

TODD RAKOFF: One of the hallmarks of legal education is to start a class or start a part of the class by cold calling on the student, and asking that student to do what we call state the case, which means to give the facts of the case and be prepared to discuss the reasoning of the court in reaching its decision. So if you have a class of 80 students, all of whom have done the reading with thought before class. You can do entirely different things from a class in which 20 have done the reading and 50 are just sitting there.

So one reason to call on students and cold call on students is to say, you're expected to be prepared. And you ought to be embarrassed if you're not. That doesn't mean I'm going to scream and rant and rave, but you ought to be embarrassed if you're not prepared.

What happened procedurally in this case? Kate?

KATE FISCH: So what happened procedurally was that companies were able to forestall having to do this reorganization. I think the first reaction when I get called is oh dear God. The second is kind of refamiliarizing myself with the facts and then thinking about how that ties into the case as a whole, how it ties into cases that we've read earlier and kind of the bigger themes of the course that we're thinking about. It really forces you to prepare well for cost, to think on your feet, and to get comfortable voicing your opinions.

TODD RAKOFF: At the beginning of the semester, I very much want to call on people who are going to be very well prepared and do a good job, because I want to set the tone of the classroom. I'm not above walking around the classroom a few minutes before the class and looking at the notes and seeing who's got kind of a large set of notes about the case and calling on that person.

BENJAMIN SPACAPAN: He is not afraid when it is clear that somebody has not prepared and is not ready to make sure they know he knows, and make sure that other kids in the class know he knows. And when I say, that it's not in any way unkind in the discussions. It's simply that when he is pressing the person, he is not going to give you the answer. And so if you cannot provide the answer, it is clear that you didn't do the reading or you didn't prep for the case.

TODD RAKOFF: When I'm teaching first semester first year law students, the number of students who are not prepared is very small, but it's not zero. The ideal response depends on whether you can intuit why the student is not prepared. If the student is not prepared for some large emotional reason in their life, that's very different from the student who spent the night drinking rather

than reading. And ideally, you would want to be able to tell those cases apart.

My experience over the long period of time is I can't tell those cases apart. And so what I've just basically decided to do is if someone says, I'm unprepared or I pass, saying all right, I'll start with you tomorrow. The penalty is you're the first person on tomorrow, and I'll be a little bit tough on that person tomorrow morning and then just move on, rather than trying to make an issue of it.

BENJAMIN

SPACAPAN:

The cold calling norms at Harvard Law School and with Professor Rakoff have forced me to be more in-depth in my preparation than I've been in any other academic or business environment. And I think that as a result, the class discussions are a lot more fruitful than I've found in the past in non-cold calling environments.