was legal.

For past rates, see <http://courts.mi.gov/Administration/SCAO/Resources/Documents/other/interest.pdf>.

As the application of MCL 600.6013 varies depending on the circumstances, you should review the statute carefully.