

Volume 14 Issue 2  
**2 / 2 0 1 6**  
tamarajournal.com



## Hypothetically Speaking: Constructing Professional Identity in Law School

*Kathryn Elizabeth Ticknor*

Georgetown University, United States  
kathryn.ticknor@gmail.com

### Keywords

*Linguistics*

*Professional identity*

*Education*

*Ethnography*

*Narrative*

### Abstract

A significant aspect of learning how to be a lawyer includes the acquisition—through trial and error—of a way of speaking, reading and writing that is unique to the work of doing law. Embodying this professional role requires the ability to parse and produce large amounts of complex, jargon-rich language known as ‘legalese:’ a learned communicative skill which produces a craftbound discourse (Maley 1987). The law school graduate, moreover, typically enters the workforce with little experience in legal practice. A three year education must therefore provide sufficient training for their immediate professional future. Words must fulfill the role that experience cannot.

In conjunction with ethnographic observation of first year classes at a major law school, I analyzed classroom interaction for patterns in talk that foster a sense of professional identity. Hypothetical situations emerged as a striking unit of analysis. Professors presented brief, improvised descriptions of potential legal quandaries, while positioning students as characters in the narratives. Using pronouns such as in “you, the plaintiff,” “you, the defendant,” and asking questions such as “why would you pass a statute allowing these lawsuits?” rather than “why would lawyers/legislators/they pass a statute,” the professor positions students within the legal system, and allows them to cognitively role play with their professional identity. Hypothetical situations as a unit of analysis inform our understanding of law school curriculum, as well as other types of training situations where students must develop the critical thinking skills of the real world within the walls of a classroom.

Few professional fields recognize the importance of language – learning to talk the talk- as clearly as lawyers do. The institutional responsibilities of lawyering requires legal professionals to parse and parlay large amounts of complex, jargon-rich text and utterances quite different from the language used in the English used in conversation or even most business contexts. So different is this registered, in fact, that it is often characterized as if it were a language apart: less English, more

*Legalese*. While legal language has been much studied in fields such as forensic linguistics, we know less about the process by which legal professionals come to acquire their communication skills, years prior to practicing law. Acquiring fluency in *Legalese* is fundamental to the education law students receive in their three years of law school. *Legalese* exemplifies what Maley (1979) calls a craftbound discourse, or a learned communicative skill used exclusively in institutionally-specific settings. This register of speech is not naturally “picked up” or used throughout a variety of social contexts. Instead, the very use of *legalese* helps define its context—its use signaling to participants that they are operating within the boundaries of the institution and its norms. So, a significant aspect of learning how to be a lawyer includes the studied acquisition—through trial and error—of a way of speaking, reading and writing that is unique to the work of *doing* law.

I begin with an overview of the literature and theoretical frameworks that have been used to examine the period of identity transition and formation of professional discourse. Then, drawing on a mixed-methodological approach including ethnography of communication, sociolinguistics, and conversation analysis, I focus on the repeated use of hypothetical situations in law school lectures. Using these hypothetical situations as units of analysis, I explore how first and second person pronouns, tense, and modality position students as characters in these situations, and serve as crucial linguistic devices for identity building.

## Introduction

According to the American Bar Association, nearly 40,000 students graduate from law school every year (2015). These students become the professionals who defend or prosecute us at our most vulnerable. They witness and advise our wills, leases, and divorces. They proceed over our trials and help craft our legislation. The education of these students can directly affect us as individuals as well as members of society at large. Their education also provides a key opportunity to study the role language plays in our lives as we transition between identities: from that of learner to practitioner.

Duff (2010) points out that in order to understand institutional discourse in an educational context, we must identify which forms are “privileged, expected, cultivated, conventionalized or ritualized, and therefore usually evaluated by instructors” (pp.169–192) and other institutional representatives. I began with three primary questions, each informed by a theoretical approach suited to investigating the institutional language of the community:

- What makes characterizes the speech of law school professors, specifically? (Framework: Sociolinguistics)
- What characterizes the speech of the law school community? (Framework: Ethnography of Communication)
- How does classroom *discourse* prepare students for a legal *profession*? (Framework: Conversation Analysis)

**Sociolinguists** have departed from the Chomskian notion that language should be analyzed more or less apart from how it is used, and adopted the attitude that language cannot be separated from how and why it is used (Saville-Troike, 2008). Therefore, by using three frameworks of analysis, we are able to construct what Geertz (1994) coined “thick description”, or what Erickson has playfully described as a “Dagwood sandwich” approach. This is not to say that close linguistic analysis is excluded, but rather, it is layered in between paralinguistic and nonverbal observations. In combination, these thick descriptions include observations both *etic* (that which is experienced directly by the insiders/natives of the community) and *emic* (that which is experienced by outsiders/observers) and become social facts (Erickson, 1977).

**Ethnography** has been defined as the description of cultures, constituted by the people born into them. Using an ethnographic approach to communication, we instead concern ourselves with the description of speech communities. The members of these communities share rules for communication, interaction, cultural rules knowledge to help them participate appropriately within the group (Saville-Troike, 2008). Employing techniques of participant observation, linguistic data are collected in-situ, while classes are conducted and students and professors are engaged in natural dialogue, rather than in contrived or recalled situations for the purposes of research.

**Conversation Analysis** takes a magnifying glass to transcripts of interactional data in order to see “how competent members of a given society routinely carry out and make accountable their everyday actions” (Sarangi & Roberts, 1999, p.29). The success of these everyday actions relies heavily on the successful use of shared language, motivating what Hymes (1972, pp. 35-71) proposed a hybrid endeavor where linguistic description is combined with cultural observations. Although someone may belong to several such speech communities, formed around specific purposes, each of these communities constitutes a part of her identity. And, as Watson explains, “to talk of someone’s identity surely requires that, to a reasonable extent, we get to know them and the context in which they live and work.” (Watson, 2011, pp. 202-217) The use of ethnography, sociolinguistics, and conversation analysis in a mixed-methodological approach allows us to examine how the speech community both constitutes, and is constituted by, language, and how a professional identity is “talked” into being.

## Literature Review

Linguists recognize the classroom as a rich field for studying discourse and interaction, with much of the existing literature focusing on student-teacher interaction at the elementary and secondary school level (e.g. Erickson, 1977). Although the number of studies in university settings is growing (e.g. Biber, 2006), very little has been written on how students and teachers interact in professionally-oriented educational settings.

Vásquez (2010) has looked at questioning in university discourse as it relates to formulations, specifically the distributions, functions, and responses to two types of explicit formulations (“what you’re saying is” and “are you saying that”) in university discourse, as an indicator of how those formulations indicate that in higher education “the production of formulations is highly constrained by participants’ institutional roles and their relative power” (p. 1).

Elizabeth Mertz (2007) has written on discourse in U.S. law schools, specifically the relationship between linguistic ideology and praxis of law school. Wide in its breadth, examining data from eight different law schools in the United States, Mertz endeavors to tackle the question of the language of law school from multiple perspectives, including linguistic ideology, epistemology and teaching style, and identity within the social context of legal discourse. Using observation in law school settings as well as classroom recordings, her work covers many topics of interest to ethnographers. Her work builds an argument towards elements of law school language, ideology, and cultural structure that should be changed in order to increase the value of the educational experience. This paper takes a different approach, identifying and analyzing a particular conversational element (hypothetical situations) and evaluating its impact on a speaker’s identity.

For law students, the process of assuming a professional identity is fundamentally interactional: through dialogue with their professors, they learn what constitutes appropriate patterns of talk and reasoning for lawyers. This process has been also been explored by Erickson who analyzes the hearer-listener dynamics of a given interaction for what characterizes its communicative collaboration (2004). The goal of such investigation is to determine what sociolinguistic competencies are necessary to make conversation feel natural, when in reality, conversation is more akin to “climbing a tree that climbs back” (Erickson, 1986, pp. 296). He notes that speakers’ competencies develop from knowledge that is both *institutionalized*—the acquisition of linguistic knowledge such as lexicon, syntax, phonology, sequence patterns, register—and *emergent*—praxis in reasoning, or, how to “play an interaction by ear” (Erickson, 1986, pp. 296). Here, the concept of *local production* is crucial: utterances are powerfully influenced by the reflexive relationships of immediate mutual influence between interlocutors. Overtime, students habituate to professors’ use of cold calling and hypothetical questions, until they are able to produce utterances that match the institutional expectations of an acceptable response. Overtime, this communicative competency in *legalese* in of itself becomes an expression of their professional identity.

## Hypothetical Situations as Narrative Identity Building

Narrative is an important element in any communities, and the law school is no exception. This paper presents an investigation of how one type of narrative, hypothetical situations, is used in lectures by law professors as a conversational tool to facilitate a shift from thinking *like a student* to thinking *like a lawyer*. I draw from Wallace Chafe’s “Discourse, Consciousness, and Time” (1994, Ch. 18 Representing Other Speech and Thought in First-Person Fiction with Displaced Immediacy” in particular) to explore how people use language to expand their range of information beyond their own immediate experiences. Chafe’s exploration of knowledge transference informs my conception of how hypothetical situations serve as a particular example and conveying institutional knowledge—the process and product that constitute what a lawyer thinks, does, and is.

Davies and Harré’s (1990) concept of positioning is also central to how hypothetical situations serve as vehicles of professional identity formation. Central to positioning theory is that certain discursive practices are used to constitute speakers and hearers in certain culturally-recognizable ways, while simultaneously serving as a resource for negotiating new constitutions. The positions created in part by linguistic signals can be fleeting and dynamic, as when professors alternate between use of hypothetical situations in lectures, and speech acts such as assigning homework, for example.

Crucial stages of human development include learning categories that partition the universe, using the discursive practices that give these categories meaning, and positioning ourselves vis-à-vis these categories (belonging to some, not to others, in a given moment). Davies and Harré (1990) emphasize that our idea of self is continuous and autobiographical, and that positioning is what allows us to be “contradictory” within this continuity. They draw from Smith (1988) in noting the difference between a person as an individual agent versus as a ‘subject:’ as subjects, we are “the series or conglomerate of positions” (p.xxxv) which are provisional, and which we are called to by both specific environments and discursive practices around us.

## Ethnographic Observation in the Law School Setting

The research for this study was conducted at a university law school located in a large metropolitan area of the United States. The institution is consistently ranked one of the best law schools in the country. This ranking is extremely important to the institution—top-tier schools attract the brightest students, the most money in the form of donations, and the best professors. It is also one of the largest law schools in the country, graduating about 500 law students every year. As a first year law student, or 1L, students follow the same curriculum as most other law students around the country, learning based on the same core class work and the same foundational cases. Introduced to the 1L through her syllabus of required readings, a name like “Miranda” or “Daubert” comes to signify an entire set of laws, cases, precedents and courts. But legal education isn’t entirely based on what is read. The classroom interaction becomes crucial to learning the sociolinguistic competencies necessary to succeed both in school and after. The interplay of talk and text is crucial in creating an institution distinct from other educational settings: the education law students receive falls somewhere on a spectrum between higher education and a trade-school: the unspoken assumption is that the language used in the classroom will result in a law student graduating into an attorney, and joining the institution of law afterwards.

## Methodology

The data consist of weekly, hour long observations and transcribed recordings of classroom lectures as well as more spontaneous observations of student interaction in public areas including hallways, the library, and study lounges. The classes I observed were taught by four different professors, whose teaching experience at the university ranged from one semester to 20 years. All of these classes are regularly recorded by the University’s audio-visual department, so students are habituated to the presence of a recorder.

Here, I focus on data from two Criminal Law classes and three Torts courses. Criminal Law encompasses those cases where a person is prosecuted for having committed a crime, and focuses specifically on punishment of a guilty party. Torts is the body of law that focuses on those cases in which someone is legally liable for causing another to unfairly suffer harm or loss, and is mandatory for all first year law students at this law school, as well as most American law schools. In choosing two courses taught by four different professors, my goal was to maintain consistency in the subject matter of the classes, while accounting for individual difference in teaching style. By observing first year law students, I also hoped to observe any changes in behaviors and routines as the first semester progressed; changes which might indicate how the students were attuning their speech and behavior to this new environment.

The class format for both Criminal Law and Torts was typical of most first year classes, in that it was structured to accommodate a large number of students (approximately 60) and used the Socratic Method—a pedagogic approach characterized by a professor-student dynamic in which “a thinker who understands the role of intellectual standards in disciplined reasoning asks questions that target the assessment of thinking.” (Paul & Elder 2008, p. 1) An often stress-inducing part of this questioning process involves “cold calling.” Cold calling refers to a common practice where a student is chosen by the professor—without volunteering—to answer a series of questions posed by the professor. Many students feel uncomfortable with cold calling, and the source of their discomfort can be explained linguistically. Brown and Gilman suggest that the dimensions of power and solidarity are psycho-sociological qualities expressed through semantic and stylistic devices. Brown and Gilman define power as the extent to which an individual is “able to control the behavior of the other” (1972, p. 255) and solidarity as a reciprocal, symmetrical relationship, which encodes equality and sameness between the conversational participants. The law professor who cold calls on students is in a position of power—compelling students to respond, even in the event that they do not know the answer.

The burden of this conversational imposition is further explained by Lakoff (1973), whose rules of politeness – 1) don’t impose, 2) give options, 3) make listener feel good (be friendly), serve as governing principles for the way we speak. In casual conversation, the conveying of informational ideas is often secondary to reaffirming and strengthening interpersonal relationships. In the more formal settings, such as a law school classroom, Brown and Gilman’s dimensions of power tend to supersede Lakoff’s principles. In this context, being called on and compelled to answer a question one may not know the answer to, and then corrected in front of one’s peers, is a power held by the professor and acknowledged by the students through their (albeit reluctant) participation in the exchange. Being imposed upon, not given the option of declining to answer, and sometimes embarrassed for incorrect responses feels distinctly impolite - but is mandated by the institutional setting where the participants primary identity is “student.” Within these cold calling sessions, however, a different aspect of these students’ identity is being cultivated: a professional one.

## Data

While observing the way professors constructed their questions for students in cold calling sessions and lectures, a striking unit of analysis emerged: that of hypothetical situations. Students are positioned as characters within these short narratives through the speech community's use of pronoun choice, tense, and modality. Analysis of this positioning helps illustrate how students are socialized from lay participant to full-fledged institutional members of the legal community (Harré & Moghaddam, 2003). *Hypos* as these mid-lecture hypothetical situations are called throughout the school, serve as a particular mode of knowledge transference in the law school setting (Chafe, 1986). Students' awareness of and ability to identify these units in follow up interviews further illustrates the importance of narrative in the curriculum.

Narratives defined as *hypos* were identified primarily by the professor asserting information that was obvious to the class as untrue, often due to impossibility (the students could not find themselves in the position of serving on the Supreme Court, for instance, would not yet have had the opportunity to pass the bar, both institutionally mandated prerequisites for practicing law) and which he could have no way of knowing. In terms of topicality, they include hypothetical, future scenarios likely to befall the law student in her or his future career as an attorney. Drawing heavily from the rhetorical frames of the Socratic method, these hypothetical situations were followed by a series of questions posed by the professor regarding the nature of the situations described. While describing these situations, the lecturing professor describes people in various roles: those who play an 'institutional' role, such as lawyers and judges, in contrast to those who play a 'lay' role, namely the victims or accused perpetrators of criminal activity.

Having narrowed the transcription down to select passages from the transcribed data set, use of the pronoun 'we' versus 'you' were coded, as indicators of the professor "casting" the class members as active participants in the contrived situation. In Excerpt 1, I have used the coding convention of **bolding** the tokens of 'you-' and *italicizing* the instances of 'we-.' For the purposes of this paper, professors and students are labeled as "Professor" and "Student" throughout, although they do not necessarily represent the same speaker. In Lecture 1, a total of 213 instances of 'we' occurred in sequences of constructed future narrative, and 191 instances of 'you' (excluding occurrences where the word was used in a null context such as 'you know.')

In Excerpt 1, there is a clear dichotomy between cases where the class is addressed using 'you' and where the class is addressed with the 1st person 'we.'

### Excerpt 1.

*Professor: So we don't wanna create – it, I guess this is again consistent with our secondary objective, providing righteous ends providing the appropriate level of deterrence. We don't wanna make it better, um, if **you're** gonna be a tortfeasor, we don't wanna make it better for **you** to kill your victim than to merely maim your victim. That would be a perverse incentive. So **you're** arguing one way to eliminate that perverse incentive is to hold **you** liable whether or not **you** kill the defendant. Or whether **you** kill or maim the defendant. Yeah?*

In instances where 'you' is used, the professor is placing the student addressee within the framework of a victim or perpetrator of a crime: "**you're** gonna be a tortfeasor" and "hold **you** liable." In each of these cases, the professor not only excludes himself from the scope of the pronoun, distancing himself from connection to the criminal activity, but he also casts the student in the role of criminal or victim. When making references to roles that would be assumed by members of the legal institution, in their professional role, such as lawyers, judges, or writers of legal documentation, the 1st personal plural is used. In Excerpt 1, 'we don't wanna create it', 'it' refers to the law, placing the student in the position of a creator of that law.

Pronoun use accomplishes this positioning because of what they *index*, or signify about the social identity or stance the speaker is taking. As Ochs (1996) describes, indexicality combines the properties of *constitutiveness* (that language structures the phenomenological world and linguistic forms bring about situational definition) and stance, because situational dimensions are called into consciousness by other dimensions of the situation, including social acts (e.g. sadness calls to mind the act of condolence, a negative stance calls to mind the act of complaining) and as component of social identity (e.g. using the use of legal lexicon and certain questioning structures indexes 'talking like a lawyer.'). Davies and Harré (1990) add that rather than taking up predetermined roles in a situation (student, lawyer) through *indexical extension* we learn to use language to invoke a particular relationship to the social activity we are participating in as well as to our co-

participants in the activity. The professors' use of personal pronouns in their narratives becomes an index for students to assume a lawyer mindset.

By using 'we', the professor also groups the students in membership with himself, an established member of the institutional community. Additional examples include: "so we're allowing these two statutory clauses of action" and "those are the people who suffer the injury for whom we are shifting the loss for which we are compensating in a wrongful death action." Use of 1st person plural pronouns were found in the professors' speech—only 13 out of 191 instances of 'you' in constructed future narrative were used by students. This can be attributed in part to the fact that over the course of a lecture, professors yielded the conversational floor to students far less often than they assumed it themselves, but it is also indicative of the students' current self-identity as an institutional outsider, and non-professional. This is further evidenced by students' responses to narratives introduced by a professor using 'we' which they reject, responding with use of the 2nd person singular 'you' to refer to institutional entities, such as in Excerpt 2:

#### Excerpt 2.

*Student: I, uh, in some cases **you** should give non-pecuniary because if those people are non-wage earners than there'd be no other way to really get compensation for them.*

The student's use of 'you' in conjunction with the description of an institutional power ('to give non-pecuniary [damages]') would signify she was excluding herself from a position of institutional membership. As the class continued over the course of the semester, however, student use of 'you' in these slots diminished: and a pattern more similar to their professors emerged. In Excerpt 3, for example, we again observe narrative roles being filled by victims and plaintiffs, as opposed to institutional insiders like lawyers and judges were described using 2nd person, rather than plural 1st person pronouns:

#### Excerpt 3.

*Student: As a practical matter it seems uh that it would be unfortunate if death were viewed as a good thing so if the plaintiff were maimed, **you** could sue, but if that went further and they died, and **you** could sue? So it seems like practically it makes sense.*

*Professor: It's right. Um, there are rules about disinheriting people. So for example if **you** decide you want to disinherit **your** spouse, we just won't let **you** do that. **Your** spouse is gonna get **SOME** money. That's that might be true of **your** children as well, meaning **you** would continue to be an heir at law. Cause **you** would be entitled to some statutory distribution even if the decedent makes an effort to disinherit **you**.*

In Excerpt 3, the student's pronoun use mirrors that of the professor above in Excerpt 1. She has begun using the 'institutional we' in direct contrast with the externalized lay-person.

There are times where the professor also places the students in the role of both a lay and a professional member of the legal community within the same narrative:

#### Excerpt 4.

*Professor: Okay. So. By statute you're allowed to sue people after you die or after – you the plaintiff die or after you the defendant dies... Why would you pass a statute allowing these lawsuits? Yeah?*

*Student: It serves a deterrent.*

*Professor: Does it?*

*Student: [pause] Yes.*

*Professor: Okay, I got the defendant. I don't want him to do this again. But guess what. He's NOT gonna do it again. Guess why. Because he's dead.*

Within the first sentence utterance, the professor has positioned his students in one of two ways within the legal system: either as a plaintiff or a defendant in a hypothetical situation where, in fact, they have died. He also asks of the class ‘why would you pass a statute allowing these lawsuits?’ implying they are the ones engaged in legislating the law. In the institutional discourse framework, we could consider the plaintiff/client roles as lay roles, much like a patient in a medical setting or a client in a business setting. At the same time, he also asks of the class why ‘you’ would want to pass a certain law. Here he is describing engagement in the professional role of lawmaker, and still focusing on the role of the student. Notice he did not ask, “why would [lawyers/legislators/they] want to pass this legislation?” Instead those present during the lecture are ‘cast’ through use of pronouns. Whereas 2nd person ‘you’ was used in his original hypothetical situation to describe the students as either a plaintiff or defendant, in his final utterance (Excerpt 5, below) he switches to using first person ‘I’ positioning himself in the story as well:

Excerpt 5.

*Professor: So for example if you decide you want to disinherit your spouse, we just won't let you do that. Your spouse is gonna get SOME money. That's that might be true of your children as well-meaning you would continue to be an heir at law. 'Cause you would be entitled to some statutory distribution even if the decedent makes an effort to disinherit you.*

Here again, we see students positioned in the story. In the hypothetical situation, a short narrative is told, and rather than simply describing a situation of ‘a person,’ the professor employs the 1st and 2nd person pronouns, effectively including the students within the storyline. This allows the speaker to *animate* the students, that is, to turn the reporting of facts into a story which plays out before the listener as if it were happening in real life, to the listening student. This constructed narrative allows a speaker to involve his or her listeners in the narrative animating the students giving it a sense of importance and immediacy (Tannen, 2007).

Harré and van Langenhove observe that “within conversations, social acts and society icons are generated and reproduced.” (1999, p.15) Classroom lecture, although structurally different from casual conversation, still fosters the creation of institutional identity, as Hollway notes that, “discourses make available positions for subjects to take up... in relation to other people” (Hollway, 1984, p.233). Knowing that in any conversational situation we have myriad choice of words to use, it is as important to consider why other options were not chosen, as why a particular word choice was made. The linguistic choice to use ‘you’ instead of other possibilities (e.g. ‘if one decides to disinherit one’s spouse’ or ‘if a person decides’) would have been equally valid, they would not accomplish the same metacommunicative objective: to place students not in a position of passive observer, but in a position of active participant.

However, professors not only used pronouns to position their students within the narrative storyline of these hypothetical situations. Professors often cast themselves as characters in the narrative as well, in ways that reinforced their own professional identity as a member of the legal community:

Excerpt 6.

*Professor: I am on the Supreme Court, this may be dubious, but good news! I also have a big budget so I have hired 34 clerks.*

In Excerpt 6, the professor proposes a hypothetical situation where *both* he and his students are positioned as participants within the narrative arc. His mid-phrasal metalinguistic evaluation (‘this may be dubious!’) illustrates the *irrealis* of the statement and the probability of his narrative, for anyone who might think his statement was factual and he actually had been appointed to the Supreme Court.

At times the narrative was presented such that its modality was ambiguous to the hearer, and a student would have to clarify whether the facts being stated were factual or hypothetical. Other times, such as in Excerpt 7 below, the professor himself would clarify:

Excerpt 7.

*Professor: In real life, don't we think if you kill someone you oughta have to compensate them for that anguish that they feel now even though they would have felt it later when the loved one ultimately died?*

It's worth noting, that this professor used the expression 'in real life' five times in the course of one lecture. Why would he need to use this phrase at all? The use of this expression is crucial in establishing a dichotomy between the story world and the real world that exists in the lecture genre in law school. It also reinforces Smith's assertion that even in a specific environment, such as a law school classroom, we rely on discursive practices to select but one of the "conglomerate of positions" (1988, p. xxxv) from which to interpret the world.

In addition to stylistics, performance of the narratives also varied between professors. Professor 2 also exhibited suprasegmental indicators of the *irrealis* narratives which came across as performance more akin to a theatre sphere than a legal institution: he altered the tone and prosody of his voice, in often comical ways, when using reported speech within the story. In the previous example of Excerpt 6, when speaking as a Supreme Court justice, he used a very low, booming voice. As Tannen writes, "changes in voice quality and prosody... marked entire utterances as representing, literally, a different voice" (2007, p. 40). For this law professor, using a lower-than-usual tone and higher-than-usual volume, he assumes not only a new voice, but the voice of someone else: in this case someone with great power. His narrative, already divided by the marked phrase "in real life" is further differentiated by his tone of voice, indicating students should return to a position of suspended disbelief: the *irrealis* of the *hypo*.

Over the course of the semester this study was conducted, the students became more likely to adopt this method of narrative creation through hypotheticals. Fewer students responded to hypothetical questions with 'the lawyer' in subject position of the phrase. Rather the students themselves would reply using 1st person pronouns that positioned themselves within the hypothetical situation, and the professional narrative:

Excerpt 8.

*Student: I think they still have to consider that they would—you would have to pay for the non-pecuniary damages to the person up until the point that that person was around. Like, you still factor that in that there would be other people affected by the injury that you're inflicting now on this person.*

Here we see a repair—where a student corrects herself mid-sentence—and instead of using 3rd personal plural 'they', she adopts the teacher's style of 2nd person 'you'. The repair is a particularly interesting phenomenon to observe because of what it indicates about what goes through a speaker's mind in formulating a response. The student first uses a 3rd person 'they' indexing an outsider's perspective. Almost instantly, she realizes what position her word choice conveys and corrects herself, using the 2nd person pronoun 'you,' indexing her professor's membership in the institutional situation created by the narrative.

This carried over into the law school discourse, even outside of the classroom. Take this data collected during an observation of one of the law school's study lounges, where two students tasked with drawing up a mock contract discuss a hypothetical course of action:

Excerpt 9.

*Student 1: I would negotiate for change.*

*Student 2: The buyer would negotiate for X and then I would reject and negotiate for Y. That's favorable to us.*

In Excerpt 9 above, the students, outside the classroom, frame their actions in terms of what they themselves would do in a hypothetical situation. Although this narrative exercise takes place outside of the lecture hall, they appropriate the professional stance: in an imagined future context, they are making decisions within the legal institution, as opposed to saying what a lawyer would do, and excluding themselves from that institution. As Harré notes, "within the persons/conversations grid, positioning can be understood as the discursive construction of personal stories that make a



person's actions intelligible and relatively determinate as social acts and within which the members of the conversation have specific locations" (1999, p. 395). The students' adoption of this professional voice is also an example of typification *extension*, which Davies and Harré (1990) differentiate from indexical extension, in that when participating and relating in certain cultural activities, we learn corresponding linguistic devices that signal 'what's happening' to those we're interacting with, as we see when students begin to mimic this pronoun use outside of the classroom to indicate to fellow students that they are in "law school mode" and not in a causal conversation between friends. There is transference between the classroom setting and the conversational setting, indicating socialization into the language of law school including the acquisition of a fluency in *legalese*.

## Conclusions and Future Study

Stories are a powerful tool for establishing identity by fostering conversational involvement and allowing speakers to, as Rosen suggests, infuse meaning-making power into discourse (1988). In the law school classroom, hypothetical situations are a form of narrative that serve a purpose greater than simply involving students as classroom participants. These narrative elements of law school lectures invite students to assume for a short time the professional mindset they will fully adopt in their future career. The use of first person pronouns are a small but powerful devices for positioning the student hearers as participants in institutional narratives, and to help students develop a vision of what it is like to participate in the legal profession—without yet leaving the classroom.

Law schools around the country are tasked with teaching not only the letter, but the language of the law. Beyond learning how to interpret a Supreme Court case, write a legal memo, or argue for a judge or jury, the linguistic practices that law students acquire become a vital expression of their membership within the law school ecosystem. Just as they may recognize another law student by the case books under their arm, the stained WestLaw coffee mug in their hand, or the myriad rainbow highlighters spilling from their pockets, the way they speak also indexes them as a member of that community.

I have endeavored to illustrate how these constructed, conditional narratives, or hypothetical situations, in classroom lectures serve as a participatory vehicle for students undergoing a shift towards a professional identity. Law students are only in school for three years, but the socialization they undergo is expected be enough to start them in their careers and carry them through their cases. Words must fulfill the function that experience cannot. Hypothetical situations allow students to try on a new professional identity for the duration of the narrative, before re-assuming their identity as student once more.

Bucholtz and Hall write that "identity is best viewed as the emergent product rather than the pre-existing source of linguistic and other semiotic practices and therefore as fundamentally a social and cultural phenomenon." (2005, p. 588) As students begin to adopt the linguistic practices of their professors, recasting themselves in hypothetical legal narratives, they are learning to produce their professional identity. Law students observe a professor's performance of professional identity, and then learn to "lawyer" through repetition of linguistic devices and signs, reinforced by the socio-cultural context in which they take place. Thus, professional identity is constructed and made meaningful vis-à-vis its power in interaction.

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