

THE CONCESSION

FACILITATION GUIDE

Overview

These case studies are narrative accounts designed to stimulate dialogue about the virtues that shape professional life. They differ importantly from the ethical case studies most faculty and students encounter in professional training. Rather than presenting a moral dilemma to be resolved, each case illustrates the presence—or absence—of a particular virtue as it operates in everyday practice. The goal is not to reach a verdict on what a character should have done, but to explore what a virtue looks like in action—and what may be at stake when it is absent.

Cases are organized by virtue and professional context, but many will resonate beyond their primary category. A case about curiosity in a business setting may illuminate curiosity in medicine or law. Instructors are encouraged to use cases flexibly and across disciplines.

General Facilitation Tips

- **Focus on virtue, not verdict.** Keep discussion centered on how the virtue appears (or is absent) in the case, not on whether the character made the right call. If the conversation drifts toward “what should they have done?” redirect gently.
- **Start with observation.** Open by asking what students noticed before asking what they think. Grounding early discussion in specific moments from the case prevents premature judgment.
- **Use questions as starting points, not a script.** Follow student energy. If a student raises a more generative question than the ones provided, pursue it.
- **Push back on easy agreement.** If the room converges too quickly, the case’s complexity may not have been fully engaged. Invite students to complicate their own claims and consider opposing readings.
- **Invite connection to professional life.** The richest moments often come when students link the case to patterns they’ve observed or anticipate: “I’ve seen something like this when . . .”
- **Let silence work.** Resist the urge to fill every pause. Students often need a moment to arrive at their most substantive responses.
- **Close with reflection.** Reserve a few minutes to ask students what will stay with them — a question, an image, an unresolved tension. A sentence or two naming what they now understand about the virtue that they didn’t before is a strong closing move.

Discussion Questions

1. Marcus waits three weeks to say anything. Is that delay a failure of gratitude, a reasonable professional distance, or something else?
2. Marcus is uncertain whether gratitude expressed across adversarial lines is a professional courtesy or something that complicates the work. Is that a legitimate concern, or is it a rationalization for withholding something that was owed?
3. Doherty responds by saying it was “the right call” rather than acknowledging the thanks directly. What does that exchange reveal about how gratitude functions across adversarial professional relationships?
4. The case involves gratitude directed toward someone Marcus has had genuine friction with. Does prior conflict change what gratitude requires, or only what it costs?
5. Marcus ends the case with the feeling of someone who said something true and found it simpler than expected. What does that suggest about what had been keeping him from expressing gratitude sooner?
6. How do professional courtesies in one case impact long-term relationships between advocates who may faceoff again in another case? How does this impact the legal system?

Facilitation of this Case

This case is a portrait of gratitude across an unexpected line, and that framing should shape how discussion opens. Marcus does not owe Doherty friendship, loyalty, or anything beyond professional courtesy. What he owes him, the case suggests, is something more specific and harder to name: an acknowledgment of a genuine gift, given quietly, across a relationship defined by opposition. Before moving to any of the specific questions, ask students to describe what Doherty actually did and why it was significant. Grounding discussion in the concrete detail of the concession prevents the conversation from becoming too abstract too quickly.

Explore what the elevator exchange actually accomplishes. The conversation is brief, oblique, and slightly awkward. Marcus does not say thank you directly. He says the briefing could have gone differently, and that Doherty didn't have to extend it. Doherty responds by saying it was the right call. Ask students what is actually exchanged in that moment, and whether it constitutes an expression of gratitude or something short of it. The case does not resolve this cleanly, and it shouldn't. The point is to press students on what gratitude in a professional context actually looks like when the normal scripts don't quite fit.

Use Doherty's response to open up the question of what gratitude is for. When Marcus acknowledges what Doherty did, Doherty deflects by calling it the right call rather than accepting the thanks. Ask students what that deflection does to the exchange. Is it modesty? A way of maintaining professional distance? A signal that he doesn't need or want acknowledgment? And

what does it mean to offer gratitude to someone who declines to receive it? That question gets at something important about whether gratitude is primarily about the person giving it or the person receiving it.

Close with the broader question about adversarial professional cultures. Legal practice is structured around opposition, and that structure creates genuine uncertainty about what professional obligations extend across the line. Ask students whether the adversarial context makes gratitude harder to practice, or simply harder to express, and whether those are the same thing. The most generative closing move is often to ask what a legal culture that made room for this kind of acknowledgment would look like, and what it would require of the people practicing within it.