

**THE LIVELY CLASSROOM:
FINDING THE HUMOR IN BUSINESS ASSOCIATIONS**

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INTRODUCTION

Every law teacher has experienced it: the first day of class. You leave your office, books in hand, and walk through the halls.¹ As you approach the classroom, you see students entering, and they look at you, smiling, shy, or terrified. You open the door, stroll down the aisle, put your books on the desk or podium, and take the briefest of moments to collect yourself. You look up, and see a sea of expectant faces. You are confident you know the material, or at least that you know more of the material than the students before you—but for some reason you still need to take an extra breath before you speak. In that last instant before class begins, no matter how many years you have been teaching and no matter how much you love, detest, or are bored by teaching, you have at least a tiny hope that your students will like you.

Then, you open your mouth and begin.

Through the semester, your Business Associations class will cover a complex body of law, involving intertwining statutes, regulations, and common law doctrine, in which students will learn how business associations work. If you are successful, by the end of the semester they will have developed both an understanding of, and interest in, the material—while appreciating that it has real relevance in practice. You will use a variety of pedagogical tools to help the students reach this point, including reviewing cases, applying doctrine to hypothetical facts, and a combination of lecture and discussion or Socratic dialogue. If you are like me, you want the discussion to be lively, where students are constantly on their toes and the exploration is (dare I say it) fun. Even if you are more traditional, however, at some point

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1. Or, if you are an adjunct, you drive in the car, take public transportation, or walk from the library because you got to campus too early. Do not get distracted here; just stick with me—there will be many more opportunities to stop reading because you don’t feel this Article is helpful.

during the semester, whether you intend it or not, something you say will strike the students as funny, and they will laugh. At that moment, you have caught their attention, and they will listen to whatever substance you are about to cover, particularly if the humor was related to the material you were covering.

The purpose of this Article is to help you find the humor in Business Associations so you can put students in that bright and engaged place more often, sacrificing neither the sophistication of the substance you cover, nor your dignity.

I. THE VALUE OF HUMOR, AND CAN ANYONE BE FUNNY?

I have yet to meet a faculty member who does not, in at least some small way, use humor in the classroom. It almost seems to be part of human nature, and some of its value is obvious: it commands attention, it relaxes both the speaker and the audience, and it provides a release in stressful situations. It may even help us retain information better.² This Article is not intended to justify humor in the classroom, which other authors have covered,³ but it takes as a given that humor can have value in creating a lively classroom environment in which students are ready to learn and in its best forms, can help faculty accomplish their pedagogical goals.

My main project, then, is to give you ideas on how to introduce humor to your course no matter how “unfunny” you consider yourself to be. I understand that those of you who do not believe you can use humor effectively in the classroom may dismiss this piece immediately.⁴ Although I implore you to give the ideas below at least a pilot run next semester, I understand completely why you might think it futile. I recently attended a conference focused on law teaching.⁵ At more than one session, compelling presenters were asked variations on the following challenging question: “How much of your teaching success is related to these tactics you are describing, and how much is just because of your personality?”⁶ In other words, “You are explaining the things about you that make you a good teacher, but how much of that is transferable to me, when I’m me?” The question resonates with me, because it points out a fundamental flaw in much law teaching literature and in a lot of the advice that

2. John J. Capowski, *Evidence and the One-Liner: A Beginning Evidence Professor's Exploration of the Use of Humor in the Law School Classroom*, 35 ARIZ. ST. L.J. 877, 879–80 (2003).

3. *See id.*; James D. Gordon III, *Humor in Legal Education and Scholarship*, 1992 BYU L. REV. 313 (1992).

4. In fact, if you have really dismissed these ideas, you have not even made it this far in the Article and are definitely not interested in reading footnotes.

5. Northwestern University School of Law, What the Best Law Teachers Do: Educators in Action Conference (June 25–27, 2014) [hereinafter Best Law Teachers Conference].

6. Notes by Stephen F. Reed from the Best Law Teachers Conference (June 25–27, 2014) (on file with author).

gets passed around at conferences. Too often, we ignore that much of what happens in the classroom depends on certain inherent physical and personality traits of the instructor. Many of us wonder—even fear—that maybe some faculty members have just “got it” and we do not. Anyone can buy a dapper new outfit, but only Brad Pitt or Angelina Jolie can wear it like Brad Pitt or Angelina Jolie, while the rest of us middle-aged professors in the “prime” of our careers wear the same outfit like Buddy Hackett or Carol Channing.⁷

I am convinced, however, that you⁸ have “got it.” Admittedly, the “it” you have is likely different from mine and from everyone else’s—we all have different senses of humor and strengths in relating stories in a lively way. Moreover, there is no one correct formula for creating humor in the classroom. As Steve Allen noted in *How to Be Funny*, “[t]elling people how to be funny is far more complex than explaining how to play golf, or the piano, or bridge. The primary reason is that there is a definiteness to these other activities. There are rules of the game. . . . There are no such rules about humor or funniness.”⁹ Nevertheless, there are some ways that we can harness our natural tendencies to lend humor to our classroom endeavors.

II. PREPARATION IS KEY

Law faculty know that they, like their students, must prepare for class. We do the same reading our students do, review our notes or PowerPoint presentations, read the teacher’s manual for the course casebook,¹⁰ and think through the discussions that we might have with students before class begins. Preparation is an obvious requirement of a teacher’s job, and law faculty tend to take the obligation seriously. So too, then, we can prepare for humor in advance of every class session.

From my perspective, the best way to prepare for humor in the classroom is to understand the material and the cases in advance and to keep them in your mind in the days leading up to class. Perhaps you will notice things in your daily life that strike a chord,¹¹ or perhaps you will be reminded of something you experienced as a practitioner or learned about in your research.¹² Although I argue below that you should leave room for spontaneity, you should not leave the students’ classroom experience to chance. You should write down your ideas for stories you want to tell or remarks you plan to make, and if you have

7. See *infra* Part IV.E (providing material on staying current with cultural references).

8. Every reader of this piece, and every non-reader of this piece.

9. STEVE ALLEN WITH JANE WOLLMAN, *HOW TO BE FUNNY: DISCOVERING THE COMIC YOU*, at xi (1998).

10. See *infra* Part IV.A (material on stealing other people’s jokes).

11. See *infra* Part IV.B (material on analogies).

12. See *infra* Part IV.C (material on war stories).

a chance you should run through them out loud or in your head. There is nothing corny about working out a few humorous comments in advance.

III. WORDS OF CAUTION

With my plea for preparation complete, I note that, as with anything in life, there is such a thing as too much preparation. I have heard rumors from students that there is one faculty member at Northwestern Law¹³ whose jokes are hilarious and obviously honed over several years. Students know jokes are well rehearsed not because they are brilliantly delivered,¹⁴ but because they appear—word for word with no variation—in a student outline that is shared among students before the semester begins. Just as it is important to keep the material you cover in class fresh so you do not lose interest, keep your humor fresh too.¹⁵

As a second word of caution—and I hesitate to add this at the risk of insulting my readers—one must remember that a classroom is not a stand-up comedy club. Humor can be helpful when used in moderation in the classroom, but legal thinking and doctrine must remain the focus. Too much humor, which in my case means more than three large laughs per hour, can distract and threatens to cause the legal content to disappear into the background noise of class. The tactics outlined below all suggest humor that is directly related to Business Associations doctrine, not just random funny jokes. I cannot emphasize this enough: do not be a clown in class—be a professor with a sense of humor. I have learned the hard way that off-topic jokes may get a laugh, but they do not push your teaching mission forward.¹⁶ Students are sophisticated and while they may laugh at the time, if you use too much humor beyond the course syllabus they will wonder if it is a good use of class time. Typical “set up/punchline” jokes can be fun, but humor more directly related to the material delivers more bang for the buck. Slapstick humor, such as tripping over the steps at the front of your classroom, is always a loser—students will worry

13. I am aware of the distinct possibility that the professor they are describing is me.

14. Which I imagine they are, especially if the suspicion in footnote 13 turns out to be true.

15. Of course, if you do not mind students tracking your jokes as you tell them, you do not need to fear. You will get laughs, even for old jokes. *See infra* Part 0 (material on the classroom being the easiest place to get a laugh).

16. The following stories are among the humorous stories I have told, to greater or lesser student acclaim, that do not relate to the material and likely do not seem humorous based on these descriptions: a story in which I helped a neighbor get a car out of the snow and proved myself to be a city slicker; a story in which a member of my family told another family member I had gossiped about how cheap he was; a story in which a family member had a serious allergic reaction at a birthday party; a story in which a young attorney was accused, wrongly, of malpractice; a story in which a young attorney was accused, rightly, of malpractice; and a story about being unattractive to the woman who would later become my wife and mother of my two children.

about your safety long before they realize you are trying to do a Chaplin-style pratfall.

IV. TECHNIQUES YOU CAN USE

I have been experimenting with humor in the classroom for nearly a decade, largely in my Business Associations class. In this section of the Article, I will explain several approaches that have worked for me. I am confident that every reader can find at least two techniques that might fit,¹⁷ but I understand the trepidation in not wanting to try something new. Whenever I experiment with humor in class, I still have doubt and a little fear. As comfort, I remind myself that there is no easier place to get a laugh than in a law school classroom. While there is much humor to be found in the law and in lawyers, legal doctrine itself is not funny.¹⁸ Similarly, law school is stressful for students, and law schools have a culture that is professional and often serious. Students trapped in the law school pressure cooker are looking for a release, and will laugh at any excuse. If a faculty member breaks the humor seal and lets the students see it is acceptable to relax, they will.

Although I am loath to admit it, there is another reason students laugh at even mediocre humor from faculty: professors are the authority figure in the room. Students will laugh if the professor expects a laugh. As long as faculty control student grades, low-quality humor will (thankfully) be rewarded.¹⁹

If you can muster the courage to try a new way to be funny in class, I have some modest suggestions below that might help you to find the humor in Business Associations.

A. *Technique 1: Use Humor Generated by Others*

One of the easiest sources for classroom humor is material written by others. As noted above, a law school classroom is not a comedy club (where “stealing jokes” is considered a cardinal sin). Similarly, there is no code of ethics surrounding humor by professors. Given that your goal is finding humor that relates to the material in the classroom, your best sources will be writings on the subjects you cover in class. A well-written teacher’s manual may

17. Admittedly, one of the tactics I am sure everyone can successfully use is the “steal someone else’s jokes” idea, but there has to be something else within this Article worth trying. Almost any dumb idea can meet the low standard of techniques that “might fit.”

18. In Business Associations, one might laugh at the behavior of directors, but the fiduciary duty of loyalty is no laughing matter.

19. I do not mean, necessarily, to suggest that students are calculating and laugh as a way of gaining favor from their professors. They probably actually believe the jokes are funny. If you have ever laughed at your boss’s joke that was hilarious at the time but in retrospect you cannot remember why it was funny, you understand the phenomenon. I am an improvised comedy actor in my spare time, and I have found that strangers have a much higher standard of what is funny than my students do.

contain humorous observations by faculty who have taught the course before, and even suggestions for stories you can use in class.²⁰ Secondary sources written for a general audience that address cases or issues in cases may also be a valuable source.²¹ Humor can even be found in popular culture—Jerry Seinfeld made a series of jokes about the Joseph A. Bank and Men’s Wearhouse merger that could easily have been appropriated for in-class use when takeovers are discussed.²² For faculty who feel awkward about using others’ jokes without attribution, the answer is straightforward: cite the source.²³

B. *Technique 2: Use Metaphors and Analogies*

If you can do your class preparation several days in advance of class, or if you have taught a class so many times that you find yourself thinking about the cases and other class material more than you would like, then you have the opportunity to find narrative analogies for case concepts in everyday life. Even if the stories themselves are not funny, a comparison between everyday life and legal doctrine is typically humorous on its own. At the same time, a good analogy can drive home a point made in class and serve as useful shorthand during review sessions. For example, during a discussion of the *Unocal* case,²⁴ I told the class about a time earlier that week when my young son was acting up, and I was having trouble making him stay in “time out.” Since I typically do not yell at my kids, I decided (based on what I thought was good logic) a good strategy would be to yell at him. I did so, and he burst into tears, went

20. See WILLIAM A. KLEIN, ET AL., BUSINESS ASSOCIATIONS: CASES AND MATERIALS ON AGENCY, PARTNERSHIPS AND CORPORATIONS, TEACHER’S MANUAL (8th ed. 2012) (containing many excellent suggestions for stories to tell in class, many of them humorous).

21. See, e.g., WILLIAM M. OWEN, AUTOPSY OF A MERGER (1986). The book gives a behind-the-scenes look at the *Smith v. Van Gorkum* case, which is a staple of Business Associations; there is much humor to be found in some of the absurdities that surrounded that transaction. Some of the details are particularly delicious, like the fact that the merger agreement was signed at a fancy party during opera season—almost a stereotype of “fat cat” excess that resonates with debt-ridden law students.

22. BuzzFeedBrews, *Jerry Seinfeld on Jos. A. Bank and Men’s Warehouse [sic]*, YOUTUBE (Feb. 3, 2014), <https://www.youtube.com/watch?v=RHZZQCz9iMM>.

23. Citing the source can occasionally even help with student reactions. Preface any humorous comment with “As Louis C.K. said” and you double the laughs.

24. *Unocal Corp. v. Mesa Petroleum Co.*, 493 A.2d 946 (Del. 1985). The *Unocal* test is as follows:

[A] defensive measure to thwart or impede a takeover [must be] motivated by a good faith concern for the welfare of the corporation and its stockholders, which in all circumstances must be free of any fraud or other misconduct. . . . A further aspect is the element of balance. If a defensive measure is to come within the ambit of the business judgment rule, it must be reasonable in relation to the threat posed.

Id. at 955 (citation omitted).

into time out, and cried for about three hours straight—big wails at first, then quiet sobbing through the dinner hour. My clever strategy turned out to be disproportionate to the situation; it was unreasonable in light of the circumstances at the time. I pointed out to the students that based on the amount of time that I have spent with my son and the care with which I considered the situation, I had probably met the first prong of the *Unocal* test, but that I failed the second prong with my unbalanced reaction.²⁵ The story emphasized my doctrinal point, while at the same time provided a shift in the classroom tone that caught the students' attention.

Beyond story-based analogies, even a short offbeat metaphor can grab student attention and make a doctrinal point more vivid. I once told students, "Like a partially constructed Model T before it hit the brake assembly on the production line, Henry Ford couldn't stop himself." Even a more random metaphor can be useful and many students find it to be more humorous: "The court made up a new rule because they didn't like the old one, much like you'd expect an Iron Chef to make something other than breakfast if the secret ingredient were Lucky Charms." This approach is easy and will pay you more dividends than a Board of Directors ignoring its fiduciary duties.

C. *Technique 3: Tell War Stories*

If I have persuaded you²⁶ that analogies drawn from non-law real world situations are useful in generating a lively classroom and student comprehension, then consider stories that are directly related to the material. War stories have many pedagogical uses, including helping students to see the relevance of the material and to expand on doctrine covered in class.²⁷ Whether you are a current or former practitioner, a doctrinal expert who has worked on cases as a consultant, or a researcher who knows much of the back story behind the opinions students read, you have the capacity to tell stories related to the material covered in class. I confess that in the war stories area, I tend to repeat myself, although I try to keep the delivery fresh and find the joy in the stories each time I tell them.

War stories are often delivered as serious parables, which is quite appropriate when real clients are involved. With that said, every deal or litigation has at least one absurd character or detail that can be mentioned. I occasionally will tell a story of an international transaction that nicely illustrates a subtle point related to apparent authority. I always add the detail that our foreign clients were so well-dressed that it made the American lawyers

25. I do not know why, but the more vividly I describe my son's crying and my related distress, the more my students typically laugh.

26. Or even if I have not.

27. Michael L. Seigel, *The Effective Use of War Stories in Teaching Evidence*, 50 ST. LOUIS U. L.J. 1191, 1200 (2006).

in the room all look like barbarians.²⁸ Told with a chuckle, it is as much a story about being a young lawyer as it is about agency, and students love it.²⁹

D. Technique 4: Allow For Spontaneity, and Consider Labeling

Even those of us who consider ourselves to be hilarious³⁰ are occasionally struck when laughter unexpectedly arrives. One thought that might naturally occur in the professor's mind is "I just said something wrong." It is important to remember, however, that students usually react to an error by raising their hands to ask for clarification.³¹ More often than not, students react positively with laughter when a faculty member shows uncharacteristic delight or scorn in the course material or a student response. No matter what the source of laughter, your reaction should be to take it in stride. Smile along with the students. I have been known to give a knowing smile, even a wink (of all things!), when I don't even understand the joke. Go with the flow, it makes everyone more comfortable and keeps the students on your side. Be unflappable, and if you are flapped, at least try to fly above the storm.³²

One possible reaction to any class situation is to do what comedy actors refer to as "labeling." Labeling is simply describing exactly what you see, and for some reason humans find this to be hilarious. When I fill the chalkboard, I have been known to say, "As usual, I have filled the chalkboard." Uproarious laughter. When a table leftover from a lunchtime panel blocked the room, I say, "This table is blocking my way." Unlimited guffaws. When a gunner is raising her hand for the tenth time that day, I might say, "I know Celeste has a comment to make because she raised her hand." Room-filling, rip-roaring laughter.

Of course, this last example introduces a delicate area: when students become the subject of a joke. I now avoid this at all costs, unless a student is dominating the conversation or otherwise disturbing the class and needs to be stopped. The power dynamic in the room, where the professor is in charge, means that teasing is not acceptable, no matter how comfortable and exciting the classroom. I am embarrassed to say I have learned this lesson a couple of times. The worst was in my second year of teaching Business Associations. We were covering a case from the early 1980s, and I commented that it was

28. I think the self-deprecating "we looked like barbarians" is much funnier than "as it turns out, we were dressed inappropriately."

29. *See supra* note 19 (regarding students laughing as a subconscious way of flattering the professor).

30. *See supra* note 19 (regarding students laughing as a subconscious way of flattering the professor).

31. Read: raising their hands to show off.

32. As with all mildly humorous content in this piece, feel free to take that one. Take it away, as far as you can go.

likely before most of the students were born. I asked if anyone had been born in the early 1980s. One bright student raised her hand, and I labeled the situation by saying, “Oh, so you are old like me.” The room erupted in laughter, but my immediate feeling of regret and the look on the student’s face told me I had really blown it. Labeling helped me when I said, “Oh, I am so sorry that was incredibly rude,” and then after reaching in my pocket nervously and finding a packet of candy, I asked, “Would you like some Lemonheads?” She nodded yes through (sad) laughs, and we moved on.³³

E. *Technique 5: Stay Current*

Like many faculty, I use names from popular culture to make hypotheticals on my exam come alive.³⁴ My hope is that students get a little smile, which will help them relax, and that familiar names will help them keep the players separate in their minds. Over the years, I have written exam questions using characters from *Cheers*, *The Golden Girls*, *Rowan & Martin’s Laugh-In*, *Knight Rider*, *The Dukes of Hazzard*, *Murder, She Wrote*, *Charlie’s Angels*, *Magnum, P.I.*, and countless other dramas and comedies from my youth. Perhaps some of you have already spotted the problem with my approach. These shows, as important as they were to teenage Steve Reed, are completely irrelevant to today’s students. Names like Bo and Luke are only relevant from the poorly reviewed 2005 *Dukes of Hazzard* film,³⁵ and names like Sam, Diane, and Norm don’t resonate at all. Not only were students not enjoying the clever ways I made Bosley the COO of a Detective Agency and Blanche an insider violating Rule 10b-5, but the names and factual situations were more confusing than if I had used “Person A,” “Person B,” and “Corporation C” as the players.

Luckily, the remedy for this issue is straightforward, and it is one important way to bring humor to the classroom: stay current. For some, this

33. Another uncomfortable situation in class that was cured by labeling with a twist is based on the fact that, like all the faculty I know, I do not use foul language in class. One day, during a particularly fun conversation about a duty of care case, I said, “The board didn’t think it needed to discuss the issue much because they felt they understood the financial aspects and all that crap.” I was a little uncomfortable with my use of the word “crap,” mostly because it was imprecise but also because it is a little gross, so I added, “Sorry for the language. I meant to say the board felt it understood all that s**t.” In context, it was a good laugh. Here is another corny old line you can use if you accidentally swear in class: “Oops, sorry about the foul language. I hate that f*****g s**t.” Note that the joke is better if the second line is said more quietly than the first, and it only works if you run a clean classroom. If you are one of the hip professors who uses foul language with abandon, stick with that.

34. See, e.g., Sheila Simon, *Top 10 Ways to Use Humor in Teaching Legal Writing*, PERSPS., Spring 2003, at 125, 125–27 (2003) (addressing ways to include popular culture in teaching).

35. The film received a whopping 13% on Rotten Tomatoes. *The Dukes of Hazzard*, ROTTEN TOMATOES, http://www.rottentomatoes.com/m/dukes_of_hazzard/ (last visited Oct. 22, 2014).

will mean indulging in the highest-rated dramas and situation comedies, not to mention occasionally listening to popular music. For others, it will mean noticing entertainment headlines in *The Wall Street Journal* and using Wikipedia to better understand what it's all about. This second approach—commonly referred to as “cheating”—should not be dismissed. One does not need to understand much about popular culture to be able to throw out a casual reference in class to great effect. If you don't believe me, try this: next time you get a student to walk down a Socratic path only to get confused or spot the error of their ways, say “Bazinga!” It does not matter whether you have ever watched *The Big Bang Theory*.³⁶ It does not even really matter if you use it after confusing a student (probably the most correct usage) or at any other moment (the start of class, the middle of class, the end of class). I guarantee a laugh, and the older you are, the bigger the laugh will be.

Once you know a little more about pop culture, you can use it to your advantage. Bearing in mind my earlier warning not to be a clown, you can occasionally reference television or music, capturing students' attention and brightening the classroom.

V. FINAL THOUGHTS

Any tactic you employ to generate a lively classroom will have something in common: you, the faculty member. Although you should only wear things in class that seem to fit—like that Pitt/Jolie/Hackett/Channing outfit—don't be afraid to try on a new style. If you have ever noticed something offbeat in a case or chuckled at the folly in some legal doctrine, you have the capacity to bring humor to the classroom. Heck, if you have ever laughed anywhere at anything in your life, then you have that capacity—all it takes is an openness to funny or unusual ideas and a willingness to share them with others. By the time you have taught Business Associations more than once, you know the material and how to present it to a classroom of students. You may or may not be entirely comfortable with public speaking, but you know how to teach. Adding a little humor will wake up your students and help everyone in the room to enjoy and absorb the pedagogical experience a little more. Relax, and enjoy, and don't be afraid to laugh at your own jokes—it is charming.³⁷

36. I have only seen about half of one episode. I know about “Bazinga!” from a t-shirt and Wikipedia.

37. It does not escape me that my belief in laughing at one's own jokes is grounded in my own inability to keep a straight face when I say something I think is funny. Relatedly, I am my own best audience, which is both damning and hilarious to me.