

## Strategy for Classroom Success: Predict the Questions<sup>1</sup>

The following is a list of the types of things you are likely to be asked in a Socratic class. You can use this list to help you understand your reading and prepare for class.

### Facts

- Who are the parties?
- What does the appellant want? What is the remedy being sought?
- What are the facts of the case?
- Do you agree with how the court has characterized the facts of the case?
- What is the definition of [insert jargon word/legal doctrine]?

### Procedure

- What was the lower court's holding?
- What is the standard of review? Who has the burden of persuasion/proof?

### Issues in Dispute

- What's at issue here? Why are we in court?
- What are the parties' disagreements?
- What are the broader issues implicated by the specific facts of the case?

### Rule

- What was the legal rule/standard applied?
- What were the elements/factors of the rule described?
- What are the alternative/minority rules?

### Holding

- What's the holding? What's the outcome? What does the judge rule?
- What were the judge's reasons for the holding?
- How does this reasoning differ from the lower court's reasoning?
- Is the court's reasoning persuasive? Has the court considered all arguments? Are there better arguments?

### Policy

- Do you agree with the judge's reasoning and holding?
- Does this holding conflict with some other legal rule or case?

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<sup>1</sup> Adapted from *Finding your Voice in Law School: Mastering Classroom Cold Calls, Job Interviews, and other Verbal Challenges* by Molly Bishop Shadel, Carolina Academic Press, 2013.

- Given the facts at play, is the law/rule that was applied the best way to reach the desired social/political/economic effect? Is there a better rule?
- What are the social/political/economic effects of the decision?
- What are the implications/future effects of the rule/holding of this case?
- Which side is more at fault? Who could have prevented the harm/dispute?

### **Arguments**

- What did the plaintiff/appellant argue?
- What did the defendant/appellee argue?
- What is each judge's reasoning for his/her holding?
- What are the strengths/weaknesses of each argument (for the appellant/appellee or in comparing the arguments made by the judges)?

### **Hypotheticals**

- If the facts were changed [in a certain way], would the result be the same?
- If an alternative [specific] rule were applied to the facts, what would be the outcome?
- Given [a certain set of facts], what is the best rule to apply?
- How can [this case] be reconciled with [a different case]?
- How can [this case] be distinguished from [a similar case]?

### **Role-Play**

- Imagine you are the appellant or appellee. Make the best argument to convince the court to rule in your favor.
- Imagine you are the judge. Would you rule the same way?
- [After listening to two students argue each side of a case], Who should win and why?

### **Past Standards/Doctrines Applied to Case**

- Considering this case, would [prior case read] be decided differently?
- Can the same holding be reached by applying [alternative doctrine]?

### **Read Between the Lines**

- Are the intentions of the parties different from what they claim?
- Consider the facts left out, or likely facts given the situation that are *not* stated and answer [this question].
- Consider whether the court is justifying its holding in order to avoid certain unfavorable implications of an alternative holding.

One final tip: Sometimes if you listen carefully to the questions, you can figure out exactly what the professor wants you to answer – a skill that you will also use in some interactions with supervisors and even judges.