

De Minimis

Tuesday, 26 April 2016

Volume 9, Issue 8

www.deminimis.com.au

A Frank Conversation on Failure

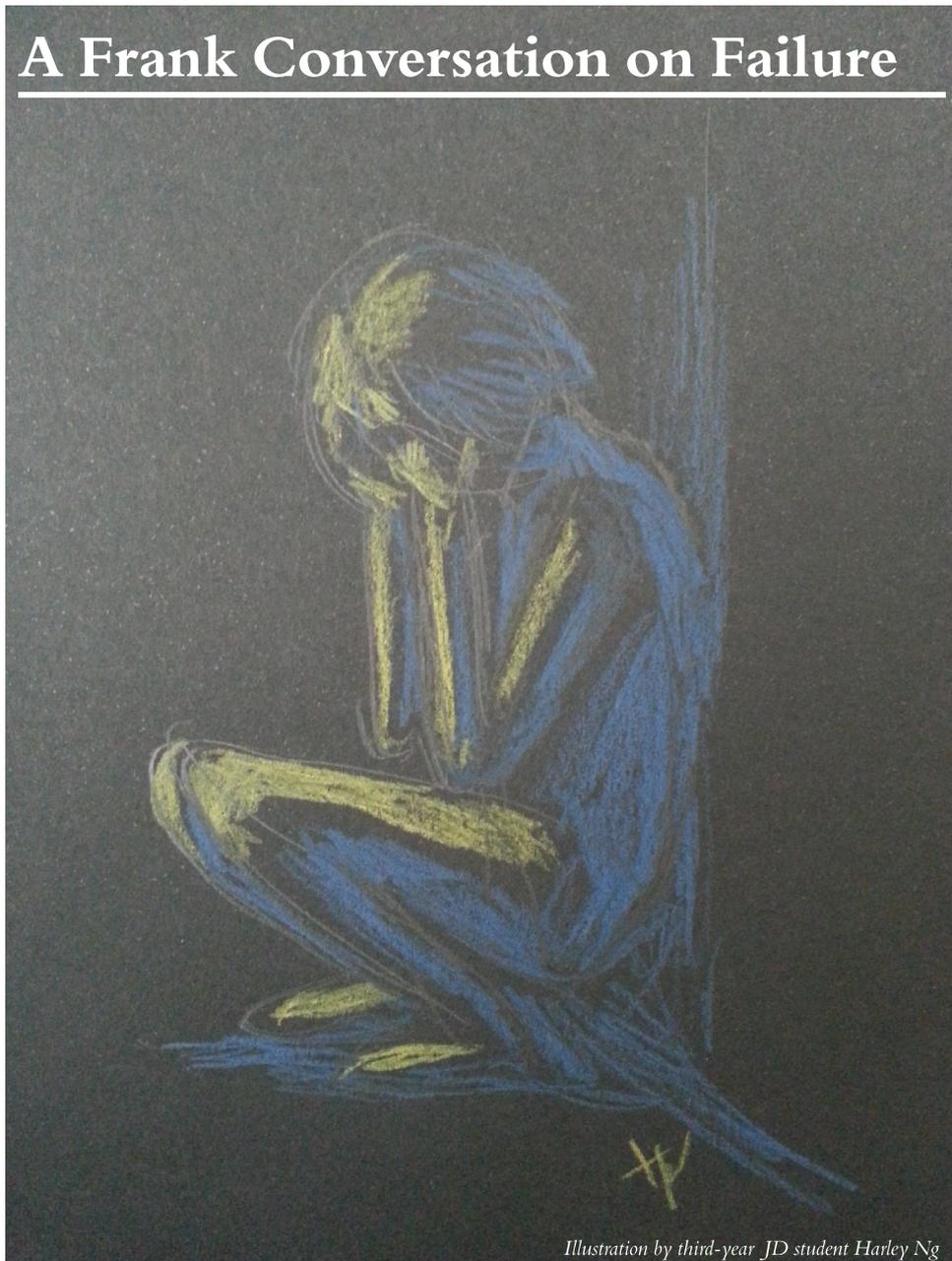


Illustration by third-year JD student Harley Ng

Henry Dow

At the beginning of this year, one of my friends wrote a candid Facebook post in the 2015 JD group page. In it she raised the issue of failing a subject at Law School, as she had done the previous semester. The response she received from that post was overwhelming; students seemingly wanted to address the fear of failure, and immense pressure around grades, which exists at Law School. In semester one I had also failed to pass a subject (bloody Obligations!), which was something that was really hard to come to terms with. Last week she and I, with another student who had some similar battles finding his feet last year, sat down and had a frank discussion about failing. This is a complex and at times

uncomfortable issue to address, but we hope by bringing it forward in a public forum we can encourage change at MLS that stands to benefit everyone.

So join in the conversation!

Around Law School, failure is a dirty, dirty word. Blame it on our adversarial judicial system and our need for a winner and loser. Blame it on bloody Harvey Spector effortlessly closing deals and that whole damn sham of a show. As much as we fret about our futures, up to this point, most of us at Melbourne Law School have been on an unbelievable hot streak through life. To get here, in one way or another, the cards we have been dealt have consistently come up winning hands.

Yet at some juncture in our lives, failure is inevitable. It might be that first take home law exam or moot, it may not happen until you run for Liberal pre-selection in 2036. It will still, eventually and inevitably, happen. So why not have this conversation now, at school, when we have the time and support to get comfortable with the idea?

The difficulties in failing at Law School are three fold. Firstly, the process that follows the receiving of a fail mark, namely faculty's response, is not great.

You fail. You receive an email telling you to go and speak to the wellbeing officer. You lament the fact that you botched the exam/semester/your entire life without any real chance of reflection on what materially contributed to this happening.

In reality you are left with little guidance and a lot of questions; should I stay in Law School? Am I smart enough? Am I more Dennis Denuto than Atticus Finch!? (In my case, Yes!).

I was super fortunate that a 2nd year who knew I had failed, and had similarly done so, reached out to me. That gave me the chance to make an informed choice, on whether to continue my studies, having heard from someone who had been through the ordeal of repeating a subject. Yet most students wouldn't have received this support and advice, because we are, as individuals, so hesitant to admit to having failed. That's one of the most pressing reasons why this dialogue needs to be started. It's ok if after a semester of Law School, and having received some bad marks, you take a leave of absence or drop out. But every student deserves to make an informed choice in doing so.

Secondly, a big part of the problem with this conversation is our student body. We treat failure like a disease, a highly contagious one at that. All three of us have experienced the same hushed tones when discussing having to repeat a subject, weak smiles and reassurances of 'oh, you'll be ok'.

WTF am I terminally ill!? You won't catch failure by studying with someone who hasn't passed, I promise.

Not that we blame our peers for that at all, this is uncomfortable to talk about for everyone, it's certainly bloody hard to write about. Why? Because we all know the factors contributing to failure: personal issues, money, physical and mental health - problems that we don't like, as egotistical high achievers, to address publicly.

Yet confront them we must, which leads me to my third and most important point.

The responsibility of facing failure is yours. Try and own it. Don't be ashamed: learn from it and you can move on.

Continued page 3

A frank conversation continued

All three of us have tried to do that in our own way, because at the end of the day we have to live with our mark. Students fail subjects for a multitude of reasons, for me it was a slower adjustment than most to the frenetic pace of Law School. In others' experiences the causes may not have even been something they could control, but something went wrong, and that's life. What we would encourage, and what really came out of our conversation, is the fact struggling students need to take responsibility earlier in semester. We wish we had. To ask for help, to admit I am struggling and need some support. There are small mitigating factors in life that, stacked up and combined with the pressure of Law school, can become overwhelming. You don't have to deal with most of these alone if you can just spot them early enough, swallow your pride, and ask for help. For every awkward response I got when someone discovered I had failed, there were dozens offering support, notes and great study advice (thank you!). People are amazing and do genuinely want to assist. So just ask.

Likewise, if you see someone struggling (hint: occasionally they won't even know it themselves!), ask them if they are ok or need a hand; if they don't, that's fine. If they do, they'll appreciate it untold amounts.

Most importantly of all, talk about it. If you are failing or have failed, don't hide it, don't deny it, discussing it is extremely therapeutic and beneficial, and you can help others as well.

We really hope that this can be just the beginning of a much longer conversation that benefits every student at MLS. If we can tackle the stigma at this extreme end of the bell curve, then surely the result can be a healthier, and happier, student approach towards all marks. We shouldn't have students devastated by H3's, nor 2nd years despairing any chance of a corporate career because they didn't receive a clerkship.

We shouldn't, and we don't have to, if we are just brave enough to have a frank conversation.

PS

We are currently working with faculty to come up with a more holistic approach in assisting students who do not pass subjects: a survey aiming to identify contributing factors and a support group for students, by students, following the release of semester one marks. If you would like to assist (all help is welcome!) please email me at hadow@student.unimelb.edu.au.

If you are struggling with your studies please talk to your friends, family and teachers, contact the MULSS Wellbeing team (lss-equality@lists.unimelb.edu.au) or visit <http://mulss.com/equality/> wellbeing for more information on wellbeing support.

Henry Dow is a second-year JD student and the current MULSS Activities Director

Guilt Free Hoodies and Tees

Antonia Kalcina

Last year when my co-officer Dave and I were elected onto to the LSS, our first initiative was to ensure that the Law School hoodies and T-shirts were fair trade certified. The University of Melbourne is an accredited fair trade university, and we thought it was important for that to be reflected in the products offered to students. Even though it didn't exactly fall within our portfolio, the committee gave us their full support.

We are excited to announce that this year Etiko is supplying the MLS hoodies and T-shirts. Etiko is a fair trade company based in Croydon, Victoria. They are vegan-friendly, on their way to becoming carbon-neutral, and have for the third time received an A+ grading

in the annual Baptist World Aid Ethical Fashion Guide. The hoodies and t-shirts are manufactured in India and the cost of these garments includes a fair trade premium for the farmers who produce the cotton. This premium enables the workers and farmers to invest in their communities. The LSS is proud to support this initiative and we hope the sentiment is reflected in the student cohort.

Purchase hoodies and t-shirts here: tinyurl.com/mulsshoddies

Learn more about Etiko here: <http://www.etiko.com.au>

Happy buying!

Antonia Kalcina is a third-year JD Student and one of the MULSS Environments Officers

Students Say Goodbye to Departing Wellbeing Officer Kate Van Hooft

Last week De Minimis published a farewell message from Kate Van Hooft, MLS' outgoing Wellbeing Officer. Students left messages for Kate in the comments section of the online article. We've included some of them below.

Ah dear Kate, A few friends and I were trying to work out why having you leave is such a big deal and there it is. You said it better than us. It's the point in your article's last paragraph about you being you, us being us, and that is enough.

In an MLS ocean of people trying to achieve more, have more, be more, you weren't. From students to lecturers, speakers to mentors, everyone at law school is staggeringly overqualified and still pushing themselves to be more. You instead, were just you. Thank you for being the break in the ocean. I hope the 'you being you' skill is in your position description. xxoo

Thanks so much for everything you have done Kate, you really helped out each student you encountered at Law School! :)

Kate you absolute bloody legend. Thanks for all of the good times. Xoxoxoxox

This was awesome Kate, such eloquent prose. Thanks for being so amazing over the past few years; you're going to be greatly missed. I didn't realise I was one of so many students you've seen! You always knew how to make me feel like da one ;) Just a testament to what an incredible human you are! All the best for your future escapades, Swinburne are very lucky to have you!

Thanks for being there for me from literally before week 1 of first year of law school. All the stuff you've done that's been your job has been amazing and made law school actually doable for a person with epilepsy that doesn't know when to piss off. If I ever win a law Oscar (if that existed) you'd be so top of my thank you speech. Your value added laughs and making fun of people who freak out about me having seizures more than me have never failed to cheer me up. Hope a lot less people cry on you at your next job!

Thank you Kate for everything and the very fitting, perfect, way to say goodbye! Best of luck for your future endeavours :)

A Face in the Cohort: the 'Shut Up and Take It' Mentality

Tim Sarder

One of the advantages of doing interim assessments is attaining feedback on how you're going so far. Particularly in the case of a multiple choice assessment, the feedback should be immediate and obvious; you look at the questions you got wrong, see what the right answer is, and are thus able to revise the topic on the basis of your error.

Unfortunately, that opportunity hasn't been made available to the students who took the mandatory Property Law multiple choice test. All students are being given their raw score out of 25, and there was a "feedback" session on 19 April where answers were given to the most incorrectly answered questions. As such, what we were mostly told of was feedback for the cohort on the whole and what we had done better/worse on as a collective. The reason given for not being given individualised correct/incorrect answers was that it could undermine the integrity of the process if we were to give the correct answers to next year's cohort.

It was emphasised by a Property Law teacher that the questions are rewritten each year, rather than just using the same ones, but as there are a limited amount of topics that we could potentially be questioned upon, it would be too revealing for the questions to be released.

I wager that this a bit of a cop-out, though. After all, this is an education we're supposed to be getting; the correct legal principles shouldn't be locked away in a treasure chest just out of reach: it's the teacher's duty to make sure we know them. And it's not just an education; it's either an expensive \$30k

education (if you're a CSP place) or a ludicrously expensive \$115k one (if you're paying full-fee).

I should mention here, that the vast majority of students did well and are happy with their results, and I'm lucky to count myself within that. We were told we could "talk to our teacher if we were concerned about our result", but I'm not concerned by my result - I just want to know what were the few I got wrong (and their correct answers). Have you ever taken a test, in school, or university, or otherwise, where you weren't actually told what you got wrong?

'After all, this is an education we're supposed to be getting; the correct legal principles shouldn't be locked away in a treasure chest just out of reach...'

There's a general reluctance amongst us to stand up to things like this - where we get a raw deal. I think about the contrast between the lack of enthusiasm we have to advocate for recorded lectures, to the same attitudes faced in undergrad; this was something that was fought against and successfully won: the right to listen to the education you are paying for at a convenient time. But I don't want to claim that the attitude of "shut up and take it" is just confined to us - I was part of a campaign to win penalty rates at a workplace last year, and while the vast majority of employees in that franchise were supportive of this, there were a few who were defensive of the business's right to "set their own wages" and didn't want to be a

part of it.

One could say the attitude in the story I just mentioned, or amongst the law school when we don't push back against getting a raw deal, is one of a general acceptance of neoliberalism as the dominant/default mode to expect. But I think either this analysis is flawed, or something has gone wrong in the matrix. Neoliberalism supports the unimpeded pursuit of interests and goals, but even if you were to accept this as your guiding principle, it wouldn't follow that you'd put the wants of an organisation ahead of your own self-interest.

What has happened with the Property Law test is that students have been seen as a cohort, and a group, to the exclusion of being treated as a valued individual. This happened with the marks for our interim Trusts assessment as well, which was initially going to be posted on one sheet with everyone's student numbers and results. Thankfully, this was challenged and shows that at times, we can speak out at the ridiculous.

Perhaps we should do the same in this case.

Note: This article was sent to the subject co-ordinator of Property Law, Lee Godden, for comment and approval. Since then Lee has sent a notice to students informing them that a copy of the exam and answers will be released on the LMS. This, the notice says, will be posted shortly. This article has not been amended in response, and is published as it was written prior to the notice.

Tim Sarder is a second-year JD student

Property Coordinator Responds to Interim Test Criticism

Lee Godden

I thank *De Minimis* for the opportunity to briefly respond to, "A Face in the Cohort: the "Shut Up and Take It" Mentality".

It is important that teachers respond to the learning needs of individuals for 'feedback'. Often, those needs must be balanced against the collective well-being of the cohort; differential learning needs in students within the subject; and fairness across the student body. In turn, the integrity of assessment processes (e.g. retention of interim assessment 'documents' prior to completion of a subject) and institutional policies come into play.

Feedback can take many forms. There is a range of feedback provided to students in Property Law for the midterm exam. All students received their marks for the exam, two days after it was completed. There was a general feedback session (the subject of the

article) available to all Property students; based around the six most difficult questions as identified by LMS statistics. In a general session, it is not possible to tailor to individual student responses. This session occurred within a week of release of marks. All teachers are covering questions in classes. A notice posted to the LMS outlines the 'feedback' available to students.

Most importantly, feedback is effectively achieved where students are not just given correct answers in a vacuum, but can access their exam answer responses in consultation with teaching staff. ALL students are able to go over their mid-term exams, see their answers and be provided with feedback on all their exam answers in these consultations. In accordance with policy, and the practice in other law subjects, students will not be able to take away hard copy of their individual exam. The article 'suggests' students were never to be able to access

'correct' exam answers. That is not the situation. Release of multiple choice exam questions, given the relatively confined number of issues and fact scenarios and the potential for 'sharing' of answers by students, can reduce the bank of available questions for later years. This was the concern that I expressed. This is a factor relevant to the ongoing viability of online tests. In Property Law we are using online assessment tools - broadening the range of assessment types for students across the law curriculum- but also getting to know their capabilities and constraints in assisting student learning.

I am happy to answer any queries raised by the article. If any student in Property Law has questions about the exam please contact me on lsgodden@unimelb.edu.au or 83441109.

Professor Lee Godden is the Coordinator of Property Law at Melbourne Law School

Equity Uncle

Dear Equity Uncle,

With the approach of Law Ball 2016, I would like to enquire: will the LSS be providing safe snorting rooms?

Mono Nostril in Brighton



Dear Mono,

Equity is not deaf to the chatter in the halls of the law school. The Ball is a truly special event, one which gets one's heart a-twitter (and for some, one's pupils dilated and one's teeth clenched). It is a time of year when the question "whose holding" gives way to the entirely more interesting question: "who's holding?"

Equity understands that, like some kind of Pavlovian dog, you must be taught to subconsciously associate late nights and business attire with a giddy high—whether that comes in the form of a cheeky Shiraz, an intravenous drip of espresso, or something which has passed through the digestive tract of a curiously well-travelled South American. Otherwise, how will you survive in The Firms?

Equity, like a concerned but understanding parent, only hopes that you will exercise some restraint. Equity would hate to see you go down the 'Requiem for a Dream' path, and end up soliciting in a rather different sense of the word.

With respect to your proposed room, Equity certainly sees the merit in it. The bathroom is hardly a place for such things: hygiene issues aside, one is exposed to the judgmental micro-aggressions of the cohort's teetotallers. Harm reduction is very much Equity's bag. However, Equity regrets that the right to get gacked exists only *in posse*—thus it can offer you no remedy.

That said, Equity does not assist those who slumber on their rights: perhaps it would be best if you contact the LSS directly.

Yours etc.,
Equity Uncle

De Minimis is: Duncan Wallace | *Chief Editor*, Jacob Debets | *Managing Editor*, Tim Matthews Staindl | *Online Editor*, Louella Willis | *Layout Editor*, Sarah Goegan | *Sub-Editor*, David Vuong | *Secretary*, Mariana Estifo | *Treasurer*

Don't like the content? Create your own! Send an email to the editors at mlsdeminimis@gmail.com



Clerkship Diaries | Trump Card

I considered myself a lucky clerk at *Mid Tier & Firm*. The people were friendly. The work was interesting. The partner referred to me as "mate" and never wore a tie.

It was *awesome*. And every day that I left at 5:00pm (not a minute late for the entire three and a half weeks) I thanked my lucky stars that I'd gotten the opportunity to work at *MT & F*. I even got to work on [redacted] on behalf of [redacted]. I mean what an honour! [redacted] is legendary!

And then came the Monday of my last week.

The situation was this: mid-cheery chat with a senior associate and a graduate, the issue of the one and only Donald Trump (or Donald Drumpf for those of you who watch John Oliver) came up.

In retrospect its occurrence was written in fate. The man they call "The Donald" had recently mounted a spirited defence of his plan to build a wall on 'Murica's Southern Border', instructed participants at his rally to "beat the crap" out of protestors representing Bernie Sanders, and, most insidiously, used "nuclear" as a noun in a policy discussion.

The graduate let out an exasperated sigh: "what are the American people thinking?" she lamented.

The senior associate nodded vigorously in agreement: "The guy from Apprentice could be running for president... how preposterous"

I followed suit, but didn't allow my eagerness to deride the Republican front-runner show: "it's pretty tragic, isn't it?"

Then came the partner's interjection. And my whole world was turned on its head.

"Aww y'know, there's nothing wrong with a hard line." He said, oozing the

confidence of a guy who called all the shots but didn't follow the dress code.

The air around my cubicle changed. Paralegals in proximity to our discussion visibly contracted as partner-without-a-tie ventured physically and metaphorically into our casual conversation.

"Sure he's rough around the edges, but don't you want someone like that in American politics? Someone other than a machine politician?"

The senior associate and I locked eyes. Something told me this wasn't the first time partner-mc-hard-line had gone Mark Latham on the rest of the office. I silently pleaded with him to venture a response. But to no avail.

I ever so slowly spun my chair around to face the partner, my mind racing at breakneck speed. Do I challenge the partner and sterilise the hope of ever getting a grad job? Or abandon my principles (that I had already compromised by taking a clerkship) by expressing tacit agreement?

I was now facing partner-mc-sympathy-with-fascists. He looked expectant - who was I, clerk-without-any-other-placements-who'd-partly-gotten-this-placement-through-nepotism, to defy him?

And then, at that very moment, his desk phone rang. By this time I had met his gaze, and a full five seconds had passed since his second comment.

He slowly retreated into his office to take the call.

And I into the introversion that would characterise my final week.

Have a funny clerkship story but still want a grad job? Send it to mlsdeminimis@gmail.com and we'll publish it anonymously.

The Officially Unofficial Newspaper of the Students of
Melbourne Law School

www.deminimis.com.au

Keep the conversation going

- mlsdeminimis@gmail.com
- facebook.com/MLSDeminimis
- twitter.com/mlsDeMinimis