

At the Lectern

Law School Lifelines: A Game Show-Themed Review Exercise

Steven J. Mulroy

One of the most consistent findings in educational research is the need for frequent review of material previously covered.¹ Studies show that students retain a dispiritingly low percentage of material they are exposed to for the first time² and that repeated drilling is necessary for the material to “stick.”³

Steven J. Mulroy is Professor of Law, Cecil C. Humphreys School of Law, University of Memphis. The author would like to acknowledge gratefully the inspiration of Regis Philbin.

1. See Hsueh-Chao, Marcella Hu & Hossein Nassaji, *Ease of Inferencing, Learner Inferential Strategies, and Their Relationship with the Retention of Word Meanings Inferred from Context*, 68 *Can. Modern Language Rev.* 1, 71 (2012) (explaining that learning occurs in three steps and for learners to develop the full meaning of the information, the connection with that initial information must be strengthened through repetition); Martha Peters, *Institute for Law School Teaching, Principles of Adult Learning, The Science and Art of Law Teaching* 4 (1996) (similarly describing the three step learning process and the importance of repetition within that process). See generally Vivian Curran, *Developing and Teaching A Foreign-Language Course for Law Students*, 43 *J. Legal Educ.* 598, 599 (1993) (explaining that repetition is key to learning a new language); Daniel J. Givelber et. al., *Learning Through Work: An Empirical Study of Legal Internship*, 45 *J. Legal Educ.* 1, 11 (1995) (explaining that assigned tasks should permit repetition in order to facilitate the best learning environment).
2. See Nira Hativa, *Teaching Large Law Classes Well: An Outsider’s View*, 50 *J. Legal Educ.* 95, 100 (2000) (citing Wilbert J. McKeachie, *Teaching Tips: Strategies, Research, and Theory for College and University Teachers* (D.C. Heath & Co. 1999) (quantifying the decrease in attention during class: on average, students retain about 70 percent of the information presented in the first ten minutes of a lecture but only 20 percent in the last ten minutes); see also Paul Martin Lester, *Visual Communication Images with Messages* (Wadsworth Pub. Co., 4th ed. 2006) (explaining that, on average, people only remember 10 percent of what they hear and 20 percent of what they read, but about 80 percent of what they see and do).
3. See Hsueh-Chao et al., *supra* note 1, at 71.

At the same time, interactive learning has many advantages over a lecture format.⁴ Indeed, law teachers are encouraged to come up with creative and interactive ways of presenting their material.⁵ Many commentators suggest breaking out of the straightjacket of the traditional Socratic Method.⁶

When I first started teaching, I attended the AALS Conference for New Law Teachers. The speakers encouraged us to come up with creative ways to present material. I devised such a method at that session, which I have used consistently in my non-seminar courses. It achieves several important educational goals, and is also a lot of fun. It's a review exercise based on the TV game show *Who Wants to be a Millionaire?* I call it "Who Wants to be a [Insert Name Of Course] Millionaire?"⁷ and it has worked well for over a decade. Below I describe how it works, how students have reacted, and why I think it has educational value.

How It Works

The exercise takes place once a semester about midway through the term. Students are asked to go through the notes they have taken to date and write three review questions, each one on a separate index card. They are to mark one question as "Easy," one as "Difficult," and one as "Intermediate." Each

4. See Hativa, *supra* note 2, at 111 (citing Howard R. Pollio, What Students Think About and Do in College Lecture Classes, *Teaching Learning Issues* 53 (1984)) (explaining that during a typical, passive, class lecture, students are not attentive to what is being said 40 percent of the time while teachers are lecturing); Calvin William Sharpe & Edward J. Imwinkelried, Evidentiary Distinctions: Understanding the Federal Rules of Evidence, 46 *J. Legal Educ.* 150, 154 (1996) (advocating for an active learning approach in law schools and explaining that students retain very little information as passive learners).
5. See Hativa, *supra* note 2, at 100 (explaining that an engaging presentation helps students concentrate on the material and keeps them alert and attentive); Joseph W. Glannon et. al., Coordinating Civil Procedure with Legal Research and Writing: A Field Experiment, 47 *J. Legal Educ.* 246, 247 (1997) (explaining that active engagement in the learning process produces more effective learning for the time invested, better retention of information, and greater enjoyment as well); Steven I. Friedland, How We Teach: A Survey of Teaching Techniques in American Law Schools, 20 *Seattle U. L. Rev.* 1, 13 (1996) (describing interactive methods of teaching and the benefit of tailoring the delivery of legal education based on the preference of the students); Corrine Cooper, Institute for Law School Teaching, Getting Graphic, *Visual Tools for Teaching and Learning Law* 4 (1994) (suggesting that using interactive tools like the use of graphics encourages students to rethink the problem while eliminating ambiguities).
6. See Benjamin V. Madison, III, The Elephant in Law School Classrooms: Overuse of the Socratic Method as an Obstacle to Teaching Modern Law Students, 85 *U. Det. Mercy L. Rev.* 293 (2008); Paul Bateman, Toward Diversity in Teaching Methods in Law Schools: Five Suggestions from the Back Row, 17 *Quinnipiac L. Rev.* 397 (1997).
7. Obviously, the title of this TV game show is protected by copyright. However, there is a good argument that this educational use of the name is "fair use." See 17 U.S.C. § 107 (2000) (setting out "fair use" exception, emphasizing application where the purpose of the use is "for nonprofit educational purposes" as opposed to commercial); *Golan v. Holder*, 132 S.Ct. 873, 890 (2012) ("[T]he fair use of a copyrighted work . . . for purposes such as . . . teaching, scholarship, or research, is not an infringement of copyright.").

question draws on class material covered up to that point in the semester. The questions must be multiple-choice with four possible answers, only one of which is correct; the correct answer is marked. Students are required to turn in their index cards with their names on them.

I then select a few dozen questions for each difficulty level for use in the review exercise, modeled on the *Who Wants to be a Millionaire* game show. About five or six students volunteer to be contestants and three volunteer to be judges.

The students sit in the front row of the classroom, and the judges sit or stand nearby to observe the proceedings. I sit at the front of the class next to an empty “hot seat” chair, which is where the contestants will sit as they answer the various multiple choice questions. To set the mood, I dress in muted black and silver, a la former *Millionaire* host Regis Philbin, and attempt a passable Regis Philbin impression. (Alas, a Meredith Viera impression is beyond my thespian ability.)

Just as in the *Millionaire* show, play begins with the “Fastest Finger” round. Contestants must be the first to correctly answer “Fastest Finger” questions, which ask them to put various items in order. A sample question from the first-year Criminal Law course:

Place the following in order from lesser included offense to “greater included offense”:

- A. Larceny
- B. Attempted Larceny
- C. Robbery
- D. Robbery of a Federal Official

[Answer: B-A-C-D]

Another sample, from Constitutional Law:

Place the following rights in the order in which the text supporting them appears in the Constitution:

- A. Female suffrage
- B. Due Process
- C. Free Speech
- D. No suspension of habeas corpus by Congress except in cases of rebellion or invasion

[Answer: D-C-B-A]

Contestants raise their hands as soon as they are able to place the items in the correct order. The judges are responsible for identifying who is first, second, and third in that race. In proper order, each contestant is given an opportunity to answer. The first one who answers correctly gets to come up to the “hot seat.”

At this point, I explain (probably unnecessarily, given students’ familiarity with the TV game show) how the game works. Again as in the *Millionaire*

show, each contestant begins their time in the “hot seat” with three Lifelines: “Phone-A-Friend,” “Poll The Audience,” and “Fifty-Fifty.” The first allows the contestant to ask any other classmate in the audience to help them answer a given question. (Judges, fellow contestants, and the original student author of the question involved are all disqualified.) The second allows the student to ask the students in the audience to vote by show of hands on which answer they think is correct. The third instructs the “computer” to “randomly” eliminate two of the four answers, leaving only two answers from which to choose. In other words, I exercise discretion to narrow down the field of answers. (I try to do it in such a way as to avoid making the final choice too easy or too hard.)

The contestant begins answering questions, using Lifelines to help with individual questions as they see fit. As I read each question, I identify the student author of the question, to maximize a sense of ownership and involvement in the game. If the contestant gets three Easy questions correct, she moves on to the Intermediate level. If she answers three of those Intermediate questions, she graduates to the Difficult level. If a student gets any answer incorrect, she resumes her seat to sit out the rest of the game, and a new “Fastest Finger” round begins with the remaining contestants. The winner of the next “Fastest Finger” round then takes the hot seat, and a new round of multiple choice questioning repeats.

Here are sample Easy, Intermediate, and Difficult questions submitted by different students in Constitutional Criminal Procedure:

EASY

Which of these has a reasonable expectation of privacy?

- A. Open field
- B. Garbage that is in your carport
- C. Jail cell
- D. Exterior of car

[Answer: B]

INTERMEDIATE

Which of these people is MOST LIKELY to be able to give valid third-party consent to a search?

- A. Landlord (re: search of tenant’s apartment)
- B. Hotel clerk (re: a search of suspect’s rented hotel room)
- C. Employer (re: a search of employee’s desk or private area)
- D. Parent of minor child (re: search of child’s room)

[Answer: D]

DIFFICULT

Which of the following is false?

- A. Hearsay evidence can be used at probable cause hearings.
- B. Warrantless searches are per se unconstitutional unless there is consent.
- C. Anonymous tips must predict future behavior to provide probable cause.
- D. Sneak and peak warrants do not require notice, but must make a showing of reasonable necessity.

[Answer: B]

If the contestant gets up to the Difficult level and then answers three of those questions correctly, she is declared a “Criminal Law Millionaire,” or a “Constitutional Law Millionaire,” etc. With much fanfare, I then present the contestant with a certificate entitling her to a semester pass from any future “cold-call” questions.

Along the way, students can earn various prizes. I usually have some small prizes, like some combination of University-logo pens, notepads, coasters, mousepads, and the like, for all contestants and all judges “just for being a good sport and participating.” Contestants who get knocked out at the Easy level get a certificate for a one-time pass from being cold-called, plus “the home version of the game,” which are all the question notecards they encountered. Contestants who get knocked out at the Intermediate level get the same, plus a choice of a variety of donated “swag” items on display at the prize table. Typically, this might include a Lexis-Nexis thermos, a Westlaw mug, an AALS tote bag, or an ABA desk organizer. I also try to include course topic-appropriate gag prizes. For example, in Criminal Procedure, I have included the “disappearing civil liberties mug,” which has a list of the Bill of Rights on the outside that fade away once you pour in a hot beverage. Finally, those who get knocked out at the Difficult level get all of the above plus a Starbucks gift certificate. A bona fide “Millionaire” gets all of the above, plus the semester pass mentioned earlier.

Student Reaction

Students tell me, anecdotally and through online surveys, that they really like this game. For example, in a Spring 2012 anonymous online poll, 71 percent of 41 respondents stated they enjoy the Millionaire exercise “Very Much,” and 27 percent said they enjoy it “Somewhat.”⁸ Similarly, 83 percent agreed with the statement “I am glad we do the Millionaire game, because it is enjoyable and

8. Customized Poll, The Westlaw Education Network (TWEN), Prof. Mulroy Criminal Procedure Spring 2012 (TWEN Poll) (on file with author).

also educationally helpful.”⁹ Both anecdotally and based on survey responses, students certainly look forward each semester to the “Millionaire Game.”¹⁰

Indeed, many of them vie to have their submitted questions read aloud during the competition. One method for doing this is to mimic the professor by bringing up examples from *Star Trek*, HBO’s *The Wire*, or other favorite TV shows. They also do this by composing humorous fact patterns involving thinly fictionalized versions of themselves, their professor, and their fellow students. Or they might do so simply by indulging their own pop culture fixations, as in this sample from an actual student-submitted question:

A gun-wielding man approaches another, brandishes a gun, and demands his wallet. Unbeknownst to the robber, he has confronted Chuck Norris. Norris disarms the man and punches him several times, disabling him. Norris pulls out his cell phone and says “I’m calling the cops.” [Norris is lying. Chuck Norris doesn’t call the cops—the cops call Chuck Norris.] The would-be assailant doesn’t know this and hops into his TransAm, where he takes off, striking and killing a bystander. Under the common law does the felony murder rule apply? [Answers omitted]

The students particularly enjoy the competitive, interactive nature of the game, reporting that it keeps them engaged. Students normally erupt in applause when one of their colleagues answers correctly, with special enthusiasm reserved for the few who make it all the way to “Millionaire” status. (This number tends to vary from zero to two in a given class session.) Some years, a student will call up “Who Wants to be a Millionaire?” music or sound effects from his laptop, and play it at appropriate moments to heighten the mood. Sometimes, a student judge will ask permission to control the lights in the room, to mimic the lighting effects used on the TV game show as contestants advance from Easy to Intermediate to Difficult.

A significant percentage of the students say they like the chance for an individual moment in the sun. In addition to the 6 contestants and 3 judges, there are normally another 5 “Phone A Friend” participants, and an additional 30 or so students whose questions get read aloud. Most students end up getting personal recognition for at least one part of the competition. Anyone not so specifically included at least gets to participate in several rounds of “Poll The Audience.”

It is surprising to see how seriously the student judges end up taking their roles. In addition to keeping track of “Fastest Fingers,” Lifelines, questions remaining, and the like, they are also charged with settling any disputes. This being law school, such disputes are not unheard of. A contestant will claim that a question was unfairly worded, or challenge the accuracy of the answer in the context of the fact pattern. (I take the time to screen out the obviously bogus questions, but closer calls can remain in the pile and get read aloud.)

9. *But compare* with *id.* (In a separate question, 42 percent said it was “Very Helpful,” and 53 percent said it was “Somewhat Helpful.”).

10. *Id.* (93 percent of 41 respondents indicated that they looked forward to the game.).

In these instances, Professor Regis Philbin takes a hands off approach. I make myself available to answer questions from the judges about the black letter law, if they so choose. But on judgment calls about whether a question was too confusingly worded, or whether the (supposedly incorrect) answer given by the student could reasonably be considered worthy of full or partial credit, I leave it to them. Their deliberations and decisions, in full hearing of the rest of the class, are themselves educationally helpful. And the student judges have been surprisingly tough on their fellow students, often rejecting contestant appeals where I was inclined to say, "Just give it to them." They often come up with creative solutions in close cases, like allowing a student a "do-over" on a contested question in exchange for a penalty of removing one Lifeline.

Educational Value

When the competition is over, I post a sample of Intermediate and Difficult questions on the course website, as additional review questions for students to use in exam preparation. I leave the student author names attached to the questions they posed and encourage the class to discuss with that author any disagreements they may have with the phrasing of the question or identified answer. Over the years, I have amassed a bank of such questions on the website. As a believer that one can never have enough sample questions to practice on, I find this abundance helpful.

My pre-game review of the submitted questions is also helpful educationally. As noted above, I do not screen them with the same care I would proofread an exam question, but I do try to filter out poorly worded or incorrect questions and answers. Catching these early allows me to address common misconceptions in future classes. Another insight into student thinking arises simply from seeing which topics they consider as easy, difficult, or intermediate.

The exercise has real educational value in other ways. Students report that the mid-semester review helps in general,¹¹ and seeing examples of multiple choice exam questions is particularly helpful. I give a mid-semester and last-class review lecture,¹² emphasizing the highlights of the black letter law covered in the first and second halves of the semester, and students report this is helpful too.

However, I see students tuning in and out of that lecture. That is probably not too objectionable: if a student is confident of a certain topic, they may perceive less of a need to pay strict attention to that portion of the review

11. TWEN Poll, *supra* note 8 (41 percent of 41 respondents characterize the exercise as "Very Helpful" and 54 percent as "Somewhat Helpful" in learning or retaining course material.).
12. While I generally shun the straight lecture format in favor of interactive models (see *supra* notes 2-4 and accompanying text), I make an exception for the twice-a-semester review lectures. This exception is a function of time constraints. Simply put, one can cover material more quickly via lecture than via more interactive methods. To achieve coverage goals, I cannot devote more than a few classes per semester to "nothing but review." It would thus be impossible to cover and review the material of an entire semester in an interactive format.

lecture. But I do not see any student tuning out during the “Millionaire” Game; instead, I see them intently playing along, silently matching wits with the contestant to see if they can do as well.¹³

One surprising finding: anecdotally, students often report that by far the most helpful part of the process is writing the multiple choice questions in the first place. They say that coming up with questions forces them to review their notes, and drafting the questions forces a certain discipline and precision regarding the material. This may not be the view of the majority,¹⁴ but the number of students who report favorably on an extra homework assignment is somewhat surprising.

One might argue that the existence of a competition itself adds educational value by motivating the students. But law school can be competitive enough, and it was never my intent to increase that dynamic. Except for the “Fastest Finger” round, which is over relatively quickly and is normally met with good-natured humor, students are competing against themselves, not each other. Once a student gets on the “hot seat,” they are trying to overcome obstacles, but not at each other’s expense. Indeed, the rest of class tends to root for the contestant as she slogs her way up the “Millionaire” ladder.

Conclusion

Having students write review questions used to quiz each other is perhaps the most important value of the “Millionaire” exercise—that and a public competition which heightens engagement. One could easily imagine different versions of the same exercise based on *Jeopardy*, say, or *Family Feud*.

Whether it’s based on *Who Wants to be a Millionaire?*, some other game show, some other game, or something else entirely, there is value in using creative, challenging, and participatory activities to help reinforce information and achieve the educational goals of a review session. In the type of game described here, everyone gets to participate, and everyone learns together.

Finally, a less important but nontrivial benefit of this exercise is for the teacher himself. I get a kick out of reviewing their wacky questions, playing Regis Philbin, cheering the contestants on, and watching the judges struggle to dispense proper game show justice. Preparing the class takes a little more effort, but I end up more energized as a teacher. For me, that’s a real lifeline.

13. See TWEN Poll, *supra* note 8 (54 percent of 41 respondents stated they were “more engaged” in the Millionaire exercise than in a lecture review session, and only 17 percent said they were “less engaged.”); *but see id.* (41 percent said the lecture review was “more helpful,” compared to only 34 percent saying the Millionaire game was more helpful.).

14. *See id.* (39 percent of respondents listed “Preparing the multiple choice questions” as the “most helpful” part of the exercise, compared to 46 percent who listed the “participating, or watching, the game itself,” 15 percent who reported “reviewing the ‘extra’ multiple choice questions after the game,” and zero percent who reported “I do not find any part of it helpful.” *Id.*).