

**TODD RAKOFF:** One of the biggest questions in running a discussion class, especially one which started as a dialogue between the student and the professor, is how you transfer to the broader discussion. And I think there are two distinct styles there. One is to keep the same rhythm of the Socratic case that you-- discussion that you opened with, teacher, student, teacher, student, teacher, student. And the other is student, student, student, maybe the teacher comes back, and then student, student and have students follow right on to each other without the teacher getting involved.

**KATE FISCH:** Sometimes there'll be a student reaction, and he'll kind of leave it open for other people to respond in whatever way they feel they want to.

**TODD RAKOFF:** Would judges dream up new rules in cases?

**SPEAKER 1:** Judges don't create new laws in cases. Judges interpret the laws that are on the books, but they don't create entirely new laws. And this to me seems more like creating an entirely new law.

**TODD RAKOFF:** [? Ria? ?]

**SPEAKER 2:** No, I think judges do create new laws. That's like the common law, right?

**HANNAH KLAIN:** He knows when to let go of the reins a little bit and really let people have exchanges with one another. He's very aware of the fact that it's a group of incredibly smart, interesting, experienced people who are bringing those experiences to this environment, and he wants to facilitate conversations between those people.

**SPEAKER 3:** As soon as the court determines that the agency is the one best positioned to make those decisions, they can't question the outcome of those decisions.

**TODD RAKOFF:** So Kareen, you're closest to the microphone. Ben seems content with that. Are you content with it?

**SPEAKER 4:** Am also, I think.

**TODD RAKOFF:** I pivoted from Ben to Kareen, because I wanted to develop the opposing point of view. I wanted to make sure I was talking to somebody who was on wavelength with where the

conversation was. I knew that Kareen was a very thoughtful and prepared student. I was hoping that Kareen would give me a full bodied endorsement for the dissent. I don't think I quite got that. If I had to do it again, I think I could have identified somebody who would have been a full-throated endorser of the dissenting position. And that might have made it a little bit more lively.

**HANNAH KLAIN:** It's, sort of, as though he's facilitating a tennis match in that he knows when to let people volley back and forth, and then he knows when to say, OK, stop. Some of the most interesting things that I've learned and some of the most important revelations about the material we're studying comes from watching two people go back and forth about it, rather than just him lecturing.

**TODD RAKOFF:** If the teacher comes back in, there's an inevitable temptation on the teacher's part to restate what the student said. And if you do that, I believe, what you will soon have is a bunch of people in the classroom who only listen to what the teacher says. I want a classroom in which X puts up her hand and says, I want to respond to what A just said. Not what I want to respond to what the teacher just said, but I want to respond to what the other student just said.