

The Simulated Client Project: Current Innovations

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What do clients most care about?

CLIENT PERCEPTIONS OF LITIGATION

WHAT COUNTS: PROCESS OR RESULT?

Tom Tyler, *Trial Magazine* (1988)

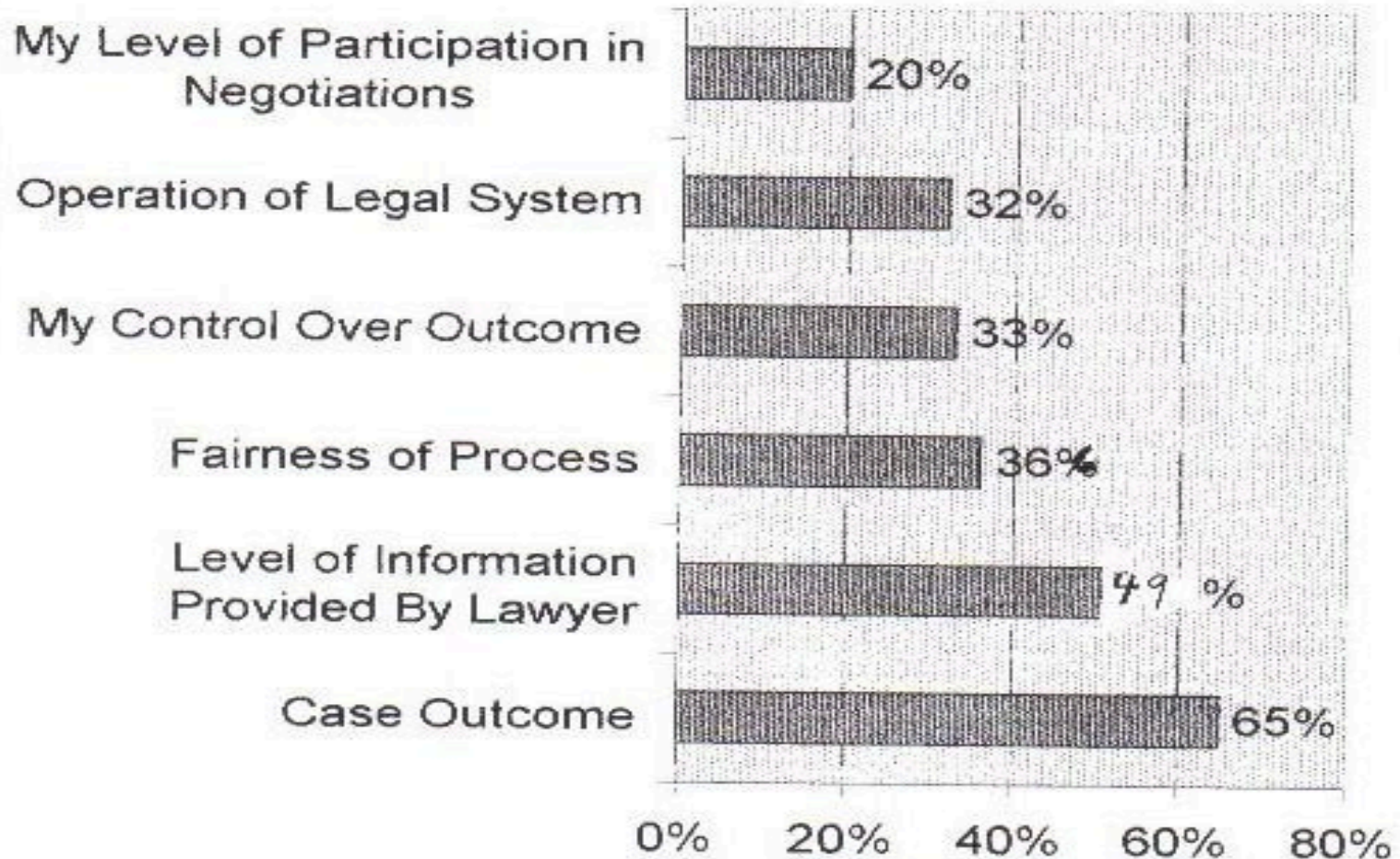
- Clients care **most** about the process
 - having their problems or disputes settled in a way that they view as fair
- second most important is achieving a fair settlement
- **least** important factor is the number of assets they end up winning.

PLAINTIFFS AND THE PROCESS OF LITIGATION:

An Analysis of the Perceptions of Plaintiffs Following their Experience of Litigation

Tania Matruglio (Civil Research Centre Australia 1994)

Satisfied With



LawCover Study

- Australia's largest legal malpractice insurance provider
 - Commissioned a Risk Management Project
 - Sample from over 2000 claims
 - Extensive & confidential interview with each lawyer
 - In most cases also interviewed the lawyer who defended the claim.
- Major Causes of Claims
 - *not* dissatisfaction with outcome
 - But instead the handling of the client relationship
 - Failure to
 - listen to the client
 - ask appropriate questions
 - explain relevant aspects of the matter

Australia: Client Satisfaction with lawyers who were certified specialists

- Widespread client satisfaction with the specialists' legal knowledge and skills
- Consistent evidence of client dissatisfaction with HOW services were provided

Different ideas of good service

- Lawyers: good service is delivering good outcomes using knowledge and skills
- Clients expected lawyers to have knowledge and skills
- But were disappointed by the PROCESS of getting to outcomes

Clients complained that

- Lawyers were not accessible
- Lack of communication
- Lack of empathy and understanding
- Lack of respect

Additional Training Recommended

- client focused rather than transaction focused
- client needs are not confined to attaining outcomes
- listen to clients better
- understand their needs
- demonstrate empathy

Value of Experience for Client Communication

- Study at University of London
- 143 actual 1st interviews
 - 24 % beginning lawyers
 - 76% experienced lawyers
 - 70% at least 6 years
 - 23% more than 11 years
- High percentages of ineffective interviews
 - Experienced lawyers generally NO better

Common Problems with Both New and Experienced Lawyers

- 51% failed to get the client's agreement to advice or plan of action
- 76% failed to confirm with client the lawyer's understanding of the facts
- 85% failed to ask before ending whether there was anything else the client wanted to discuss

Where There **Was a** Difference Between New and Experienced Lawyers

- Experienced lawyers
 - Rated their own interview performance higher than did new lawyers
- But the clients saw **no difference** in performance between new and experienced lawyers

2000 Research Study

Law Society of England & Wales

Study of client satisfaction when government pays lawyers to represent people (“legal aid”)

- Interviewed 44 legal aid clients of 21 different lawyers in the north of England.

2000 Research Study

Law Society of England & Wales

- 50% said that they had previously used a solicitor whom they did not like.
- Those 50% were then asked an open-ended question:
 - “Why were you disappointed?”

I went to [my current lawyer]...

- because of her reputation and expertise
- she is a part-time judge and has a big reputation as a specialist
- but SHE JUST DOESN'T LISTEN.
- She listens for part of what I have to say, and then interrupts, saying something like
- 'OK, I've got the picture, what we'll do is ...
- and she hasn't really got the picture, she's only got half the facts.

I think it's partly because ...

- she is so busy
- and also because she's simply not used to giving clients a voice.
- What's more she has actually made me frightened of expressing my views.
- I am about to change to another lawyer

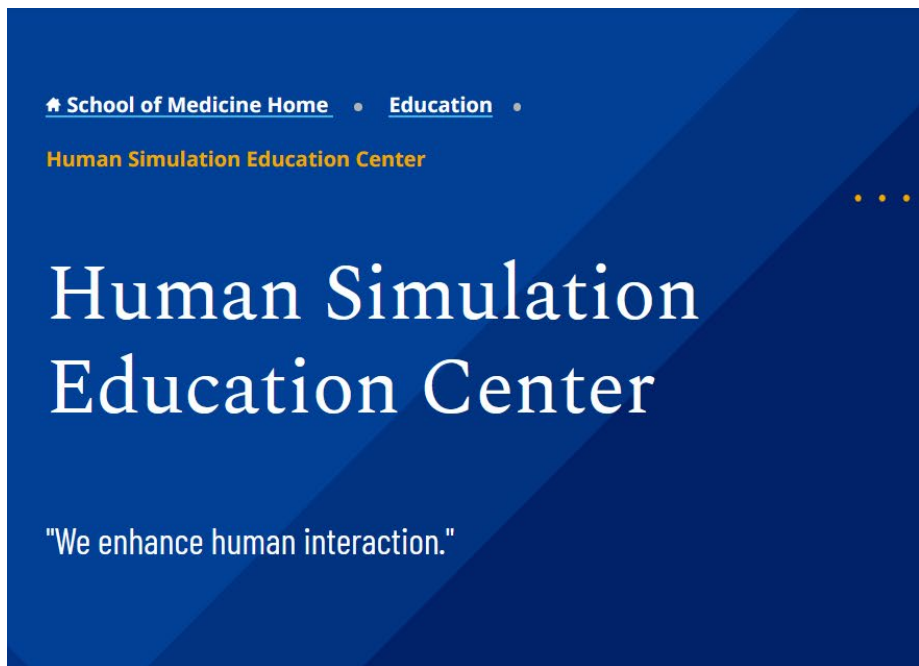
The Importance of Listening

- I sent my former lawyer packing because SHE WOULDN'T LISTEN. That is absolutely fundamental; this was my case, only I knew the full circumstances."
- "They must be able to give you time. If lawyers haven't got enough time, they can't get enough out of you. You have to have time to be able to *tell your story.*"

The Importance of Explaining

- “At my first meeting with [my current lawyer] ... I was impressed by his natural ability to talk about technical things with knowledge, but on a level that I could understand.
 - we actually talked and he explained in clear language
 - Other people just had a job to do, but [he] took time to clearly explain technical things.
 - He explained how the system works.”
- “She speaks of legal matters in a way that is knowledgeable and she explains it well.”
- “She communicates clearly. She puts things in layman’s terms.”

Standardized Patients in Medical Education



Standardized Patients

- Used at all levels of medical education
- And sometimes as part of the examination to be licensed as a doctor
- Developed over the past 50 years
- Used in many countries, including here at UAG

Standardized Patients

- Simulated clinical examination



- Standardized patient presents as the same person with the same medical problems to each examiner
- Standardized patient ALSO evaluates the examiner as to basic communication skills

Standardized Patients

- In 2004 a team from the United States and Scotland was formed to test
- Whether this method could be adapted to legal education

13 Clinical Law Review 1 (2006)

VALUING WHAT CLIENTS THINK: STANDARDIZED CLIENTS AND THE ASSESSMENT OF COMMUNICATIVE COMPETENCE

KAREN BARTON, CLARK D. CUNNINGHAM,
GREGORY TODD JONES & PAUL MAHARG*

An international and interdisciplinary team from the Glasgow Graduate School of Law (GGSL) and the Dundee Medical School - in Scotland - and the Georgia State University College of Law (GSU) - in the United States - has undertaken an ambitious project to change the way lawyer-client communication skills are taught and assessed.







1st Simulated Client Project
Glasgow Graduate School of Law 2004-2006
Post-university 9-month training program required
to become a lawyer in Scotland



2nd Simulated Client Project

Bar Association in Edinburgh 2006-2010

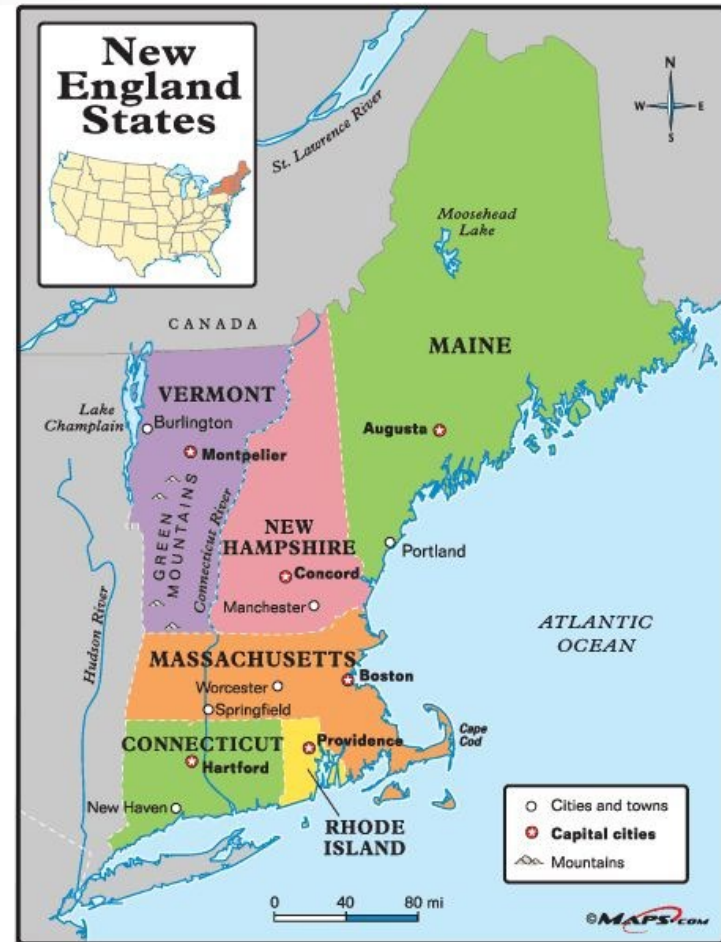
Specialty certification for junior lawyers



3rd Simulated Client Project

State of New Hampshire 2006-2025

Part of testing to be licensed as a lawyer



Other places using simulated clients



Planned innovations

- Expand to civil law jurisdictions
 - Latin America
 - Continental Europe
- Expand from English to other languages
 - Beginning with Spanish
- Expand to online format

Universidad Autónoma de Guadalajara (UAG)



Transitioning Simulated Client Interviews from Face-to-Face to Online

Paul Maharg & Angela Yenssen

13 European Journal of Law and
Technology No. 3 (2022)



1. Greeting and introduction were appropriate Comments_____	1 2 3 4 5
2. I felt the attorney listened to me Comments_____	1 2 3 4 5
3. The attorney's approach to asking questions was helpful Comments_____	1 2 3 4 5
4. The attorney summarized my situation accurately Comments_____	1 2 3 4 5
5. I understood what the attorney was saying Comments_____	1 2 3 4 5
6. I felt comfortable with the attorney Comments_____	1 2 3 4 5
7. I would feel comfortable with the attorney handling my situation Comments_____	1 2 3 4 5
8. If I had a legal problem, I would go back to this lawyer Comments_____	1 2 3 4 5