Welcome to the Legal Profession course. This is your introductory lecture, presented as an appendix to the syllabus, in which I will explain 3 things:

Why has Mercer chosen to require this course?
What are you going to learn?
How are you going to learn it (and here I want to spend some time particularly on the various parts of the course that are unusual)

I believe I owe you this explanation at the beginning of the course, because it is unusual and its methods are unconventional.
Why does Mercer require this unusual course?
ABA Accreditation Standard 303(a)(1)

- (a) A law school shall offer a curriculum that requires each student to satisfactorily complete at least the following:
- (1) one course of at least two credit hours in professional responsibility that includes substantial instruction in the history, goals, structure, values, and responsibilities of the legal profession and its members;

One superficial explanation for why we require the course is that we have to. As you see, part of the ABA accreditation standards is that every law school's curriculum must include substantial instruction in "the history, goals, structure, values, and responsibilities of the legal profession and its members." We certainly do that in this course, but that would be at best an incomplete explanation and at worst a misleading one. Most law schools comply with this standard by requiring a course in the rules of professional conduct. We do that, too – in the upper level Law of Lawyering course – but we nevertheless believe that this course is necessary.

There are two reasons why we also require this course: one has to do with the question of what lawyers are for, and the other has to do with you and your happiness as a lawyer.
Chief Justice Harold Clarke

- A professional is a "member of a group which provides an essential service in which the public has a vital interest...."

- In other words, there are public purposes to be served by members of the legal profession

Chief Justice Harold Clarke was one of the key leaders of the modern professionalism movement in Georgia. He wrote a famous little article that I have assigned you to read. This is part of that article.

Over the course of the semester, we will be talking quite a bit about what these purposes are, but this is the first reason for the course: if lawyers play vital public functions, then it is incumbent upon law schools to teach students about those purposes and about the character traits that make it more likely that the lawyer will fulfill those purposes.

Justice Clarke is by no means the only person to have written about the public purposes of the profession, but here is your first indication that they have something to do with this thing called "professionalism."
Another articulation of this idea

• Karl Llewellyn: “ideals without technique are a mess, but technique without ideals is a menace.”

• You are learning much technique – you are becoming very powerful. Without an understanding and commitment to the public purposes of the profession, you could become a menace.

You may not have heard of Professor Karl Llewellyn, although I imagine you have heard of one of the things he helped to write: the Uniform Commercial Code. This is one of his most famous quotations, and I think it bears direct relevance to this question of the public purpose of lawyers.

Start with the first part: “ideals without technique are a mess.” We could send you out of these walls with all the lofty ideals of service to the public purposes of lawyers, and all the necessary zeal to put those ideals into practice, but if you left without the knowledge of what lawyers need to know, or without the skills to do what lawyers do, you would indeed create a mess.

But take a minute to think about the second part of what he says. If all you knew was the “technique” of lawyering – legal knowledge and legal skill – without any appreciation for or commitment to the values of the profession – its public purposes – then you could indeed be a menace. It is part of our responsibility in the law school, as a gatekeeper to the profession, to ensure that you understand those purposes and use your knowledge and skill – your technique – in ways that promote them.
What are those public purposes?
Some examples

- Creating and maintaining a fair, efficient and legitimate judicial system
- Encouraging obedience to the law through counseling
- Reducing conflict and uncertainty through planning

Let's stop just for a minute to ask this question: what are the public purposes? We are going to discuss this in much more detail, but here is an introduction.
• So here’s part of the answer to “why” we teach this: It is a necessary part of every student’s legal education to receive instruction to help the student begin to learn how to fulfill those purposes — how to become a “professional.” It is a **public duty** the law schools owe.

• Instruction will make it more likely that you will understand and live up to these obligations — that they will become part of who you are.

Our conclusion as a faculty, in tune with many leaders of the profession over the last thirty years, is that law schools bear some responsibility for this instruction — that (for reasons we will discuss) it has become less likely that lawyers will fulfill these duties otherwise. It is part of our responsibility to the public to do what we can to see that you understand and fulfill yours.

This won’t just happen. So here we are.
There's another answer to "why"

- Justice Clarke hints at this, too: he writes, "... professionalism is a higher standard expected of all lawyers. This is the kind of standard which leads to a satisfaction for a job well done or a life well spent. John Ruskin said: 'The highest reward for a person's toil is not what they get for it, but what they become by it.' We may well ask what we have become by our experience as members of the legal profession."

As I mentioned at the outset, however, there is more than one reason for this course. The purposes certainly reinforce each other, but a second discreet purpose is really all about you.

There has been much written and said in the last twenty years about lawyer dissatisfaction and unhappiness. It is likely that many of these statements are exaggerations, but to the extent there is a systemic tendency toward less satisfaction in the practice of law, I think it can be described in these terms: by doing what we do as lawyers, every day, what will we become? Perhaps the answer to that question would explain any sense of unhappiness or dissatisfaction in the law.
Another articulation of this same idea: Anthony Kronman, former dean of the Yale Law School

• “What is it about the life of the lawyer that justifies the very large commitment which the decision to pursue it entails?”
• Contrasts “instrumentalism” – the pursuit of money and honor
• With this: “. . . the value of what lawyers do, for the lawyers themselves, [is] not so much in the fruits of their work as in the excellences of character their work requires them to develop and allow them to display.”

Justice Clarke is not alone in his view that happiness as a lawyer has something to do with what we become. More than 25 years ago, Tony Kronman, later the Dean of the Yale Law School, published this article on “Living in the Law.” In that article, which is posted to your course web page as optional reading, he asked this question: what is it about the life of the lawyer that justifies the huge investment? You all will have invested enormous effort, time, and expense to become lawyers. What makes it worth it?

Dean Kronman first tries on “instrumentalism” – using the practice of law as a way of getting, for example, the money to take great vacations. It is not the work itself, under this view, but what the fruits of the work can buy you, that make it worthwhile. Remember Justice Clarke quoted John Ruskin as saying, “The highest reward for a person’s toil is not what they get for it...” Dean Kronman, too, rejects this as a way to find meaning and happiness in the law.

Instead, Dean Kronman finds that meaning in the “excellences of character their work requires them to develop and allows them to display.” Note again an echo of Ruskin, as quoted by Justice Clarke: “The highest reward for a person’s toil is ...what they become by it.”
You will hear more about this...

- Dean Floyd on Friday on “Professional identity”
- She will highlight for you the difference between external or extrinsic motivations or goods and internal or intrinsic motivations or goods derived from practice, between what you GET for practice and who you BECOME as a result of practice

You need to hear and think more about this, and your opportunities come soon.

Dean Floyd will be talking to you about, among other things, the difference between “intrinsic motivations” and “extrinsic motivations.” She is going to talk about the research that shows what actually makes people feel happy and satisfied. She is going to tie that to a sense of self as a professional — “professional identity” — that you will develop — and of more immediate importance — you ARE DEVELOPING already as law students. Dean Floyd will open you, I hope, to reflection on what the law school experience is doing to your motivations and thus perhaps to your happiness and sense of self. She will also introduce you to the link between a particular kind of professional identity — one that is intrinsically motivated — and finding happiness in the life of the lawyer.

If all that seems like a bit much to digest right now, that’s OK. Suffice for now to say that the second purpose is about you and your happiness, that we will talk about it much more as the semester progresses, from several different but ultimately complementary perspectives.
Where do you start?

- Start with the desired end – with a description of the kind of lawyer who is able and likely to fulfill those public purposes and who is likely to derive intrinsic satisfaction from practice – what does that lawyer look like?

Given those purposes, where do we start? I want to start in a sense at the end, by a description of those “virtues” or characteristics that the legal profession itself has identified as the ones that are most likely to lead a lawyer to fulfill his or her public purposes and which, we will argue, are most likely to lead to a sense of a life well lived. Put another way, if a lawyer wants to develop a “professional identity” that serves both of those purposes, what would that identity look like?

There are over 100 written codes or creeds put out by bar associations and courts, most of which were written in the late 1980’s and early 1990’s. As an example, I have posted and assigned you to read the Georgia Lawyer’s Creed and Aspirational Statement on Professionalism to the course web page. I have read them all, and what follows is my distillation of the essential virtues of the professional lawyer, one who is likely to practice in such a way that he or she fulfills the public purposes of the profession and is most likely to find deep satisfaction and happiness in the profession.

In my reading, there are five primary virtues of the professional lawyer. Each will call upon additional virtues if they are to be realized.
1. The lawyer is competent. The lawyer has the knowledge, skills, diligence and judgment necessary to be competent.

The first of the five virtues is competence, which is comprised of knowledge, skill, diligence and judgment. Much, but not all, of this is what Professor Llewellyn meant when he spoke of "technique," without which your efforts as a lawyer, no matter how well intentioned, would be a "mess." You cannot fulfill any of the public purposes of the lawyer without competence. And if you try to practice without it, I promise you you will be miserable.

We are working in this course on aspects of all of these, but of course much of this part of your professional development has begun in your other classes. The first year of law school is heavy on the development of knowledge of certain areas of the law and on the development of particular skills — the type of reasoning that is expected of lawyers and research and writing skills that all lawyers must have. As you continue in your studies, your knowledge of the law will become more advanced as you choose your elective courses, and your skill set will expand to include other skills, such as interviewing, counseling, negotiating, appellate argument, and trial practice, as well as more advanced writing skills. I do not need to tell an audience of first year law students that you are learning the importance of diligence and hard work. Judgment is a little more subtle, but in this course we will explicitly be studying and working on this aspect of professional competence.
2. The lawyer acts with fidelity to his or her client. Among other aspects of fidelity, the lawyer does not permit the lawyers' interests or the interests of others to take precedence over the client's interests.

The second virtue is fidelity to the client. This, for most of you, will be a new mindset, the mindset of one who acts for another, in the place of another, as a "fiduciary" — "someone who has undertaken to act for and on behalf of another in a particular matter in circumstances which give rise to a relationship of trust and confidence." Fidelity to the client requires you to subordinate personal interests, and the interests of others, to the interests of the client. It requires that you transcend the pressure or inclination to serve yourself or others at your client's expense and keep the client's interest primary.

You will see many examples of fidelity to the client — or lack thereof — in this class. You will understand it more deeply if you undertake a practicum or clinic experience in law school. Your law of lawyering course will explore in depth the rules that guide you as you deal with particular issues of conflicting fidelities. Of course, in practice your development on this score will continue.

But we begin your instruction on fidelity to the client here.
3. The lawyer acts with fidelity to the law and the institutions of the law. This includes not assisting the client in the perpetration of crimes and not taking actions that corrupt the fairness and legitimacy of the courts.

The third virtue is that the professional lawyer will act with fidelity to the law and the institutions of the law, especially the courts. You know or could surmise that there are things you do not do as a lawyer—you do not help clients commit crimes, and you do not threaten, bribe, or intimidate witnesses, judges or juries. There is more to this notion of fidelity to the law, but that gives you a flavor for what we are talking about. It should be obvious that we cannot have a fair, efficient or legitimate judicial system, nor can we encourage obedience to the law, if lawyers are prepared to undermine the system and the law.

In this class, you will see numerous examples of lawyers who had to decide how to comply with this duty of fidelity to the law and its institutions, and you will see the pressures on them, both internal and external, not to do so.

You need to notice one thing right away: the virtues I am talking about can conflict with each other. To give a silly example, perhaps the client’s interests really would be best served by bribing or killing witnesses, yet the competing duty of fidelity to the law surely would prevail. The professional lawyer would do no such thing.

As it turns out, navigating to a decision when the virtues conflict, or indeed navigating to a decision when there are conflicting objectives and interests (particularly under conditions of uncertainty) will call upon you to exercise a particular type of competence. That is the exercise of “practical wisdom.” This part of competence—which is an essential component of good judgment—will be a primary focus of our discussions this semester in our small groups. We will learn
4. The lawyer conducts himself or herself with civility. This means that, in interactions with opposing counsel and others, the lawyer is cooperative, courteous and truthful.

The fourth virtue is civility. I want you to notice something strange about being a lawyer, particularly a lawyer engaged in adversarial negotiations or litigation. You will bring to the table all of your knowledge and skills in service to your client’s interests. Sitting across the table from you will be another lawyer whose job will be to serve his or her client’s interests. It may be that the best way for that lawyer to serve his or her client is to use all of his or her knowledge and skill to see that you fail in what you are trying to do.

Doctors do not operate this way. No doctor stand across the operating table from another doctor and tries to slap the scalpel away. Yet for those of you who engage in contested negotiation or any kind of litigation this will be an inescapable part of your life. Yet, for reasons we will explore — reasons that Justice Clarke touches upon — our system of justice will not work unless lawyers conduct themselves with civility, particularly with cooperation, courtesy, and truthfulness. Once again, you can readily imagine circumstances under which fidelity to your client will conflict with this principle of civility. We will have in this course opportunities to explore the contours of civility and to exercise judgment about situations in which such conflicts occur.

One final note on this: it is of particular importance because, sad to say, you will encounter incivility in practice. You need to learn how to deal with it. I did not learn that in law school, and it is a personal mission of mine to ensure that you are ready when — not if — it happens.
5. The lawyer practices in a spirit of public service. The lawyers acts particularly to ensure that everyone has access to needed legal services and generally to ensure that self-governance of the legal profession is conducted in the interest of the public.

The fifth virtue is practice in a spirit of public service. This I have found is sometimes a sensitive subject with first year law students. Maybe you came to law school thinking that you would like to devote your energy and skills to serving the poor or otherwise practicing in a public interest setting. Whether you did or not, it is certainly possible for any such inclination to be eroding. This may be happening because of the enormous cost of the education you are receiving—the attitude might be, “if I had to go though all that and incur so much debt to be a lawyer, why would I or should I ever give away service for free?” Perhaps any such such erosion is occurring because you perceive that the primary “prize” of the profession is wealth—I have heard many lawyers say, “money is how we keep score”—and, as an achiever, you adopt that prize as your goal. (This transformation in your goals is one of the things that Dean Floyd will discuss in her lecture).

Whether you ever had an ambition to serve the public interest or not, and whether or not any such ambition is eroding, the need for lawyers to exhibit this fifth virtue will be one of the subjects we study and discuss. We will also discuss this public service orientation in connection with self-governance of the profession. For the most part, lawyers regulate themselves, and they retain the right to do that as long as that regulation is in the public interest.
That's the kind of lawyer we want you to be. That's the kind of lawyer who will fulfill the public purposes of the legal profession and the kind of lawyer who is likely to feel satisfied in practice.

Why do we need a whole semester just to get this process started?

Those are the five virtues of the professional lawyer. Those five virtues could be the focus of a welcoming speech for law students or a Law Day address. In fact, in one form or another, they have been, for decades. Most such speeches are quickly forgotten.

But it is a fair question to ask, as your predecessors in this course have asked, why we need an entire semester to learn about and try to exercise these virtues, especially when I tell you that this is only the beginning of the development of your professional identity to incorporate these virtues. After all, you may be thinking, these virtues are obvious, and you came to law school as an adult with your own value system and you do not need me or anyone else to teach you about values or what yours should be. The very idea of such a course, to some of you, is at best trivial and at worst repulsive. Beyond these platitudes, you think, who is he to tell me what kind of person I should be?

Answering that question will take us into some difficult and unpleasant terrain, but we must go there. Allow me to preview the trip, as a way of trying at least to convince you to suspend your disbelief that this course is necessary.
Inconvenient truth #1: there are pressures in every type of law practice NOT to fulfill one or more of these criteria.

You need to see that from the inside. You need to understand them and be able to recognize then WHEN they happen to you.

You need to be **SENSITIZED** to the difficulties.

Allow me to borrow Vice President Gore’s terminology of “inconvenient truth.” These inconvenient truths are things that I fervently wish were not true – for your sake – but which indisputably are true. If we pretended these things were not true, we would be doing you a disservice. If we worried about making you uncomfortable, we would be failing you. So get comfortable with being uncomfortable. These inconvenient truths are what make this course, and the efforts to follow through later on what you learn in this course, essential to your development and ultimately to your happiness as a lawyer.

Inconvenient truth #1: No matter what type of law practice you undertake, there will be pressures on you not to live up to one or more of the five virtues. These pressures are inescapable. You will see them as we go through the semester, and you will develop an ability to name them and talk about them. You need to be sensitized to their existence. That sensitization is thus one of the three goals of this course, and we will seek to accomplish that primarily through the case studies of lawyers and hypotheticals that we talk about in your section meetings. Through these case studies and hypotheticals, you will see, and have to play the roles of, lawyers on the inside of a practice faced with these inevitable challenges and, I hope, begin to appreciate that you are being prepared for them before you confront them in the wild.
Inconvenient truth #2: it is impossible to ensure that lawyers fulfill these five duties by writing rules and trying to enforce them.

You will learn rules – mostly in Law of Lawyering – but fear of sanctions will not come close to being enough.

One response to the need for this course is to say, as most law schools have said, all we need is a course on the rules of conduct. The argument is that all we need are enough rules, with enough detail, to tell lawyers what to do in all situations, and a system of detection and sanction that is sure enough that the lawyers will act as desired if for no other reason than fear of sanction.

Even if we wanted lawyers to act appropriately just for the primitive reason to avoid punishment, that system is not possible. The world that lawyers work in is too complex for any set of rules to cover all situations. The settings in which lawyers work are largely too private for us to believe that detection of misbehavior is likely to be reliable. Rules are not enough. Fear is not enough.

This is the heart of why we at Mercer are not content to just teach you the rules of conduct. If that is all you know, and if that is all you think is important, then there is less reason to hope that you will become the kind of lawyer whose professional identity includes adherence to the five virtues. In turn, there will be less reason to hope that you would conduct yourself in such a way that the public purposes of your office as a lawyer will be fulfilled or that you would find deep satisfaction in your work. I repeat – rules are not enough. Fear is not enough.
Which means in turn that we have to explore questions of **MOTIVATION** – why would you and should you choose to act in accordance with the five virtues, when there is nothing to be afraid of if you do not?

That means that part of this course must explore motivation. If rules are not enough, and fear is not enough, how are you to be motivated to become the kind of lawyer who is disposed to display the five virtues? Given the limits of regulation, it must be a choice. It is part of our job to convince you to choose, for reasons other than fear, to be the professional lawyer I have described. **Motivation** is the second goal of the course.
Note a convergence: if you are convinced that your own satisfaction in the practice is tied to practicing in accordance with the five virtues, you are going to choose to abide by them, and in turn you will help fulfill the public purposes of the profession.

I do want to note particularly at this point the happy convergence of the two underlying purposes of the course. If we are right, that lawyers must adopt certain virtues in order to fulfill the public purposes of the profession, and if we are also right that doing so is a means to achieve deep satisfaction in the practice, then we have such a happy convergence: for no other reason than your own happiness, you would choose to become the professional lawyer I have described. This would be a harder sell if I had to tell you that the public needs you to act in one way but that it will make you miserable. Motivation would be much harder to come by. But the good news is the opposite: that public needs and private satisfaction converge.

I have posted to the course web page an article by Professor Larry Krieger, The Inseparability of Professionalism and Personal Satisfaction: Perspectives on Values, Integrity and Happiness. I commend it to you as part of your investigation into the convergence between the public need for professionalism by lawyers and the private satisfaction that comes from fulfilling that need.

Let me describe this connection one other way. A man named Parker Palmer once wrote: your find your vocation, or calling, where your deep gladness and the world’s deep need meet. That is the sense of vocation I hope for all of you.
Inconvenient truth #3: Even if you are sensitized and motivated, it will not always be easy to decide what to do or how to do it.

This course is in part about equipping you with the **SKILL TO MAKE AND IMPLEMENT** a decision to act in accordance with the five virtues.

It is also, more generally, about the skill to make and implement a decision when values conflict and uncertainty is irreducible.

I have mentioned already that there will be times when two or more of the five virtues conflict. They may conflict with other interests, such as the desire to provide for you and your family, as well. Seeing the problem and wanting to do the “right” thing – whatever that might be – will not be enough. It will take skill to choose and implement a decision under conditions of conflict and uncertainty. It will require at least the “practical wisdom” I mentioned before. It may also require knowledge you do not attain from a law book, such as emotional or cultural intelligence. It may require skills such as tact and finesse. It may require old-fashioned virtues such as courage, even physical courage, that are not unique to the law.

This is the hardest part of the course, and again I emphasize that the course is just the beginning of your training. Learning how to make and implement decisions under conditions of conflicting values and inherent uncertainty is a lifetime endeavor. It is not, by the way, limited just to decisions that implicate the virtues I have been talking about. In that sense, this skill to make and implement a decision is in two senses a question of professionalism. First, and most obviously, it comes into play when virtues are in conflict. Second, it is a part of the first virtue of competence. Remember that competence includes judgment, and judgment is what we are talking about when we speak of the skill to make and implement a decision when values conflict and uncertainty is irreducible.
Corollary to Inconvenient Truth #3: your existing values will not be enough to enable you to make and implement decisions in your roles as lawyers.

As I have said, it is a natural reaction to the introduction to this course to push back, to note that you are a fully-formed and highly-functioning adult with your values already in place. I accept that. The next step would be for you to conclude that you have nothing to learn about values in connection with your future work as a lawyer. I emphatically reject that.

For almost all of you, I feel confident in saying, your life thus far has not put you in the position where it is your job to represent others. You have not been immersed in a role in which you have conflicting and simultaneous duties to others with whom you may or may not be aligned or to institutions whose processes and legitimacy have been developed over centuries of experience. In other words, you have never been a lawyer. Even the best of upbringing or personal commitment to a value system cannot prepare you for what you will need to do.

You may need to take my word for this at first. If so, I ask you to suspend your disbelief, if you have one, that there is nothing to learn about values. I will give you an opportunity at the end of the course to tell me if I am wrong.
Summary of what you can expect to get out of this course

• Sensitivity to issues of professionalism
• Motivation to resolve those issues in accordance with the five virtues
• Skill to make and implement such resolutions

In summary, these are the three things we hope to accomplish with you: sensitivity to issues of professionalism, motivation to resolve them in accordance with the five virtues, and the skill to make and implement your decisions.
How do we get there?

Why does this course have so many unconventional moving parts?

I have already mentioned a number of fair questions you may have about this course. There is at least one more: why are its methodologies so unorthodox and varied. Why are there so many moving parts to the course? Why is this course so different from all my other courses?

In a word, the answer is: experience. We have now taught this course for many years, and in the beginning it was designed to look just like every other course. That was a conscious decision that I made, in consultation with my colleagues, because we were afraid of student resistance if the students detected that this was different from other courses. The fallacy of that reasoning became apparent with experience. The fallacy is that this course really is different, and to accomplish its purposes we must embrace those differences and adopt methodologies that work. The course did not work as a conventional course. It did not accomplish its purposes. We believe it is working now, and I want to give you some very explicit explanation for how the various methodologies serve its purposes.
Lectures

• Guest lectures
• Online lectures from me

The guest lectures you will have are intended to bring you perspectives that I cannot. I have already described to you Dean Floyd’s lecture later this week.

My online lectures will serve several purposes, mostly to elaborate on themes I have mentioned in this introduction. I choose to do these in an online format because it is much more efficient to do so. There is no substitute for face to face interaction as we discuss case studies and hypotheticals, but background information can be delivered more efficiently this way. Online delivery also allows me to “front-load” the course so that we end the semester early, in time for you to focus solely on your graded courses.
Section meetings/working groups

In some ways, the weekly meetings that we start next week constitute the heart of the course. One thing we learned from previous versions of the course was that students needed to talk about— to process— what they were learning in the course. In a traditional “stand-up” format, that kind of discussion was impossible. In the current format, it is much of what we do.

As I explained in the syllabus, you will be assigned to a small group of 3 or 4, and you will meet with that small “working group” each week to prepare for the meeting of your section, which of course is about 25 students. Each week, we will have a case study or a hypothetical to talk about. In your working group, you will discuss the issues and, if called upon to do so, come up with a decision and/or a plan of action. You will rotate duties over the course of the semester as reporter to the section. In the section meetings, each group will have the opportunity to present its answers or plan for discussion by the entire section.

This series of exercises serves all the purposes of the course. You will be sensitized to issues of professionalism by examining case studies in which lawyers failed to live up to one or more of the five virtues and by being placed in roles in which you are called upon to exercise them yourself. By considering the consequences for the lawyers and others of professional failures, I hope that you will begin to feel a sense of motivation to conduct yourself professionally. As the problems become more complex, you will have the opportunity to practice making decisions about what to do and how to implement courses of action when values conflict and uncertainties exist.

I want to add one personal note about the section meetings. I will be present for all of them and often, in a particular role, will challenge your decisions or your means of implementing them. Be prepared for two types of challenges: “tell me why” and “what if?” I will seek to find out what motivated your decision. I will explore with you whether you have thought
As you know from the syllabus, you are required to post a comment to the section blog once a week in response to a comment that I will post. Many of these “prompts” will concern readings that I will ask you to do.

These writings and readings are intended to serve all three goals of the course, through a particular type of exercise: reflection. I am trying to cultivate in you a habit of reflection about what you do and why you do it, because in my view, and the views of others who teach about these issues, it is in part through reflection that that the sensitization, motivation and skill that you need become part of who you are. Please do not hurry through these comments in order to “check the box.” A hurried reflection is no reflection at all.
• Your pass/fail grade

Perhaps the first thing you noticed about this course was that it is pass/fail. You may have concluded from that fact that this course is of less importance than your other courses. By now, I trust you understand that this is not the message you should take away. To the contrary, Mercer has made an enormous investment in this course precisely because the faculty has determined that it belongs alongside torts, contracts, property and your other first-year courses as an essential building block for your education and future career.

Instead, here is why the course is not graded: recall that I mentioned to you earlier the difference between “extrinsic motivation” — something outside the benefit from the activity itself — and “intrinsic motivation” — a benefit derived from within the activity. We want you to learn of the importance of intrinsic reward rather than extrinsic reward. For a law school course, the extrinsic reward is the grade. The intrinsic reward comes directly from engaging in the study and other related activities. We have taken away all but the barest of extrinsic rewards for the course by making it pass/fail. We want you to focus on the intrinsic rewards instead, just as eventually it is our hope that this will be your primary focus in practice.
More on a Different Kind of Motivation

- Interviews of guests
- Oral history
- Biography assignment

Finally, there are three kinds of activities that have in common a different kind of motivation. I will be inviting a series of guests from different parts of the profession to be interviewed about their lives and careers. You will have the opportunity to listen to them and to ask your own questions. Although these events have the extra benefit of allowing you to learn about different types of practice – and that is important – the real purpose is motivation. This is the "Inside the Legal Profession" series for which we received the ABA Gambrell Professionalism Award last year.

You have heard about and will hear more about the inconvenient truths of the profession. Maybe too much emphasis on these is what caused students in the early versions of this course to nickname it "Legal Depression." I make no apologies for exposing you to the difficulties of being a lawyer. But I also want you to realize that most lawyers deal with those and nevertheless are happy, successful people. You can be, too. It is one thing for me to tell you that, and another to bring to you people who exemplify it. That is one reason why I bring to you these guests.

I also believe that it provides motivation of a different type. I can recite to you the five virtues of the professional lawyer and say, "be like that." Such an exercise may or may not help you. I can also bring before you people who are exemplars of the virtues I have listed and say, "Be like him – or be like her." Nike sold a lot of shoes with the slogan, "Be Like Mike." That is the spirit in which I bring these guests to you.

The oral histories and biography assignments serve these same purposes. Through the oral history assignment, you and your fellow working group members will have the chance to
Conclusion: advice from the class of 2016

Let me conclude, for now, this way. When class ended last spring, I assigned the students to write messages to you – advice from the class of 2016 to the class of 2017. They were remarkably uniform, and the general sentiment was this: take the class seriously. You will get out of it what you put into it.

I look forward to spending the semester with you exploring these important matters. Thank you.