

Public Interest Research, Collaboration, and the Promise of Wikis

By Tom Cobb

Tom Cobb is a lecturer at the University of Washington School of Law in Seattle.

One of my central goals in teaching law is to help students find ways to apply their emerging analytical powers and professional skills to promote the public interest. A related goal is to create an engaging learning experience in which students see each other—and other members of the legal community—as key resources in their education.¹

To help accomplish these goals, I have been formally and informally collaborating with clinics—the traditional home of public interest law and collaborative learning in most law schools—to find ways to infuse my legal writing classes with clinical methods and values.² Last year, for example, I offered an advanced legal writing course that operated as a “research wing” for three clinics. Students worked in small groups to complete

several larger capacity-building projects that the clinics requested—including a litigation guide for post-conviction cases and a comprehensive desk book analyzing the Washington Supreme Court’s approach to statutory construction. When time permitted, these teams also took research requests from clinicians and their students related to ongoing litigation.

This year, I also drew inspiration from the clinics. But instead of collaborating directly with clinical faculty, I consulted with Michele Storms, director of the UW’s Gates Public Service Law Program, and decided to offer a course in which first-year law students would research a complex legal and policy problem from the Northwest Justice Project, one of Seattle’s legal services offices.³ This course became a hybrid between a legal writing

¹ This goal is shared by creative colleagues in the law school and the Gallagher Law Library.

² This approach has been gaining currency. See, e.g., Michael A. Millemann & Steven D. Schwinn, *Teaching Legal Research and Writing with Actual Legal Work: Extending Clinical Education into the First Year*, 12 *Clinical L. Rev.* 441 (2006); Clifford S. Zimmerman, “Thinking Beyond My Own Interpretation:” *Reflections on Collaborative and Cooperative Learning Theory in the Law School Curriculum*, 31 *Ariz. St. L. J.* 957 (1999); Rebecca A. Cochran, *Legal Research and Writing Programs as Vehicles for Law Student Pro Bono Service*, 8 *B.U. Pub. Int. L.J.* 429 (1999); Brook K. Baker, *Incorporating Diversity and Social Justice Issues in Legal Writing Programs*, 9 *Perspectives: Teaching Legal Res. & Writing* 51 (2001); Miki Felsenburg & Luellen Curry, *Incorporating Social Justice Issues into the LRW Classroom*, 11 *Perspectives: Teaching Legal Res. & Writing* 75 (2003). In fact, the Legal Writing Institute recently established a Committee on Cooperation Among Clinical, Pro Bono, and Legal Writing Faculty, which has surveyed legal writing professors to identify examples of collaboration, including hybrid legal writing courses. See <www.lwionline.org/survey/cooperation.asp>.

³ At our former dean’s suggestion, we recently instituted an innovative elective system within our first-year legal writing program. During the first two quarters, students take a five-credit course sequence emphasizing case analysis, statutory interpretation, and legal research. During the third quarter, students choose a one-credit capstone research and writing project addressing, among other topics, appellate advocacy, trial motion practice, professional responsibility, or public interest law.

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From the Editor: With Gratitude

Long-time columnist Donald J. Dunn has retired from the *Perspectives* Board. Don joined the original board in 1992. His bibliographies on legal research and writing appeared in every issue of the first 15 volumes. This feat is remarkable considering Don's academic journeys, from law librarian to law school dean (twice). See Donald J. Dunn, *From Librarian to Dean to Librarian, or to Hell and Back*, 93 *Law Libr. J.* 391 (2001). We are grateful for Don's many years of service, contributions to the academy, and his friendship. Don is truly a rose from Tyler, Texas.

Perspectives welcomes two new board members: Elizabeth (Beth) Edinger and Kathryn (Katy) Mercer.

Beth Edinger is the Associate Director of the DuFour Law Library, Columbus School of Law, at The Catholic University of America in Washington, D.C. She previously served on the library staffs of Yale University, Rutgers University, and the

University of California, Berkeley (Boalt Hall). Beth received her J.D. from the University of Buffalo and her M.L.I.S. from the University of Washington. Beth is the co-author of *Finding the Law* and *The Legal Research Survival Manual*.

Katy Mercer is an Associate Professor at the Case Law School at Case Western Reserve University in Cleveland, Ohio. She began teaching legal writing in 1984. Katy received three graduate degrees from Case Western Reserve University: a J.D., an M.S.S.A. (Masters in Social Science Administration), and a Ph.D. in Social Welfare. Katy has served on both the Legal Writing Institute Board and the editorial board of the *Journal of the Legal Writing Institute*. She has written in the areas of family law and legal writing.

As always, we welcome comments and submissions by you, our readers.

—Mary A. Hotchkiss, *Perspectives* Editor

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class and a community lawyering clinic,⁴ and I think it offers an especially viable approach to integrating public interest work and collaborative learning into a first-year legal research and writing curriculum.

Finding a “Wicked Problem”⁵

The first step in organizing my class was to obtain a suitable problem. I wanted to challenge the class to develop strong research and problem-solving skills

that drew upon, but extended beyond, the case and statutory research they were accustomed to doing in the first two quarters of law school. I also wanted to help build the students' collaboration and problem-solving abilities. For these reasons, I hoped to find a problem that was sufficiently complex for a class of approximately 30 students to work on at once and whose solution might lie beyond litigation—perhaps requiring policy making or educational initiatives. As is true at many other law schools, our first-year curriculum emphasizes litigation and does not address explicitly these aspects of public interest advocacy. So, these topics seemed to be appropriate components of an elective legal research and writing course at the end of the first year.

Attending a staff meeting at the Northwest Justice Project (NJP), I explained that I wanted to direct the energy of a class of first-year law students toward solving a pressing legal and social problem instead of having them work on a fictional legal research and writing problem that, theoretically,

⁴ See Antoinette Sedillo Lopez, *Learning Through Service in a Clinical Setting: The Effect of Specialization on Social Justice and Skills Training*, 7 *Clinical L. Rev.* 307 (2001) (describing community lawyering approach in clinical setting).

⁵ Wicked problems “lack a single, agreed-upon formulation or well-developed plans of action, are unique, and have no well-defined stopping rule, because there are only ‘better’ or ‘worse’ (rather than right or wrong) solutions. Closure is often forced by pragmatic constraints (e.g., managerial or political) rather than ‘rational scientific’ principles.” Simon Buckingham Shum, *The Roots of Computer Supported Argument Visualization in Visualizing Argumentation: Software Tools for Collaborative and Educational Sense-Making* 12 (Paul A. Kirschner, Simon J. Buckingham Shum & Chad S. Carr, eds. 2003). Many researchers believe that wicked problems are best solved collaboratively.

“I wanted students to experience the sense of disorientation and possibility that comes when a legal professional receives an open-ended, collaborative assignment. . . .”

any one of them could solve alone. I asked these public interest attorneys to dream about large, capacity-building projects requiring research and analysis that they hadn't had time to do: What sort of project would they undertake if they had a large group of research assistants working along with a law faculty member and reference librarian?

I found a willing accomplice in Eric Dunn, an attorney who had specialized in landlord-tenant cases and had come up against a category of cases that was truly frustrating: cases in which people with a disability called “compulsive hoarding and cluttering” were being evicted from their homes.⁶ As Eric explained, these cases were devastating because these clients had among the strongest theoretical defenses to eviction based on anti-discrimination and fair housing laws. But these defenses often didn't work because the clients generally were not able to clean up their homes in time to comply with court orders. Moreover, even if they could clean their homes in time for the court-imposed deadline, they were rarely able to keep them clean. These cases were so difficult that, despite the availability of strong legal defenses, Eric felt compelled to decline representation in a number of cases because he did not think he would be able to help. From Eric's description, this problem seemed as if it would involve not only traditional legal analysis but also an analysis of gaps in the law. Its solution would require value-laden debates about how to frame the problem and about which possible solutions were the best. For those reasons, it seemed particularly well-suited to my experiment with large-group collaboration.

Soon after my meeting with the NJP staff, Eric sent me a packet that consisted of a long cover letter explaining what hoarding and cluttering was, the legal and practical problems he had encountered representing people suffering from this disorder, and some leads on potential solutions. The packet also contained PowerPoint slides from conferences

⁶ Psychologists have defined compulsive hoarding and cluttering as “the acquisition of and saving of possessions that have little or no value, or have some perceived value, and that the person has great difficulty discarding.” Fugen Neziroglu et al., *Overcoming Compulsive Hoarding* 1 (2004).

he had attended on this subject, and some sample letters he had used in negotiations with landlords and the public housing authority. He wanted us to help expand his research by gathering as much information and legal material on the topic as we could and to brainstorm legal and policy-based solutions. He hoped that we could help him develop an approach to these cases that was better than merely turning down representation and watching a potential client lose his or her home.

Presenting the Project to Students

Because this class was an elective within our first-year research and writing program, and I needed solid enrollment to be able to offer it, I had to think carefully about how I described the class to students. I wanted to prepare the students who registered for the class for the fact that this would not be a typical law class because it would involve extensive collaboration and would be largely student-driven. For those reasons, I drafted a course description that focused on two areas of law that students were likely to know about—disability and landlord-tenant law—and emphasized the social importance of the work that we would do. I also emphasized that I would “serve as a facilitator and advisor to student research teams” and that students would participate in brainstorming, then “self-organize and decide which research avenues to pursue and how to pursue them.” Finally, I emphasized that the writing projects in the class would be collaborative: Students would not just talk in groups and prepare individual papers; rather, they would develop their written work in groups. Approximately 30 students signed up for this course. To be honest, I was hoping for between 15 and 20 students. I was somewhat anxious about how large-group collaboration would play out in practice.

Before the first class, I handed out the packet of materials that Eric Dunn had put together for me. I had resisted the temptation to conduct preliminary research so that I knew what students would find and could direct them more easily to fruitful paths. I wanted students to experience the sense of disorientation and possibility that comes when a legal professional receives an open-ended, collaborative assignment and must, working with a

group, choose and prioritize research paths. I also did not want to shut down students' impulse to think about the problem creatively by suggesting specific strategies or methods—or by conveying a general sense that I knew how this problem should be solved (and, therefore, that they should primarily just look for my solution). In short, I wanted to develop a sense, from the beginning, that students were the primary agents in this class and that, as a group, they were responsible for setting the agenda and constructing solutions.

Developing a Student-Centered Learning Community

Teaching provides a terrific opportunity to reflect on the learning process. Many of my reflections over the past few years have been shaped by *Teaching with Your Mouth Shut*, a thought-provoking book by Donald Finkel, who taught for many years at the Evergreen State College in Olympia, Washington.⁷ Finkel challenges the model of teaching as “information transfer” and develops a number of strategies to place students in a more active role in the classroom. As his title indicates, one of Finkel's key observations is that certain forms of faculty “activity”—specifically, talking too much—can have the unintentional consequence of rendering students less active by turning their primary role in the classroom into that of a passive listener. In Finkel's view, this division of labor harms the learning process. For that reason, Finkel advises faculty members to create an active learning environment that encourages students to take responsibility for the learning process and to interact with faculty and other students as colleagues.⁸

⁷ Donald L. Finkel, *Teaching with Your Mouth Shut* (2000). I am fortunate to have been exposed to Evergreen's innovative ideas and methods firsthand: As an adjunct faculty member at Evergreen, I co-taught a hands-on course for students externing at the legislature and various government agencies in the state capital. This course was open to undergraduate and graduate students at Evergreen and to law students from the UW.

⁸ Many law professors are beginning to think about and employ approaches similar to Finkel's. See, e.g., Robin A. Boyle, *Employing Active-Learning Techniques and Metacognition in Law School: Shifting Energy from Professor to Student*, 81 U. Det. Mercy L. Rev. 1 (2003).

Finkel suggests a number of ways for faculty members to rein in their seemingly uncontrollable impulse to talk. For example, he suggests centering the class on inquiry—for example, a problem that hasn't been and cannot easily be solved. He also suggests another—and perhaps more surprising—way to shift authority, agency, and responsibility to students: Instead of teaching the class as an individual, teach it as a team. According to Finkel, team teaching models and promotes collaboration, and makes it apparent to students that even experts differ in their baseline knowledge and their approach to answering a question.

I adopted both suggestions. Because of its complexity, the compulsive hoarding and cluttering problem did a good job of placing inquiry at the center of the class and equalizing the position of faculty and students. I also thought this class would present the perfect opportunity to team teach with a reference librarian.⁹ I approached Cheryl Nyberg—a member of the Gallagher Law Library's extraordinary team of reference librarians—and asked if she would be interested in helping me teach this class. I also asked April Bishop, one of my former teaching assistants, who was on the board of our student Public Interest Law Association group, whether she would like to help us.¹⁰ Luckily, they were both intrigued by the challenge of carrying out this unorthodox class.

The team-teaching approach worked very well. From the outset, this class felt different from other law school classes I had taught or attended. I shared

⁹ In our program, we work closely with reference librarians, but we generally don't co-teach classes with them.

¹⁰ I chose Cheryl and April for the following reasons: I wanted to draw on Cheryl's experience and expertise with research strategy, and I wanted to have (and I wanted students to have) the chance to work with her in a collaborative setting on a particularly wide-ranging and difficult problem. How would she go about splitting the problem up? How would she attack it? What tools would she use? When would she say: “We've got enough”? I wanted a second-year law student because this student could model an advanced student's perspective on legal research and problem solving. She could also show that it was safe to communicate with me and the reference librarian as colleagues and submit writing and thinking that was unfinished—important components for a project of this nature.

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“After Cheryl came up with the idea of creating a wiki for the class, I started to realize how brilliantly this collaborative tool complemented my teaching goals.”

authority both with the students and my colleagues, and we conducted the class fluidly, always keeping in mind our primary goal: to maximize our benefit to NJP and its clients. I hardly felt as if I was teaching in any traditional sense. Mostly, I felt as if we had met as a group to pool our knowledge and efforts to solve a pressing problem.

The first class provides a good example of how our student-driven, team-taught model worked. The purpose of this session was to decide as a group how we would tackle the problem. Having read the packet of materials from Eric Dunn’s office, students had a good sense of the difficulty of the problem. I facilitated a class-wide brainstorming session and recorded our ideas in a kind of “mind map” on the white board. Students synthesized the questions and possible sources we had identified. Cheryl then jumped in and resynthesized and organized the ideas we had discussed in a way that tracked with the legal and social science databases that were available. Cheryl’s ability to listen to the discussion and then break the problem down in a way that made sense in relation to available research tools was impressive—and well beyond my ken. Drawing on Cheryl’s work, we made a list of more than a dozen databases that students would need to scour in order to assemble a comprehensive set of sources on the topic of hoarding and cluttering. By the end of class, it became apparent that, to help NJP the most, we would need to research local, state, federal, and international housing and guardianship law and policy; social science publications; and other informal media—such as Web sites, blogs, and nonprofit and governmental organization publications.

Perhaps Cheryl’s most important contribution was her suggestion about how to organize our research. I had planned on using some kind of software—for example, an electronic bulletin board or e-mail list—to help our class post research to a common area so that we could all benefit, in real time, from each other’s work product. During the first class, Cheryl suggested we use a wiki, a Web-based software tool that the reference librarians had used to organize research in their own collaborative work space. Although I was quite familiar with wikis, I

did not think that we would be able to implement one so quickly in this class. But integrating the wiki “on the fly” turned out to be very straightforward, and the wiki’s organic structure proved an ideal collaborative tool for our class.

Wiki Benefits: Pedagogical and Practical

Even though most people are familiar with Wikipedia¹¹—the gargantuan, free, Web-based encyclopedia written collaboratively by volunteer Web users—some people may not know exactly what a wiki is. A wiki is essentially a Web site without a webmaster. In a traditional Web site, a webmaster posts content, which remains static until he or she updates it. Anyone who wants to post or change content on the site has to go through the webmaster. On a wiki, each reader is also potentially a writer because each user is empowered to post or change the Web site’s content.¹²

After Cheryl came up with the idea of creating a wiki for the class, I started to realize how brilliantly this collaborative tool complemented my teaching goals. After all, this was a class in which I wanted to shift a great deal of authority to students. In a sense, traditional teachers are like traditional Web content providers—they supply content, and students receive it passively. I wanted this class to be different. I wanted students to supply most of the content—and I wanted to work with them as an adviser to enhance the quality of the content they created. Moreover, wikis were originated to harness the power of large groups of people for the social good—exactly what we were trying to do.

I also realized that a wiki would be an ideal learning tool from another perspective. In our legal research and writing program, we work hard to create situations in which students do not feel as if they

¹¹ See <www.wikipedia.org>.

¹² A number of Web-based versions of wiki software are currently available, for example <www.pbwiki.com>, <www.wetpaint.com>, and <www.socialtext.com>. In our case, the UW law library’s IT department installed wiki software on the law school’s server. Because maintaining a wiki on an institution’s server involves significant IT support, it is probably more practical in most cases to use a Web-based wiki, which works just as well and requires no IT support.

are writing for the teacher. We try to instill in them the sense that they are writing for a professional audience—one that shares many characteristics, expectations, and demands in common, but also one that permits students to exercise analytical agency and leaves room for creativity and voice, as well. When students are able to sense the constraints and freedoms of this communicative scenario, it is a sign that they are emerging as professionals with a voice of their own. But this professional transition is often difficult, because the pedagogic structure—the hard fact that students are turning their work into a faculty member for a grade—disrupts the notion that they are writing for a more generalized professional audience.

Wikis have the potential to facilitate this professional transformation because they offer a real, albeit indistinct, audience that includes students in the classroom and other community members working on the project, but could also extend to much more general audiences.¹³ Students *are* “publishing” when they write on a wiki. This Web publishing enabled students to imagine their audience without generating the degree of audience anxiety that can shut down writing. The fact that we were writing for Eric Dunn and other lawyers when we wrote on the wiki helped crystallize this notion of a professional audience.

In addition to these theoretical pluses, the wiki had tremendous practical benefits. The wiki enabled nearly 30 students and three teachers to share a work space, upload documents, and memorialize thoughts about the same problem and to do so concurrently. After the first class, we decided that we would break up into groups to complete the initial research. We started out with a lofty goal: On the social science end of things, we pledged to find everything that existed on the Web or in the University of Washington’s numerous libraries and databases that related to cluttering or hoarding; on the legal end, we promised to assemble a

comprehensive list of cases involving compulsive hoarding and cluttering. Finally, we decided to focus on major metropolitan areas in the United States (and key international locations) to find out how various jurisdictions had dealt with the eviction of compulsive hoarders or clutterers and what different structures for guardianship existed. We allowed room for this research agenda to expand as needed depending on what students found.

Even with 30 students, this research seemed to be an enormous undertaking. However, with Cheryl’s guidance, students’ hard work, and the support of our wiki, the research proved achievable. Students began posting their research immediately and also posted or e-mailed helpful search terms to the rest of the class. After two weeks, students had posted and summarized enormous numbers of articles, statutes, cases, Web sites, video clips, etc.—all relating to our topic. The wiki “held” all this material in a shifting, organic structure, rich with internal and external hypertext links. The rate at which we assembled this material was staggering. We were all, I think, surprised at our power as a group to assemble research and develop knowledge on this topic. We did something together very quickly that might have taken one of us—even an expert—months or more to do alone.

From Research to Work Product

After a couple of weeks of intensive research, the class decided to take a week to read the wiki and a broad selection of the material posted on it to prepare us to produce a set of materials for NJP. We had a free-form class in which students talked about their most interesting discoveries; we played some of the multimedia that students had found; and we talked in general about what we could do as a group to support attorneys, like Eric Dunn, who represented compulsive hoarders and clutterers facing eviction.

For me, this was one of our most rewarding meetings. I felt as if, as a class, we had faced the complexity of a very difficult legal and social problem, realized how hard it would be to take even a small step forward, and decided to try to take that

“The wiki enabled nearly 30 students and three teachers to share a work space, upload documents, and memorialize thoughts about the same problem and to do so concurrently.”

¹³ In this respect, wikis allow tremendous flexibility in shaping an audience because they enable one to limit (or to decide not to limit) who has access to the work product.

“Throughout the writing process, students drew upon the research posted on the wiki and posted new content as they created it.”

step anyway. After some discussion, expression of frustration with the difficulty of the legal and social problem of hoarding, and the apparent absence of easy and heroic legal solutions, we decided on a four-pronged strategy:

First, we would create a desk book to educate legal professionals about this problem. It would include comprehensive and up-to-date social science background on hoarding and debates surrounding it. It would guide attorneys who were unfamiliar with the problem through the typical litigation steps and defenses. It would educate judges about the seriousness of this much misunderstood disorder and help them understand the need for longer time frames for cleanup (an important part of their reasonable accommodation analysis). Finally, it would contain sample negotiation and settlement letters collected and edited from Eric Dunn and his colleagues so that other attorneys would benefit from their experience.

Second, we would create a set of educational materials to help family members and landlords work as effectively as possible with hoarding tenants. The students' social science research revealed that those suffering from this impairment were often very elderly long-term tenants and that landlords were generally reluctant to evict them. The students decided to write a brochure about hoarding to be distributed to landlords to help them understand the nature of the disorder and how they might take care of their needs without resorting to eviction. Students also discovered that family members were key players in helping those suffering from this disorder keep their apartments clean—and that psychologists had recommended particular strategies to maximize family members' effectiveness. So a second brochure would be aimed at families to help them play as constructive a role as possible.

Third, we would produce what we called a “lobbyist's guide,” which included a policy analysis, suggested policy changes, and model legislation. This guide would summarize and analyze relevant legislation from other jurisdictions and suggest a number of policy changes in

Washington to provide hoarding tenants a better mechanism to avoid eviction.

Finally, we would write two articles. Our first priority was to communicate with legal aid attorneys around the country and educate them about compulsive hoarding and cluttering, helpful legal authority, and potential strategies for advocacy. To this end, we decided to draft an article for the *Clearinghouse Review*, a publication to which most legal aid offices in the country subscribe.¹⁴ We also wanted to exploit the potential connection between more formal scholarship and advocacy: Legal aid lawyers would benefit, we concluded, if they could refer judges and opposing counsel to scholarship that contained, in one convenient place, the law and social science relating to hoarding and cluttering. For that reason, we decided to write a law review article.

The wiki—and other collaborative drafting software, such as Google docs¹⁵—proved crucial in the second phase of the project. The writing projects we decided to take on were, in some cases, quite large, and students needed to be able to work on them simultaneously, combine and edit each other's text, and share their synthesis of the social science material with each other. Throughout the writing process, students drew upon the research posted on the wiki and posted new content as they created it.

The projects were obviously expansive—in some cases too large to fit neatly within a one-credit class. I attempted to deal with this problem by not insisting that students produce a finished written product by the end of our class meetings. Indeed, we met formally only five times. Students had the remainder of the 10-week quarter to “finish” their

¹⁴ The article will appear this fall in the *Clearinghouse Review*. See Tom Cobb et al., *Strategies to Fight Eviction in Cases of Compulsive Hoarding and Cluttering*, 41 *Clearinghouse Rev.* ____ (Nov./Dec. 2007).

¹⁵ See <www.google.com/google-d-s/b1.html>. Google docs is one of many free services that enables groups to share word-processing and spreadsheet documents online. Students reported that Google docs was a very efficient way to draft and review legal documents in a team setting.

projects.¹⁶ Many students—particularly those involved in the projects that might lead to publication—became so involved in the project that they continued to work on them after the class was over.

Assessment of Student Performance—Problem or Opportunity?

Given the diversity of our projects and the high level of collaboration we employed, assessment in this course proved challenging, but it was not as unmanageable as one might expect. Assessment is a perennial problem with collaborative projects, particularly in law schools, whose cultures tend to value individual contributions very highly.

The wiki's tracking mechanism could have provided some help with assessment. It records all the changes made to the wiki and therefore potentially allows a faculty member to get a detailed sense of the students' individual contributions to a collaborative work product. However, in our case, this assessment strategy was not viable because some groups of students decided that it would be more efficient for one person to specialize in posting on the wiki. For this reason, the wiki's tracking mechanism did not reliably indicate students' contributions.

The main method that I used for assessment was a portfolio.¹⁷ And, because the portfolio involves a level of self-reflection and synthesis I find valuable, I would probably continue to use this method even if I could rely more heavily on the wiki to track individual contributions. The portfolio consisted of a one- to two-page cover letter explaining the nature and extent of a student's contribution to the research and the final projects. It also included evidence to support this explanation—for example, drafts of sections of the projects, peer reviews,

e-mails to each other, copies of the documents they posted on the wiki, etc. Finally, the portfolio included a time sheet, which resembled a typical billable hour sheet from a law firm. This time sheet detailed, in 15-minute increments, what students worked on throughout the quarter. Overall, I am confident that the students' portfolios gave a solid and reliable sense of their individual contributions.

Students' Reactions to the Course and the Wiki

One benefit of using portfolios as an assessment mechanism is that they provide an opportunity for students to reflect on their learning process and on what did and did not work in the class.¹⁸ The comments about the class were mostly positive. Students expressed an overall sense of pride about what they accomplished and clearly appreciated having the chance to do real legal work during their first year. For example, one student remarked that he enjoyed the “public interest simulation precisely because it did not live up to its name. It was in no way a simulation and that brought a sense of responsibility to our law school career that has been lacking in the first two quarters.” Many students commented specifically on how invigorating it was to collaborate and bond with peers who were also committed to public interest careers. (I found it refreshing to hear so many students openly write in admiration of each other's work and intellect.) Some students expressed that their work in this class had renewed their energy for law school, reminded them of why they went to law school, and reaffirmed their commitment to public interest work. Clinicians are probably used to hearing these sorts of comments; I think it is much rarer to hear them from students in a first-year legal research and writing class.

Students also expressed their sense that the wiki was an effective way to conduct and memorialize research in a collaborative setting. For example, one

“Students expressed an overall sense of pride about what they accomplished and clearly appreciated having the chance to do real legal work during their first year.”

¹⁶ Some students had to scale back on the projects and turn in work that was not fully integrated with that of their group members. Given the nature of the class, this was fine with me.

¹⁷ I am grateful for Professor Kate O'Neill's assistance in helping me develop effective ways to use portfolios and self-assessments in my courses.

¹⁸ In many instances, I have discovered that non-anonymous comments in portfolios are more thoughtful and constructive than anonymous narratives in my teaching evaluations.

“By far, the most rewarding aspect of the class was experiencing the exceptionally high level of student motivation, activity, and originality.”

student remarked that “the wiki [was] a fantastic resource for the whole class, and I’m a big fan of using wikis more in future classes.” On the other hand, a significant number of students expressed frustration with formatting glitches in the software. A few students also expressed some degree of reservation about the high degree of collaboration in the class, particularly the large-group collaboration, which, in their view, was at times unwieldy. Some typical comments were: “I found the structure of collaborative legal research frustrating at times, but largely beneficial. The frustration arose simply from being occasionally unaware of what other people were doing, probably because it was a large group to be collaborating in”; and “Working with others always seems to be a lot more difficult than working alone.” Still other students emphasized the value they saw in the collaboration, observing that, given the limited resources in public interest law offices, “[t]he key to successful public interest advocacy appears . . . to be collaboration” and noting that “[o]ur class certainly modeled this approach in our successful division of this large project into manageable parts that facilitated the ongoing coordination of our efforts” through both traditional means and the wiki. And: “[T]his class brought home to me that collaboration around [public interest] issues is central to success. I felt blessed to be working with such a supportive and passionate group. Collaborative, rather than competitive, work environments are hard to find in law school, and this class certainly filled that void.”

A Teacher’s Perspective

It is probably obvious by now how rewarding this class was for me to teach. By far, the most rewarding aspect of the class was experiencing the exceptionally high level of student motivation, activity, and originality. A couple of examples will give a sense of what I mean. One group of students wanted to find out whether landlord-tenant disputes had been mediated so that they could offer advice for how to handle mediations. On their own initiative, they interviewed our mediation clinic director and then called every mediation center in the state and interviewed their directors. Based on these interviews, they compiled a best-practices

guide for lawyers who want to mediate eviction cases involving compulsive hoarding or cluttering. Another student surmised that international human rights law related to housing or disability and might provide a compelling argument to include in briefing; she quickly got up to speed on the subject and posted a creative and thoroughly researched memorandum about the potential applicability of international law. Other students took her lead and began scouring other countries’ approaches to analogous problems, eventually uncovering a unique guardianship statute in Ontario, Canada, that provided the basis for the class’s most important (and arguably most realistic) policy suggestion.

It was also rewarding to see how students’ writing evolved—especially their development of a professional voice. In general, the writing on the wiki was excellent: I saw far fewer examples of awkward and pretentious first-year legalese. Something about our scenario—either working on a real problem or communicating in real time via the wiki—seemed to help students avoid the stylistic aggrandizement that plagues many first-year students’ writing.

Two aspects of the class stand out as the most difficult. First, it was challenging to keep up with all the material that the class generated. In some ways, it felt as if I was spending more time preparing for this class than I had for others. On reflection, though, I think I had just shifted how I spent my prep time. Instead of developing lectures or problems on topics I knew quite a bit about, I was reading landlord-tenant law that I had never read before and trying to make sense of jargon-filled social science research. Although I believe collaborative, student-centered learning works remarkably well, it isn’t always comfortable for the faculty member.

Second, it was very difficult to embrace how different each student’s contribution to the project and how different each student’s learning experience must have been. I have become accustomed to teaching classes in which, at the end, I can say confidently that students learned (or at least had an opportunity to learn) x, y, and z. Of course, they may have learned many other things I cannot anticipate. In this class, I had more trouble defining a set of core lessons or

skills that the whole class learned. In terms of subject matter, some students learned mostly about landlord-tenant law, others mostly about guardianship, others about psychology. Their work product also differed sharply: Some wrote more traditional legal analysis, thick with citations; others wrote educational materials geared to a more general audience. I am confident, however, that each student in the class learned strategies and techniques for legal research, collaborative problem solving, and public interest advocacy. Still, anyone who tries this approach should understand that turning over authority to students is not just a theoretical or pedagogical trick—the faculty member does lose control in an important sense, and cannot be sure that every student will manage his or her learning in the way one would hope.

Conclusion

Overall, I was thrilled with this class and think the general approach has tremendous potential. Because of their ability to support large-group collaboration, wiki projects like this one can provide a viable way to integrate lawyering context, professionalism, and the “wisdom of practice” into courses other than clinics, a prominent goal in the Carnegie Foundation’s recent report on legal education.¹⁹ Moreover, such projects lend themselves particularly well to pro-bono projects and thus provide a way for law schools to deepen the legal profession’s (and their own) commitment to public service—a goal that is both worthy and educationally sound.

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“I am confident, however, that each student in the class learned strategies and techniques for legal research, collaborative problem solving, and public interest advocacy.”

Another Perspective

“Expert teachers know the structure of the knowledge in their disciplines. This knowledge provides them with cognitive roadmaps to guide the assignments they give students, the assessments they use to gauge student progress, and the questions they ask in the give-and-take of classroom life. Expert teachers are sensitive to the aspects of the subject matter that are especially difficult and easy for students to grasp: they know the conceptual barriers that are likely to hinder learning, so they watch for these tell-take signs of students’ misconceptions.”

—*How People Learn: Brain, Mind, Experience, and School* 241 (2000).

¹⁹ See William M. Sullivan et al., Carnegie Foundation for the Advancement of Teaching, *Educating Lawyers: Preparation for the Profession of Law* 115, 138 (2007).

Controversial Issues in the Legal Writing Classroom: Risks and Rewards

“There are risks, but with careful planning, using controversial issues to teach legal writing can be a richly rewarding experience for the students and the professor.”

Brutal Choices in Curricular Design ... is a regular feature of Perspectives, designed to explore the difficult curricular decisions that teachers of legal research and writing courses are often forced to make in light of the realities of limited budgets, time, personnel, and other resources. Readers are invited to comment on the opinions expressed in this column and to suggest other “brutal choices” that should be considered in future issues. Please submit material to Helene Shapo, Northwestern University School of Law, e-mail: h-shapo@law.northwestern.edu, or Kathryn Mercer, Case Western Reserve University School of Law, e-mail: klm7@case.edu.

By Greg Johnson

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The desire to create writing problems based on controversial issues is understandable.¹ Challenging students with contemporary “hot button” issues such as same-sex marriage, “partial-birth” abortion, torture of “enemy combatants,” and school prayer, for example, will likely enliven classroom discussion in a way that dusting off an old, “canned” problem may not. Students will presumably work harder on their briefs or memos if the issues they are writing on matter to them. From the professor’s perspective, critiquing papers and oral arguments on lively issues is, frankly, more fun.

Yet there are risks involved when introducing controversial issues into the classroom. The well-intentioned decision to use a controversial issue, without planning and forethought, can backfire. It can destroy classroom dynamics, undermine the goals of the course, and, in the worst-case scenario (though one that is not so far-fetched in the highly

politicized world of academia) harm or ruin a professor’s career.²

There are risks, but with careful planning, using controversial issues to teach legal writing can be a richly rewarding experience for the students and the professor. This article will make the case for using controversial issues in the classroom. I will offer a pedagogical approach and some assignment design strategies that can help ensure the experience is educational and enlivening.

Defining “Controversial” Issues

I define “controversial” issues broadly to include any issue that can evoke a student’s passion, interest, and emotion. Previous contributors to *Perspectives* and other legal writing journals have persuasively argued for incorporating “social justice issues” into legal writing assignments and classroom discussion.³ Such issues include “class advantage, racism, sexism, disability discrimination, and homophobia,”⁴ and more generally encompass “[a]ny questions that implicate issues of a power imbalance within society[.]”⁵ Professor Brook Baker and others have described the many benefits that accrue to the student and the teacher when social justice problems are used. I completely agree with these authors’ argument on the salutary effect of incorporating social justice issues into the legal writing classroom.

² See Miki Felsenburg & Luellen Curry, *Incorporating Social Justice Issues into the LRW Classroom*, 11 *Perspectives: Teaching Legal Res. & Writing* 75, 77–78 (2003) (“Class discussion of a controversial topic could ‘blow up,’ leaving the teacher to deal with the fallout, in terms of its effect on the students, class dynamics, and the teacher’s career.”).

³ See Brook K. Baker, *Incorporating Diversity and Social Justice Issues in Legal Writing Programs*, 9 *Perspectives: Teaching Legal Res. & Writing* 51 (2001); Pamela Edwards & Sheilah Vance, *Teaching Social Justice Through Legal Writing*, 7 *Legal Writing* 63 (2001); Felsenburg & Curry, *supra* note 2.

⁴ Baker, *supra* note 3, at 51.

⁵ Felsenburg & Curry, *supra* note 2, at 75.

¹ I would like to thank Mary Lawrence for providing inspiration and valuable editorial assistance for this article.

Yet I prefer the more comprehensive term controversial to social justice since it includes more subjects and suggests less of an agenda. Controversial issues include not only social justice issues such as “homosexual adoption, stem cell research, and abortion,”⁶ but also issues not related or even in opposition to social justice. For example, successful writing assignments could be based on the constitutionality under the Second Amendment of a restrictive gun control law, or a polygamist’s challenge to a “one man/one woman” marriage law. Extending the range of issues to cover the entire spectrum of political and personal views ensures that “outsider” voices of every persuasion, not just those on the left, are represented in the classroom.

I agree with Professor Baker that legal writing professors “must be aware of our own cultural baggage, our inherited insights and blind spots. . . .”⁷ Professor Baker makes this point in the context of encouraging legal writing professors to challenge our assumptions about race, class, sexual orientation, and other social justice issues. We can all profit from such an assessment, but we should challenge our assumptions on other issues as well.⁸ Developing problems based on issues and political causes we are opposed to, in addition to those we support, can be enlightening and can make the classroom discussion less doctrinaire.

In particular, we should be sensitive to our “cultural baggage” on religious issues. The literature on social justice issues alludes to religion, but only in passing. Yet a growing number of our students are religious,⁹ and I am sure many of them see the propagation of religious belief and the advancement of religious causes as a social justice

issue. Instead of ignoring this reality, we should embrace it by challenging our students (and ourselves) to consider faith-based arguments in a legal context. For example, in several cities (including Boston), Catholic Charities in 2006 stopped placing adopted and foster children with lesbian and gay families.¹⁰ A number of interesting and challenging writing assignments could spring from this controversial development.

Students could be assigned to write an office memo or brief on behalf of Catholic Charities in a suit brought against it under the city’s antidiscrimination ordinance. A writing assignment like this could accomplish several goals. First, it would make students with deeply felt religious beliefs feel less isolated in today’s largely secular law school classroom. In addition, for those students who are not religious, the assignment might give them some appreciation for fellow students (and future clients) who are. At the very least, by making arguments for Catholic Charities, the nonreligious students could gain insight into the strengths and weaknesses of faith-based arguments. In the law, as in chess, anticipating your opponent’s moves is as important as planning your own.

Alternatively, students might be asked to write an amendment to the city’s antidiscrimination ordinance addressing Catholic Charities’ dilemma, and perhaps excepting Catholic Charities from the ordinance’s reach. The value of this assignment is that it would teach students the importance of crafting provisions with neutral language that could be acceptable in a highly charged political context. It could also introduce students to the discrete skills of legislative drafting.¹¹

Another option would be for the students to write an office memo for the state’s Human Rights

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⁶ Felsenburg & Curry, *supra* note 2, at 78.

⁷ Baker, *supra* note 3, at 56.

⁸ Lorraine Bannai & Anne Enquist, *(Un)examined Assumptions and (Un)intended Messages: Teaching Students to Recognize Bias in Legal Analysis and Language*, 27 Seattle U. L. Rev. 1, 38 (2003) (footnotes omitted) (“A professor can admit that everyone, including the professor, continues to learn about [bias] issues.”).

⁹ Robert L. Palmer, *Is God on Your Seating Chart? Discussing Religious Beliefs in Class*, L. Tchr. 1, 1 (2005) (“[L]ike it or not, our students bring God to class.”).

¹⁰ See Patricia Wen, *Catholic Charities Stuns State, Ends Adoptions*, Boston Globe, Mar. 11, 2006, at A1, available at <www.boston.com/news/local/articles/2006/03/11/catholic_charities_stuns_state_ends_adoptions>.

¹¹ Professors interested in an assignment like this should consult some of the growing number of helpful guides to legislative drafting. See, e.g., Ann Seidman, Richard Seidman & Nalin Abeysekere, *Legislative Drafting for Democratic Social Change: A Manual for Drafters* (2001); Frederick Bowers, *Linguistic Aspects of Legislative Expression* (1989).

“Professors using writing problems based on controversial issues face a threshold question of how to treat their own positions on the issues in classroom discussion.”

Commission assessing the strength of Catholic Charities’ argument against forcing it to place children with gay families. This assignment would allow students to view the issue somewhat objectively, which might alleviate some of the tension associated with it. The assignment could also offer professors a chance to educate students about administrative law and legal opportunities in the executive branch.

My argument that legal writing problems should be based not just on social justice issues but on a full spectrum of controversial issues does not come with any hidden agenda. I am, I will readily admit, far to the political left. On religion, I was raised Catholic but am now a pagan/spiritualist. I would not use the polygamy or Catholic Charities examples above to advance any cause. Rather, my goal would be to spark discussion, to get my students interested in the problem, and to thereby cause them to care more about their writing. If we truly believe the university is a “marketplace of ideas,” then we should free ourselves to create problems from a wide range of controversial issues, even those we find offensive.

Whether to Reveal a Position on Controversial Issues in Class

Professors using writing problems based on controversial issues face a threshold question of how to treat their own positions on the issues in classroom discussion. Responses to this sensitive question from those who have written on the subject run the gamut from keeping personal views private¹² to full disclosure and advocacy for social reform.¹³ Each extreme is problematic.

¹² Palmer, *supra* note 9, at 2. (“I never give any indication of my own religious views [in classroom discussion]. To do so would be distracting and overreaching, and would cause concern even for those students who hold the same beliefs as I.”)

¹³ See, e.g., Susan P. Liemer, *Many Birds, One Stone: Teaching the Law You Love*, in *Legal Writing Class*, 53 J. Legal Educ. 284, 291 (2003) (“LRW teachers who have social reform goals, and who create assignments that raise their students’ awareness, may gain benefits quite different from increases in salary or prestige. . . . LRW teachers have the potential for a far-reaching effect on the future of our legal system.”).

First, for experienced professors, it may not be possible to keep our positions private. As Professor Baker notes, “[M]any legal writing professionals are committed in their personal and professional lives to redressing legacies of past injustice and to reforming present inequities[.]”¹⁴ Many of us have spoken publicly and have written on social justice and other issues. For example, I have written on same-sex marriage and civil union.¹⁵ When Vermont was considering civil union legislation in 2000, I testified in support before the judiciary committees of both houses of the state Legislature. I also teach a seminar in sexual orientation and the law. In one of my legal writing classes (legal writing II: constitutional law), I use same-sex marriage as the basis for one of the writing assignments. We discuss the issue for four weeks of the semester. I obviously cannot conceal my position; students come to class knowing how I feel about it. The challenge is to ensure that my opinion does not dampen class discussion. I make it clear at the start that all opinions on same-sex marriage are valid. In fact, I encourage the students to express contrary views to make the discussion more interesting. One technique I use to encourage this is to argue *against* my position, challenging those who support same-sex marriage and supporting, for the most part, those who oppose it. I have found that this helps counterbalance my written record. It empowers students to express views contrary to the majority view in class (which, at Vermont Law School, would support same-sex marriage).

Even if it were possible to keep our views private, concealing our position on controversial issues could come across as disingenuous when we are encouraging and expecting our students to take risks in expressing theirs. Students know the

¹⁴ Baker, *supra* note 3, at 51.

¹⁵ See, e.g., Greg Johnson, *Vermont Civil Unions: The New Language of Marriage*, 25 Vt. L. Rev. 15 (2000); Greg Johnson, *Vermont Civil Unions: A Success Story*, in *Marriage and Same-Sex Unions*, A Debate 283 (Lynn D. Wardle, Mark Strasser, William C. Duncan & David Orgon Coolidge, eds., 2003).

“Professors should not take advantage of their position of authority to use the classroom as a platform for social reform.”

professor must have a position;¹⁶ why keep them guessing? Professor Robert Palmer offers this reason for keeping his beliefs private:

My goal as a law teacher is to convey the material in any given course, including policy, philosophy, black-letter rules, background facts, and all else that is reasonably relevant. Expressing my beliefs would only get in the way of that goal. On the other hand, student beliefs, particularly religious beliefs, can be informative and bring us all to a deeper level of understanding.¹⁷

Some would say that a professor's beliefs are necessarily embedded in any explanation of the subject matter of a course. Aside from this post-modernist concern, I do not see why a professor's careful and candid expression of a position on an issue necessarily interferes with the goal of conveying the relevant material. Of course, given the power differential, professors need to be sensitive to student reaction when we reveal our position. We must stress that we contribute our opinions only to generate discussion, not to dominate it. We must also remind the students not to get carried away with the politics of the problem. The ultimate goal is, of course, to teach them to be better writers.

Given the power differential, I have a problem with using controversial issues for legal writing problems in order to direct students toward a particular position on the issue, rather than merely as an effective tool to teach legal writing. Most professors who have written about using social justice issues for legal writing problems emphasize the many sound pedagogical reasons for doing so, and stress that open advocacy for a position has no place in

the legal writing classroom.¹⁸ Still, some of the literature suggests that the classroom can be used to advance social reform goals and personal agendas.¹⁹ Revealing our position is one thing, advocating for it is quite another. Students are required to take legal writing and it is almost always the case that they are placed in our sections randomly, without a choice. It is simply unfair to the students, especially the students who hold opposing positions, for professors to impose their position on the class and to expect the students to adopt it. Professors should not take advantage of their position of authority to use the classroom as a platform for social reform.

I agree with Professor Louise Wetherbee Phelps' approach to politics in the classroom. She argues for what she calls a "constrained vision" of professors' power to impose their views on students. Professor Phelps "reject[s] certain dogmatic, evangelical modes of teaching writing for the sake of promoting societal or even educational change, which is to say that I oppose unconstrained projection of teachers' political visions into classroom discourse."²⁰ She believes that professors have "a responsibility to constrain themselves in the ways their political visions intersect with their work

¹⁸ See, e.g., Bannai & Enquist, *supra* note 8, at 38–39 ("The discussion should be one about effective legal analysis and lawyering, not about political positions."); Edwards & Vance, *supra* note 3, at 75–76 (footnotes omitted) ("The format of the presentation of social issues can be controversial because students may feel that the professor is trying to instill her values into the students. However, such concerns should be addressed by using caution in presenting the subject matter rather than avoiding it. Instead of indoctrinating the students, faculty can 'invite' students to explore the issues that arise from social justice problems. This approach follows the Socratic concept that persuasion is more of an invitation than a command.").

¹⁹ See, e.g., Liemer, *supra* note 13, at 286, 292 ("Given that the students of today will play important roles in the justice system of tomorrow, real social reform can begin in the legal writing classroom, again simply through the choices of topics for assignments. . . . With assignments meant to introduce students to greater social issues, the benefits to students and teacher seem particularly intertwined. An important part of the satisfaction may lie in seeing some of the students acquire the teacher's broader goals.").

²⁰ Louise Wetherbee Phelps, *A Constrained Vision of the Writing Classroom*, 103 ADE Bulletin 13 (1992), available at <web.ade.org/ade/bulletin/N103/103013.htm> at 2–3.

¹⁶ See Franke Wilmer, *Pedagogy and Politics: Democracy in the Classroom*, Teaching Learning Committee, Montana State University-Bozeman, available at <www.montana.edu/teachlearn/Papers/ideological%20conflict.pdf> (last visited Jan. 11, 2007) ("The question of how and whether politics influences pedagogy has to do with what the teacher does about the fact of his or her position. It is not, in other words, in my opinion a question of whether or not we have a position; it is a question of what we do about the inescapability of having one.").

¹⁷ Palmer, *supra* note 9, at 2.

“Professors using writing problems based on controversial issues must first make clear to the students that unpopular views on the issues are not only acceptable, they are welcome.”

as educators.”²¹ Professor Phelps accepts that professors may “acknowledge, articulate, and argue for [their] own values in the classroom,” but she asserts professors are “forbidden ... to use or manipulate students as objects or instruments of [the professors’] ends, however noble.”²² My position is the same. I should and do advocate for social justice reform in many contexts—just not in the classroom.

Strategies for Ensuring a Positive Experience Using Writing Problems Based on Controversial Issues

The old adage about never discussing politics and religion is borne from the harsh truth that these subjects excite people’s emotions. Using controversial issues such as politics or religion for a legal writing problem is guaranteed to “raise the temperature” of classroom discussion. This can be a good thing. In fact, it is the very reason to use controversial issues, since all scholarship on the subject says increased interest in the underlying issue will make the students care more about their writing. However, there are many traps for the unwary. Students may focus too intensely on the issue and lose sight of the fundamental legal writing principles that are the central pedagogical goals of the class. Some students with an especially close attachment to an issue (perhaps a student who has had an abortion, or a student who is in a committed same-sex relationship and wants to marry her partner but cannot) might be distracted and even traumatized by being forced to discuss and to write on it. An errant comment in class could evoke painful memories or feelings that can unfairly hinder the student’s performance. Students may feel self-conscious, or “spotlighted,”²³ if they are members of the race, gender, class, etc., that the problem is based on. Professors using

controversial issues for writing assignments need to be sensitized to these and other potentially explosive problems that lurk in such an approach.

Professors using writing problems based on controversial issues must first make clear to the students that unpopular views on the issues are not only acceptable, they are welcome. I tell my students that the class would be boring without them. When a student does take the risk of offering a comment contrary to the perceived majority opinion in the class, I try to be supportive. I never ignore the comment. I use it as an opportunity to spark discussion, both by asking the student questions about his or her position, and by challenging other students to react to the comment. Professor Palmer, in his article on dealing with religion in the classroom, uses the example of a student who, during a discussion of same-sex marriage, says, “I’m a Lutheran, and we believe ...”²⁴ In his hypothetical, Professor Palmer asks the student to explain how non-Lutherans might learn from the student’s religious beliefs. He also asks the student, “If we hold with the doctrine of separation of church and state, how can your belief properly inform the law?”²⁵ While this is an appropriate line of inquiry, it is not enough. In the same situation, I would also ask other students what they think about the place of religious belief in the same-sex marriage debate. To ensure that “outsider” voices really are welcome in class, we need to do more than just say they are; we need to support them and linger on them when students hazard an unpopular view. There are, of course, limits to this leniency. Students are not allowed to use offensive language and they must be civil and professional with each other. As long as these basic rules are met, students should be encouraged to feel comfortable expressing any and all opinions on controversial issues.

The literature is rich with ideas for how to manage the challenges of using legal writing problems based on controversial issues. Professor Baker suggests

²¹ *Id.* at 3.

²² *Id.* at 5.

²³ Felsenburg & Curry, *supra* note 2, at 77 (“If the problem concentrates on issues involving characteristics students themselves may have, those students could feel spotlighted. No student should be expected to be the authoritative voice for a group.”).

²⁴ Palmer, *supra* note 9, at 2.

²⁵ *Id.*

breaking the students into small groups for more intimate discussions, having students write thoughts down on paper before speaking, and having the students offer “cultural introductions.”²⁶ Ungraded, reflective essays,²⁷ journals documenting feelings and concerns,²⁸ and a teaching method called “cooperative controversy”²⁹ are among the strategies that have been offered to handle successfully the heightened emotions surrounding controversial issues.

The format of the writing assignment can also help increase student interest and ease potential tensions associated with controversial issues. Having students write a judicial opinion can be an effective way for them to gain distance from the “emotionalism” of the problem by requiring them to adopt a judicial temperament in deciding what the result should be under precedent. In my experience, lawsuits under consumer protection statutes can be effective teaching tools. It is not uncommon for students who are assigned to represent the corporations in such actions to report back later that after an initial struggle they often come to appreciate the corporation’s perspective.

One effective technique, if there is time, is to assign students to write both the majority and the dissenting opinions on a controversial issue. This has the obvious advantage of forcing students to see both sides of an issue, but it also has an additional, less obvious benefit. Prior to teaching, I clerked for several appellate court judges. Through their mentoring I came to appreciate the importance of a moderate tone when writing dissents, where there is every temptation to lash out with vicious attacks on the majority. Teaching

this valuable skill could be of great help for those students interested in clerking.

If professors prefer the more traditional model of brief writing, I offer this. After students have finished the first draft of their brief on a controversial issue, have them submit the one or two questions they absolutely do not want the court to ask them at oral argument. This can focus their attention on the parts of their argument that need shoring up better than most any other exercise. Professor Tracy Bach, who teaches legal writing here at Vermont Law School, takes this idea a step further. She has students do practice oral arguments between their first and final drafts, rather than after they have handed in their final drafts, which is more customary. She believes that this helps students sharpen their all-important “theory of the case” for the final brief.³⁰

Earlier I noted the value of a legislative drafting exercise. Drafting legislation makes students focus on the public policy implications of controversial issues. In addition to drafting amendments to, or pieces of, a statute (to make the assignments more manageable), professors might also consider having students “testify” before a legislative committee in defense of or in opposition to proposed changes to the law. Given the steady diet of courtroom oral argument assignments in legal writing, testimony before a legislative committee considering a controversial issue, such as a medical marijuana bill, would provide students with a fresh perspective on the diverse oral advocacy skills attorneys must develop. If this path is taken, it might be helpful to bring in a guest speaker—a local legislator if possible or someone from the legislative counsel’s office—to explain from his or her experience the style and substance considerations relevant to effective committee testimony.

“Having students write a judicial opinion can be an effective way for them to gain distance from the ‘emotionalism’ of the problem by requiring them to adopt a judicial temperament. . . .”

²⁶ Baker, *supra* note 3, at 56.

²⁷ See Felsenburg & Curry, *supra* note 2, at 78.

²⁸ See Edwards & Vance, *supra* note 3, at 83.

²⁹ *Id.* at 81 (quoting Linda Karen Clemons, *Alternative Pedagogies for Minority Students*, 16 T. Marshall L. Rev. 635, 637 (1991)) (“[F]our members in a group . . . are given study materials on a controversial issue. Two members argue one side while the other two oppose them. Then the teams switch roles and argue the opposite side. Finally, the group must come to a consensus.”).

³⁰ Tracy L. Bach, *Linking Oral Argument with Brief Redrafting to Communicate the Importance of a Persuasive Theory of the Case*, The Second Draft, Dec. 2005, at 10, 11 (“I have watched first drafts metamorphose from solid recitations of applicable law and fact to persuasive tours de force as students reorganize arguments and sharpen their well-reasoned arguments to bring home the ‘big idea.’”).

“Professors should use controversial issues to create legal writing problems since this will motivate students to care more about their writing.”

Still another novel approach to incorporating controversial issues into legal writing assignments would be to have students write a newspaper op-ed article. Examples include an article (or, to make it even simpler, a letter to the editor) on the evolution/“intelligent design” debate, or on whether the Environmental Protection Agency should regulate carbon dioxide emissions from cars and utility plants. Assignments such as these teach students to shape and temper their opinion on divisive issues to appeal to the public at large. They also help students develop the important skill of turning legal theories into arguments that are understood by nonlawyers.

Whatever the format of the writing problem, professors using controversial issues also need to consider whether they assign students a side or whether they let students pick who they will represent. Although both options have advantages, I favor letting students choose. One advantage to assigning students a side is that students who support unpopular positions but are not comfortable saying so need not “tip their hand” through their selection, thus avoiding possible derision. Also, students who are assigned a side they do not agree with may gain enlightenment by being forced to represent that party. Finally, assigning students to represent a party they do not agree with reminds them that they do not always get to pick their clients. Thus, the experience can approximate the real-life dilemma many lawyers face. One disadvantage to assigning sides is that if students feel too repulsed by the position of the party they are forced to represent, they may be too distracted to appreciate and absorb the legal writing lessons of the course.

I let students pick who they want to represent. I have done this on many controversial issues, including the constitutionality of sodomy laws, public displays of the Ten Commandments, immigration, federal regulation of isolated wetlands, and global warming. The presumed risk of letting students pick a side on such controversial issues is that the “unpopular” position may not attract enough students, which would result in having to assign students to that position to

balance the numbers (for oral argument, etc.).

Yet, somewhat to my surprise, the numbers almost always come out even or close to even, and the few students who might need to, readily volunteer to switch sides to balance the numbers. Students who pick the side they are opposed to say they do it because they enjoy the challenge, and because they seek enlightenment about their opponent’s arguments. Letting students pick a side on controversial issues gets them invested in the problem. It also can help avoid some of the pitfalls of using controversial issues, since students will presumably feel more at ease working on the problem when they can pick the side they favor.

Conclusion

Professors should use controversial issues to create legal writing problems since this will motivate students to care more about their writing. When selecting controversial issues to create writing problems, professors should draw equally from issues relevant to the left and the right. An unbiased and wide-ranging approach to subject selection, combined with a “constrained” approach toward dictating the course of the conversation and the ultimate opinion of the students, will result in dynamic classroom discussion and contribution from all points on the political spectrum. We should use controversial issues for legal writing problems not to advance one agenda or silence another, but rather to evoke interest and enliven discussion in order to, in the end, improve our students’ writing.

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Teaching Legal Writing in the 17th Grade: Tips for Teaching Career Students Who Fly Nonstop from First Grade to First Year

By Jan M. Baker

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On the first day of classes last fall, one of my legal writing students introduced himself as a “17th grader.” The entire class chuckled, then several other students introduced themselves as 17th graders. I was both amused and intrigued by this self-titling, and I began to question why these 1Ls would describe themselves this way. When I started looking at the number of students in my classes who came straight to law school following a 16-year educational journey, I was surprised to find that half of my students were 17th graders. To reach this subset of first-year law students, I needed to find out who they were and how to teach them.

Who Are the 17th Graders?

The 17th graders are those students who travel nonstop from first grade to law school. Generational studies show that the 17th graders entering law school this decade are a part of the “Millennial” generation, also known as “Generation Y.” Though some generational studies vary the dates slightly, this group includes individuals born between 1981–2000.

Researching information on Generation Y, I compiled a list of characteristics that the experts say describe this generation. In short, the 17th graders are a cool, smart, pampered, nurtured, tech-savvy, high-maintenance, flip-flop-wearing, performance-minded, peer-loving, extracurricular-oriented, diverse consumer group with poor social skills and helicopter parents. Certainly exceptions apply, but these characteristics describe most of our entering 1L students.

How Do We Teach 17th Graders?

Generation Y students are seeking energized teachers who recognize “customized ring tones,” encourage problem solving, provide constant and consistent feedback, respond to verbalized expectations, encourage visual learners *and* peer learners, provide a large glossy of the “big picture,” and foster a balance of school work and real life. Just how do we bundle all of those expectations into an effective teaching model? A few suggestions:

1. Focus on the Student

The 17th graders are eagerly anticipating their new academic journey, but they are young enough to show insecurity. These students have been doing “school” for a long time, and they are good at it.

Some embrace the challenge and jump into the exploration of legal writing with fervor. Those students can be both a joy and a burden. Like new puppies, they pursue everything with such enthusiasm that they sometimes make big messes. With those students, the challenge comes in bridling that enthusiasm and focusing them on the work. Other 17th graders are so completely overwhelmed by the law school experience that they become paralyzed with fear. They are so focused on how hard their lives have become that they lose the ability to focus on anything else—including legal writing.

I have to reach both groups before I can teach them. How? I make great efforts to get to know my students individually. I learn to recognize their customized “ring tones” by finding out where they have been and where they plan to go. I purposefully make the classroom a professional but low-pressure environment so that the students will open up to me and to each other. I also enjoy working one-on-one with students in conferences regarding their

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course work. As they get to know me, students will come to conferences in veiled efforts to solicit advice on career issues, job issues, and student life issues. It always helps to remember that 17th graders, like the rest of us, will have flat tires, broken water pipes, malfunctioning alarm clocks, and nights of barking dogs.

2. Focus on the Work

The 17th graders are born consumers. This means that as teachers, we need to sell the “product”—this bundle of lawyering skills that make up legal writing. We have to package the new reading, thinking, and writing skills in a way that these tech-savvy, market-driven students will embrace. They want to know how they will use the product before they buy it. So, on the very first day of class, I show my students the “big picture.” I tell them a story about the legal process—from the client coming in the door with a dog bite—all the way to the appeal. We talk about the reading, thinking, and writing the lawyer will do along the way.

I also try to package and market the product in an attractive way. Varying the classroom structure and dynamic can have a tremendous impact on the 17th graders. Getting away from a traditional lecture and opting for a day of group work or mock arguments can engage students in a remarkable way. The goal is to get them thinking and talking about the work. The more they test the product, the more they will be inclined to believe in it and buy it.

Ordering from the catalog of legal writing products can be intimidating, frustrating, and confusing for 17th graders. This is especially true for those students who have never been subject to substantive critique. Many of the 17th graders arrive in their first year of law school with great confidence in their writing abilities. However, with the right approach, you can overcome the defensive student who believes the writing skills package she acquired in undergraduate school (and which was no doubt inflated regularly with praise and rewards of As and A+s) is sufficient for law school.

Understanding the consumer nature of the 17th graders has helped me overcome student anxiety and has given me some satisfaction in seeing my students leave legal writing with the essential skills they need to think analytically, and to write clearly, effectively, and accurately.

3. Model and Require Professionalism

For years, I have told my students that I think of my classes as opportunities to train future colleagues. The legal writing class is really where the 17th graders get their first taste of professionalism, and it is very important that I set a professional tone in my classroom.

I try to model professionalism in my classes, and I require students to return professionalism in the way they interact with me and with their fellow students. My students expect me to come to class on time and prepared. I expect the same from them. I expect my students to turn in assignments on time, and they expect me to give them timely feedback on those assignments. I respect my students in class, and I expect them to be respectful and courteous to me and to their classmates.

I’ve learned that if I set the tone for a professional class, the students will start to police themselves. Fostering that professionalism also helps my credibility when it comes to grading. If my students respect me for the work I do in the classroom, they are less likely to take out their grade frustrations on me. Instead, they will come to me for guidance on making their work product better.

I also like my students to know that I’m approachable. I like them to know that they can, within clearly marked boundaries, come to me with questions and issues of all kinds. I emphasize the need for boundaries only as a reminder that the 17th graders have been nurtured by parents who consider these “children” to be their peers. Since childhood, the 17th graders have had a say in the family’s choices regarding everything from restaurants to vacation spots. Making sure they understand that appropriate boundaries exist between faculty and students is important in mentoring them professionally.

4. Laugh a Little

In the years I've been teaching, I've found that humor has a way of displacing so many negative issues that can arise in law school. Having a sense of humor is vital to success in the classroom. If I can laugh at myself or laugh along with students as they traverse the nebulous academic terrain of the 17th grade, I have a much better chance of keeping their attention and winning their respect. Humor keeps us humble and human.

As I go through the course, I can tell when it's time to go "off script" and lighten things up. I like to bring news clippings to class—especially the police blotter from our campus newspaper. Those stories often lead to funny and interesting class discussions on potential legal issues. Students also love war stories—they especially like the one about me storming out of a Family Court ladies room with the toilet seat liner flapping out of the back of my suit. If I can maintain a sense of humor and interject it at appropriate times throughout the course, the students will actually look forward to the time they spend in the legal writing classroom.

5. Give 'Em All You've Got

My best classes exhaust me. But, some days the lights just come on, and when you see it start to happen, it can be a miraculous thing. When you give the students everything you have in a class—whether you are cruising the surface of a general discussion or buried deep in how to prove a conclusion of law—they will respond to your efforts. That flickering "I get it!" that you see in one student's eyes will start to show up all over the classroom. Those are the days that I feel like the luckiest person in the world. Why? I teach 17th grade.

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Another Perspective

“Teaching effectiveness is related to the way in which students learn. Accordingly, significant recent developments in learning theory have been learner-centric. The results of this body of research have included, among other things, a validation of the efficacy of active learning processes, a nuanced and applied knowledge of learning styles, and a heightened awareness of the possible effects of personality types on learning. Law scholars have begun to integrate these findings into broader theories of legal education in an effort to bring some rationality to legal pedagogy.”

—Joan MacLeod Heminway, *Caught In (or On) the Web: A Review of Course Management Systems for Legal Education*, 16 Alb. L.J. Sci. & Tech. 265, 279–280 (2006).

Connecting the Dots: Using Connected Legal Writing Assignments to Help Students Think Outside of the Assignment and About the Bigger Picture

By Candace Mueller Centeno

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“What do we do next?” is a common question asked by clients. Law firm partners also frequently direct this question to new associates when reviewing case files or legal memoranda with the associates. Although solid writing skills are essential for a successful legal career, a new associate’s ability to manage files and to think beyond an assignment is also essential. By working on connected legal writing assignments with a mock client and ongoing case, law students gain instruction on practical file-handling skills and are challenged to consider the overall strategy through an analysis of a single case with developing issues.

In the fall of 2006, I left a 13-year law practice as a medical malpractice defense litigator to teach legal writing, analysis, and oral advocacy. For several years before making the career switch, I had browsed the Web sites of various area law schools and had dreamed about teaching. On all such occasions, I gravitated toward legal writing because legal writing programs provide important research and writing instruction to help prepare law students for their first jobs. In addition, the broad and flexible nature of a legal writing course presents an opportunity to get law students thinking not only about the law but also about the client’s goals and how a case moves forward factually, procedurally, and analytically.

In our legal writing program, the first semester focuses on objective writing. Students are required to write a closed research memorandum, an ungraded open research memorandum that is then rewritten, and a final open research memorandum that is graded. In addition to these assignments, the

students are also divided into “law firms” (groups of three to four students) to work on exercises outside of class throughout the semester.

Instead of assigning unrelated problems in the fall semester, I developed a related fact pattern that was used and developed in lectures, exercises, and the graded and ungraded open memorandum assignments. By connecting the legal writing assignments and lectures together, several pedagogical moments emerged when students were provided opportunities to expand their thinking beyond the assigned topic for the legal memorandum. Working on connected assignments allowed students to focus on problem solving, to think about the next step in a case, to see the connection between research and a case, and to understand the importance of case progression, procedure, and organization. Legal writing professors can incorporate connected assignments into the framework of an existing legal writing program and such assignments can take on many different and flexible forms.

Pedagogy of Connecting

1. Thinking Beyond the Assignment

When completing a memorandum assignment and working on a file, new attorneys will distinguish themselves if they undertake three types of thinking—short-term thinking, intermediate thinking, and long-term thinking. *Short-term thinking* involves an analysis of the issue raised in the assignment. Once the assignment is finished and provided to the assigning attorney, however, the case is not over.

As such, it is important to move students beyond short-term thinking so that they can develop intermediate and long-term thinking skills. *Intermediate thinking* takes short-term thinking one step further and requires an analysis of what happens next as a

“Although solid writing skills are essential for a successful legal career, a new associate’s ability to manage files and to think beyond an assignment is also essential.”

result of the legal inquiry in the assignment. This requires an analysis of additional steps, including answers to the following questions: What other facts are needed to fully address the issues raised in the memorandum? What procedural steps are necessary, if any, to finish the assignment? In many ways, intermediate thinking is a transition phase between the assignment and the larger goals of the case.

Taking the students beyond intermediate thinking, *long-term thinking* requires students and associates to think well beyond the assignment they have completed and to the ultimate goals of the case. This involves an analysis of the broader picture, including answers to the following questions: What additional facts need to be gathered for this case? What other legal issues may be relevant? What needs to be done to get the necessary facts or to prove or defend other issues? What is the timeline to accomplish these goals, including any relevant deadlines? An analysis of the next steps is an important skill that should be introduced as soon as possible so students are trained to analyze how the issue at hand connects to the case as a whole and to identify what they should do next for the client.

By working on connected assignments, first-year law students are given an opportunity to begin the necessary process of intermediate and long-term thinking because they are being provided examples of how a case progresses. Students can move beyond short-term thinking because they are not limited by the isolated analysis of legal issues in unrelated fact patterns or assignments. As such, students are on their way to learning more about practice and the process involved.

2. The Progression of Connected Assignments and Related Teaching Moments

By using a continuum of assignments, the legal writing instructor can help students master four important skills. First, students focus on problem solving by engaging in a discussion of the issues before embarking on a memorandum assignment.

Second, students gain an understanding as to why the research and legal memorandum is important and how it connects to the case as a whole. Third, connected assignments teach students to be proactive versus reactive lawyers. The question “what do I do next?” should always be on their minds. Even short lectures or smaller assignments assist students in developing their intermediate and long-term thinking. Finally, the exercises and assignments provide an opportunity to highlight procedural issues, to discuss the progression of a case, and to stress the importance of organization, deadlines, and timelines.

The assignments and exercises that I used during my fall semester course on objective legal writing illustrate the teachable moments and the progression of connected assignments. To begin, the students were served with a complaint. The complaint set forth claims of medical negligence and negligent infliction of emotional distress against a physician and hospital for treatment following a car accident. The averments contained some limited additional facts relating to the car accident and a broken seat belt, although the complaint did not identify the driver of the car or assert a product liability claim. The students were instructed to read the complaint, analyze the claims, and ponder, “What do I do if my client has been sued and I am given the complaint?” At the end of the next class, we discussed the issues raised in the complaint, procedure relating to pleadings, and deadline concerns. I then gave the students their first open memorandum assignment and asked them to determine whether the complaint set forth a valid claim for negligent infliction of emotional distress, one of the causes of action in the complaint.

By researching and writing about the validity of the plaintiff’s claim for negligent infliction of emotional distress, the students invoked short-term thinking. When the assignment was completed, however, the students were asked to consider the following questions and discuss them during class:

“By using a continuum of assignments, the legal writing instructor can help students master four important skills.”

“I connected the next exercise when I asked students to think about additional issues raised in the complaint and in the memorandum they had already prepared.”

Intermediate thinking If the claim is invalid, what do I need to do?

If the claim is valid, what do I need to do?

How is the partner going to use this memorandum?

Long-term thinking What needs to be done next to defend the case?

What are the deadlines?

Additional teaching moments were also easily incorporated, including a discussion of procedure, deadlines, case progression, and the importance of legal analysis and writing.

I connected the next exercise when I asked students to think about additional issues raised in the complaint and in the memorandum they had already prepared. For example, I asked them what additional issues were raised in the complaint and what other facts were needed to defend the case.

We then discussed these issues in class, and several students noticed the missing facts regarding the car accident that brought the plaintiff to the hospital in the first place. At the end of class, each law firm was assigned a different topic and was instructed to draft 10 interrogatories to obtain the needed factual information. Because this exercise was connected to the memorandum assignment, the students were required to invoke intermediate and long-term thinking skills.

In the interrogatory drafting exercise, some surprising additional teaching moments emerged on the importance of attention to detail in all aspects of writing. Each law firm had to e-mail me its 10 interrogatories one day prior to class. I then chose one well-drafted interrogatory and one not-so-well-drafted interrogatory from each law firm. In a PowerPoint presentation, I placed each interrogatory on a separate slide along with my response or objection. The not-so-well-drafted interrogatories demonstrated how ineffective or careless writing resulted in a nonresponsive answer, an incomplete response, or an objection.

To continue the progression of the “case,” I provided the students with factual information in response to some of the interrogatories, and these facts led to the topic of the second open memorandum assignment—possible joinder of additional parties. As a result, students were given an opportunity to see how research and discovery are interrelated. In addition, they again were provided with an example of case progression and long-term thinking. The topic of the final open memorandum was a *product of the responses to interrogatories*. I emphasized that, if the attorney had not served clear interrogatories, the attorney would not have discovered that another party might also be responsible for the payment of damages. Finally, the topic of this memorandum also provided another opportunity to discuss civil procedure and deadlines.

How to Incorporate Connected Assignments into an Existing Legal Writing Curriculum

Although it may seem a daunting task to work connected assignments into a legal writing course, a legal writing professor can undertake this challenge as part of the needed research for the memorandum assignments that are a part of the course itself. I had never written an assignment for law students and had never taught before the fall of 2006, yet I was able to incorporate connected assignments. By using the existing curriculum as a framework, by adding smaller exercises, and by providing brief lectures on a variety of topics (procedure, progression of cases, thinking about what is next, and organization), I was able to create the related assignments without much extra work beyond what would have been required to create *unrelated* memorandum assignments.

In order to connect efficiently, I found it beneficial to have a “beginning” and an “end.” At the start of the semester, I researched and outlined the topics for the first open memorandum and the last open memorandum. I then created the initial complaint, added the interrogatory exercise, and outlined how I would present the assignments and lectures in class. In many ways, it made the semester less stressful because I knew (at least to some extent) where I was going.

Options and Flexibility When Preparing Connected Legal Writing Assignments

The examples outlined above for connected assignments are just the beginning. As I think about my second year teaching legal writing, I look forward to creating a new series of connected assignments and to incorporating more ways to get my students thinking.

1. The Ethical Component

Although ethics was the subject of only one class session during the fall semester, my first-year law students were riveted to stories of ethical dilemmas and professionalism encountered during my practice, and they enjoyed discussing different ethical scenarios. To further engage the students in this topic, one possible connected exercise would involve an ethical component raised within a now-familiar fact pattern. This would allow the students to think about and discuss an ethical dilemma presented by their own client or by the actions of opposing counsel. Because we, as legal writing professors, are creating the facts, there are many ways to incorporate a related fact pattern that includes an ethical component. By doing so, we can provide instruction on how to deal with an ethical issue that our students may encounter in practice.

2. Incorporation of Civil Rules of Procedure

Based upon observations in my later years of practice, the state and local rules of civil procedure are often a mystery to first-year associates. They know the rules exist, but they do not know when or how to use them. Although not incorporated during my class last year, I plan to introduce the rules of civil procedure for my chosen jurisdiction. This will enable the students to begin navigating the rules they will rely upon in practice. If your students typically practice in one state after graduation, those rules of civil procedure could also be used and discussed throughout the semester as they relate to the assignments or exercises. By using the rules, students will gain a familiarity with them and further instruction on the use and application of the rules.

3. Additional Ideas on Connecting Assignments

There are many ways to incorporate real-world scenarios and to connect legal writing assignments. First, there are many different areas of law that can be the subject of an assignment, including torts, criminal law, civil procedure, contracts, property law, or employment law. In addition, multiple topics can be utilized over the semester by connecting related fact patterns to different areas of the law. For example, a tort issue that is the topic of research for an initial assignment could develop into a contractual issue for the second memorandum through the “discovery” of an existing contract that affects the responsibilities of the parties. Moreover, a brief contract-drafting exercise could also be incorporated.

Second, the connection can start at many different phases in a “case.” For example, the first assignment may involve an initial client interview and end with a discovery issue or privilege issue. Alternatively, if the final assignment involves a pretrial or trial issue, the starting point may be issues raised during the “middle” of a case, that is, discovery. The suggested goal of this article is not the instruction of the complete progression and procedure of a case from the filing of a complaint to the final appeal. Indeed, this would be an overwhelming task.

Rather, the goal of this teaching method is to expand thinking and to include more practical lessons in a manner that can be easily incorporated into an existing legal writing program. By doing so, students gain invaluable instruction on practice skills and an example of how a case progresses in the real world. More importantly, we, as legal writing professors, can challenge students to problem solve and to expand their thought process beyond the assignment so that they can be successful lawyers.

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Texts, Lies, and Changed Positions: A Review of *The Little Book of Plagiarism*

By Richard A. Posner
Pantheon Books 2007

Reviewed by Judith D. Fischer

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With *The Little Book of Plagiarism*, Judge Richard Posner has weighed in on a subject of perennial interest to legal research and writing professors. Pocket-sized and only 116 pages, the book offers a “cool appraisal” (p. 108)¹ of what constitutes plagiarism and how it should be treated. The book’s criteria for identifying plagiarism are a useful addition to current analyses of the topic. And while Posner does cover some legal points, the book is accessible to a general audience and will be a helpful resource not only for lawyers but also for writers and teachers. Professors should be forewarned, however, that in parts of the book, Posner appears to take student copying less seriously than they may think appropriate.

Fajans and Falk have defined plagiarism as “the representation of the words or ideas of another as one’s own,”² and other legal research and writing professors have offered similar definitions.³ Posner adds nuance to such traditional definitions by pointing out that plagiarism is a vague concept with gray areas. (p. 108) He rejects descriptions of plagiarism as “literary theft” or “borrowing.” (p. 11)

¹ Parenthetical numbers refer to pages in Posner’s book.

² Elizabeth Fajans & Mary R. Falk, *Scholarly Writing for Law Students* 104 (3d ed. 2000).

³ E.g., Terri LeClercq, *Failure to Teach: Due Process and Law School Plagiarism*, 49 J. Legal Educ. 236, 244 (1999) (defining plagiarism as “taking the literary property of another without attribution, passing it off as one’s own, and reaping from its use the unearned benefit from an academic institution.”); Mary Bernard Ray & Jill J. Ramsfield, *Legal Writing: Getting It Right and Getting It Written* 296 (4th ed. 2005) (stating that “[p]lagiarism is copying someone else’s ideas or words and claiming them as your own.”).

It isn’t exactly theft, he maintains, because the copier carries nothing away from the original author. And it isn’t borrowing, because the copier returns nothing to the author. (pp. 11–12) Nor is it coextensive with copyright infringement, although the two may overlap.⁴ Posner defines plagiarism as “nonconsensual fraudulent copying” (p. 33), and states that it occurs when a writer who copies another’s language or ideas both conceals the copying (p. 17) and induces some sort of reliance by readers. (p. 19)

The “concealment” criterion has a specialized meaning. (pp. 17–19) Posner explains that it cannot be simple failure to acknowledge the source of copied material (p. 17), because that is acceptable in some circumstances. For example, we don’t expect acknowledgement that a clerk actually wrote a judge’s opinion. There are several reasons for this: judicial clerks are hired with the understanding that they will write opinions without acknowledgement; most of those who read opinions understand that clerks may have written them; and we ascribe little value to judicial originality. (pp. 20–23) This last reason also explains why we don’t object when a judicial opinion includes some unattributed language from the parties’ briefs or from another court’s opinion. (p. 21)

Lack of attribution of true authorship is accepted in other contexts as well, including textbooks, ghostwritten works, political speeches (pp. 23–38), and literary allusions. (p. 56) Indeed, part of the reader’s delight in an allusion derives from being

⁴ Some material may not be covered by copyright laws because, for example, the work has entered the public domain, but copying it without acknowledgement would be plagiarism. (pp. 12–13) On the other hand, a writer could commit copyright infringement but not plagiarism by copying a chapter from a copyrighted book and acknowledging its source. (p. 17)

“Professors should be forewarned, however, that in parts of the book, Posner appears to take student copying less seriously than they may think appropriate.”

among the initiated who recognize the source without being told. And self-plagiarism—repeating one’s own already published words or ideas—is often necessary in order to disseminate an idea widely. (pp. 64–65) Posner believes it is usually a peccadillo at most. (pp. 41–42, 75, 108)

However, Posner finds it less acceptable for law professors to publish research assistants’ work as the professors’ own, partly because originality is valued in legal scholarship, and partly because the students are not hired with the understanding that their work will be copied. (p. 23) Exacerbating the problem is the poor role model the professor provides by the unacknowledged copying. (p. 90)

As an example of unacceptable concealment, Posner cites Kaavya Viswanathan, a Harvard student who copied extensive portions of her acclaimed first novel from several published authors. (pp. 1–5) He believes Viswanathan was properly subject to intense negative publicity because her copying was so flagrant. (pp. 80–81) “A mild punishment,” he writes, “would be unlikely to deter a person who had such a compulsion to plagiarize regardless of the consequences. . . .” (p. 81)

But Posner exonerates Shakespeare of plagiarism, despite his copying of plots and language, partly because originality as we understand it was not prized in Shakespeare’s time. (p. 65) However, Posner suggests that some current authors have been too easily absolved of plagiarism. (p. 107) Doris Kearns Goodwin failed to put sizeable amounts of quoted material in quotation marks, even though she cited its source (87–88), and Steven Ambrose’s “plagiarisms were very extensive.” (p. 91) But colleagues rushed to their defense. (p. 92) It may be, Posner theorizes, that the “seemingly gratuitous character of the offense” by an established writer makes peers more willing to defend him or her. (p. 92) Perhaps, Posner observes, part of Viswanathan’s problem was that she had not yet accumulated enough well-placed backers to defend her. (p. 92)

Viswanathan also fulfilled Posner’s second criterion, reliance (p. 91), which he analogizes to

the requirement of reliance for fraud claims. (p. 40) Examples of reliance are a buyer purchasing a book in the mistaken belief that it is original (p. 20) and a teacher awarding a high grade for a fraudulently copied paper. (p. 20) By contrast, the element of reliance is missing with judicial opinions, because those who read a judicial opinion would not change their behavior if they knew a clerk wrote it. (p. 21)

Posner stresses that plagiarism is neither a crime nor a tort (although other claims, like breach of contract, may be available). (p. 34) Plagiarism’s harms are “too slight to warrant cranking up the costly and clumsy machinery of the criminal law,” and plagiarists seldom have sufficient assets to justify a civil suit. (p. 38) Thus it is best dealt with through private sanctions. (p. 38) Posner further urges caution in “‘plagiarism denouncing’ as a device of professional self-promotion.” (p. 76)

The book offers three criteria for gauging the appropriate punishment for plagiarism. (p. 40) In addition to the extent of any reliance, the plagiarizer’s state of mind is relevant to the seriousness of the offense. (p. 40) For the intentional plagiarizer, ostracism and ridicule may be appropriate. But negligent copying, although it can be just as harmful as intentional copying, may warrant a lesser sanction. (p. 78) A third criterion is the ease of detecting the plagiarism. If it will be difficult to detect, a serious sanction may be needed to deter it. (p. 79) Posner also identifies an additional consequence of plagiarism that is outside the control of any tribunal: its “stigma . . . never seems to fade completely.” (p. 37)

The discussion of student plagiarism is scattered throughout the book. When a student turns in a paper bought from a paper mill, Posner says that act is not exactly plagiarism, because the copying does not harm the author, who intends the paper to be copied. (p. 33) But Posner also emphasizes that “‘plagiarism’ does not exhaust intellectual fraud,” thus suggesting that the student has committed some sort of wrong. (p. 33) He believes schools are naïve if they think they can effectively deal with the problem by preaching to students

“Posner stresses that plagiarism is neither a crime nor a tort (although other claims, like breach of contract, may be available).”

“But law students’ plagiarism is serious because it short-circuits their training in both skills and professionalism, with consequences that reach beyond the classroom.”

without checking for copying (pp. 82–83), and he counsels teachers to craft assignments whose answers are unlikely to exist in published form. (p. 83) Still, he thinks student plagiarism may be a lesser problem than in the past because we now have electronic means for detecting it. (pp. 38–39)

More troublesome is the statement that plagiarizing may be a rational decision for a student who derives benefits such as a better grade or time to work on another project. (p. 48) Posner also identifies the main victims of student plagiarism as the student and his or her peers. (pp. 47, 106–07) Certainly plagiarism harms both. But this analysis ignores wider harms that follow when students receive credit for copied work. Their degrees and entry into the professional world are based on fraud. Law students who have not learned their profession—which may well be the case if they plagiarized their student work—will unleash their inferior skills on clients. They may file incompetently written papers, clogging the courts with unclear documents that unnecessarily consume judicial time.⁵ Perhaps

worse, they will enter the legal profession having established a habit of misrepresentation, one that they may continue as lawyers. If they have committed plagiarism unscathed, they may be emboldened to commit more of it—with negative consequences for lawyers, courts, clients, and the legal system.⁶

Posner views plagiarism by published writers as “a chump’s crime, less likely to reflect a serious larcenous intent than a loose screw.” (p. 90) Perhaps. But law students’ plagiarism is serious because it short-circuits their training in both skills and professionalism,⁷ with consequences that reach beyond the classroom. I hope readers will note Posner’s suggestion that student plagiarism may deserve “draconian solutions” (pp. 38–39) instead of focusing on other parts of the book that seem to minimize the gravity of student copying.

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Another Perspective

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⁵ See Judith D. Fischer, *Pleasing the Court: Writing Ethical and Effective Briefs* 1–2 (2005) (citing cases where poor writing impeded courts’ work).

⁶ E.g., Iowa Supreme Court Bd. of Prof’l Ethics & Conduct v. Lane, 642 N.W.2d 296 (Iowa 2002) (suspending a lawyer whose brief contained extensive material copied from a book); see generally Judith D. Fischer, *The Role of Ethics in Legal Writing: The Forensic Embroiderer, the Minimalist Wizard, and Other Stories*, 9 Scribes J. Legal Writing 77, 101–105 (2003–04) (discussing consequences for lawyers’ plagiarism).

⁷ See LeClercq, *supra* note 3, at 237 and *passim* (describing student plagiarism as “reaching a crisis point” and proposing ways for law schools to deal with the problem).

Researching Legal Ethics

Teachable Moments ... is a regular feature of Perspectives designed to give teachers an opportunity to describe techniques or strategies for presenting a particular research or writing topic to their students. Readers are invited to submit their own “teachable moments” to the editors of the column: Elizabeth Edinger, The Catholic University of America, e-mail: edinger@law.edu, or Craig A. Smith, Vanderbilt University Law School, e-mail: craig.smith@law.vanderbilt.edu.

By Stephen Young

Stephen Young is a reference librarian at the Kathryn J. DuFour Law Library, The Catholic University of America, in Washington, D.C.

“There is a vague popular belief that lawyers are necessarily dishonest ... Let no young man choosing the law for a calling for a moment yield to the popular belief—resolve to be honest at all events. ...”

—Abraham Lincoln¹

There are few areas of the law that have as large an impact on a law student’s future career and yet attract so little attention from a law student as legal ethics. However attracting even less of the law student’s attention is the process of how to research issues in legal ethics. It is certainly true that this is an area that at first glance appears less than dynamic—an area that has been rigidly governed by the Model Rules of Professional Conduct and its various predecessors for the past 100 years, and relies on state bar interpretations and applications of these rules to provide the excitement.

A more detailed examination of this subject shows that it is actually an area of the law that has undergone many changes in recent years, particularly in

the way we conduct legal research. This quiet revolution in legal ethics research, combined with its comfortable linear structure, should be our key to getting law students more interested in the issues and nuances of researching legal ethics today.

Starting Points

The nice thing about researching legal ethics is that almost all roads lead to the Model Rules of Professional Conduct (MRPC). The overwhelming majority of the literature in this area is structured to some extent on the MRPC. This simple statement, connecting the literature to the rules, can greatly help students understand where and how to begin their research since it implies a ready-made methodology for approaching this subject.

At this point a little history is needed. The American Bar Association adopted the original Canons of Professional Ethics in 1908, which was replaced by the Model Code of Professional Responsibility in 1969. The Code was itself replaced by the MRPC in 1983, at which time it adopted the now familiar structure of eight topical areas subdivided into many individual rules. The MRPC is available in hard copy from the ABA as either an annual unannotated paperback, or in annotated form (currently in the fifth edition). Copies of the rules can also be found in a number of other sources, including the various compendium and compilation deskbooks that are so often a staple of required reading booklists for professional responsibility classes (e.g., John Dzienkowski, *Professional Responsibility Standards, Rules and Statutes*). The ABA’s Center for Professional Responsibility Web site provides online access to the MRPC,² as does the Legal Ethics Library on

“There are few areas of the law that have as large an impact on a law student’s future career and yet attract so little attention from a law student as legal ethics.”

¹ Abraham Lincoln, *Notes for a Law Lecture* (July 1, 1850), in *The Complete Works of Abraham Lincoln* 143 (John G. Nicolay & John Hay, eds. 1894).

² American Bar Association, Center for Professional Responsibility, Model Rules of Professional Conduct, <www.abanet.org/cpr/mrpc/mrpc_toc.html>.

“ [M]ention legal ethics to any attorney and usually the *ABA/BNA Lawyers’ Manual on Professional Conduct* is the first, and sometimes only, resource mentioned. ”

Cornell University’s Legal Information Institute Web site.³ Needless to say, Westlaw® and LexisNexis® also provide the text of the Model Rules, although Westlaw also includes the annotated version in its database. In short, a student should never have lack of access as an excuse for not consulting the MRPC.

A useful recent addition to the various versions of the MRPC is the ABA’s *Legislative History: The Development of the ABA Model Rules of Professional Conduct, 1982–2005*. This one-volume publication provides the researcher with the text of amendments and comments for versions of rules proposed and passed by the ABA House of Delegates. This is an essential resource for determining how the rules have developed over the past quarter century.

The Essential Tools

In legal research there is rarely such a thing as one-stop shopping; however mention legal ethics to any attorney and usually the *ABA/BNA Lawyers’ Manual on Professional Conduct* is the first, and sometimes only, resource mentioned. For the past 27 years this invaluable resource has served as the most essential weapon in the legal researcher’s arsenal of legal ethics resources. The traditional looseleaf arrangement divided the set into the manual (comprised of practice guides structured around the MRPC), the *Current Reports* binder (i.e., recent developments in a newsletter format), and binders for the full text of ABA formal and informal opinions and synopsis of state bar ethics opinions.

In recent years the *Lawyers’ Manual* has gone online. BNA offers the *Lawyers’ Manual* to law schools as either part of a package or as an à la carte offering in its online law school program. The online product does provide an attractive and useful search interface; however the actual content does not differ from the print product, and a potential opportunity to more frequently integrate

the material in the *Current Reports* section with the material in the *Practice Guides* section was wasted.

Perhaps one of the most misunderstood and neglected resources by law students across the country are the restatements. To the student they appear to fall in that gray area, somewhere between the mandatory authority of primary materials and the persuasive authority of secondary sources. The publication of the *Restatement of the Law Third—The Law Governing Lawyers* in 2000 was the American Law Institute’s first attempt to clarify and synthesize the current state of the law in this area, and is now considered an essential resource in legal ethics. The restatements are available on Westlaw and LexisNexis in addition to the traditional hard-copy versions.

ABA Ethics Opinions

Although not considered mandatory authority, the formal and informal opinions released by the ABA Committee on Ethics and Professional Responsibility have served as a persuasive interpretation of the Model Rules for many years. Formal opinions address issues that may apply to practicing attorneys throughout the profession, while informal opinions were issued in response to a specific situation. It is worth noting that the ABA ceased issuing informal opinions at the end of the 1980s. The opinions are available in a number of resources, including the *ABA/BNA Lawyers’ Manual on Professional Conduct* (1980–present), *Opinions of the Committee on Professional Ethics* (1924–1965), and *Formal and Informal Ethics Opinions* (various compilations covering the period 1967–1998).

Online availability of ABA ethics opinions is provided by LexisNexis and Westlaw. Both services provide access to formal opinions dating back to the first formal opinion issued in 1924, and to informal opinions dating back to 1960. The ABA Web site offers summaries of formal opinions dating back to 1984, but only provides the full text of opinions for a fee.⁴ The *Lawyers’ Manual* online provides the full

³ Legal Information Institute, American Legal Ethics Library, Model Rules of Professional Conduct, <www.law.cornell.edu/ethics/aba/index.htm>.

⁴ American Bar Association, Formal Ethics Opinions, <www.abanet.org/cpr/pubs/subject_index.html>.

text of formal opinions for the period 1987–present, and the full text of informal opinions for the period 1988–1989.

Locating State Resources

The MRPC serve as the basis for most, but not all of the ethical codes for the 50 states and the District of Columbia. These state codes are traditionally enacted as part of the state statutes or the state court rules, and can be located in the standard resources used for locating state statutes and court rules. It should be noted that 47 states and the District of Columbia have adopted the MRPC, often with significant modifications. New York, California, and Maine are the holdouts, relying on the Model Code or developing their own set of ethical codes.

State ethics opinions have always been an important source for researching how the rules have been applied in specific instances in their respective jurisdictions. Attempting to locate the full text of state ethics opinions has always been a little troublesome. Traditionally, the best source was the *National Reporter on Legal Ethics and Professional Responsibility* by Jacobstein, Mersky, and Quist. Although selective, it is a useful compilation of ethics opinions from around the states. Westlaw and LexisNexis now provide access to various state ethics opinions, although neither database provides coverage for more than a select number of jurisdictions. More recently, a number of state bar associations have released the full text of their ethics opinions on their Web sites.⁵ The Legal Ethics Library hosted by the Legal Information Institute at Cornell University provides detailed information for each jurisdiction regarding availability of ethics opinions through the state bar Web sites.⁶ It should be noted that a number of state bars only provide access to this material to bar members, or, if access is provided to nonmembers, charge a fee for this service.

⁵ A listing of state and local bars is provided by the ABA at <www.abanet.org/barserv/stlobar.html>.

⁶ Legal Information Institute, American Legal Ethics Library, Listing by Jurisdiction, <www.law.cornell.edu/ethics/listing.html>.

Disciplinary Proceedings

Locating lawyer disciplinary proceedings constitutes a real challenge to the legal researcher. The challenge is largely a by-product of the huge variation between jurisdictions in the publication of the results of the proceedings. In some states the results are digested in the state bar journal, while other states have no formal publication method for these decisions. The results of the proceedings are, however, often reflected in the information contained in the individual state's lawyer disciplinary database. More and more states are making this information available to the public on the disciplinary board's Web site (usually this is under the authority of the state bar or the state supreme court). The ABA Center for Professional Responsibility provides a useful list of contact information for the various state disciplinary agencies on its Web site.⁷ A similar list is also available on the National Organization of Bar Counsel Web site.⁸ The ABA has compiled disciplinary information from the various states into one national database, the National Lawyer Regulatory Data Bank, which is available for a fee on the ABA Center for Professional Responsibility Web site.⁹

Staying Current

As I mentioned at the outset, in recent years we have witnessed a quiet revolution in the way we conduct research in legal ethics. Today staying current means more than just checking the *Current Reports* section of the *Lawyers' Manual*; it might require setting up an RSS feed for blogs devoted to legal ethics, monitoring the law review literature even before articles have been published, and reviewing proposed rule changes on a state bar Web site. There is not enough space in this short article

⁷ American Bar Association, Center for Professional Responsibility, Directory of Lawyer Disciplinary Agencies, <www.abanet.org/cpr/regulation/scpd/disciplinary.html>.

⁸ National Organization of Bar Counsel, Bar Associations and Disciplinary Authorities, <www.nobc.org/links/bar.asp>.

⁹ American Bar Association, Center for Professional Responsibility, National Lawyer Regulatory Data Bank, <www.abanet.org/cpr/regulation/databank.html>.

“The MRPC serve as the basis for most, but not all of the ethical codes for the 50 states and the District of Columbia.”

“The resources for helping the legal researcher stay current have never been better; the trick is to know which ones to use and how to use them effectively.”

to cover many of the current awareness tools out there; however, the following constitute some of the more useful resources in this area.

Over the past few years, a number of blogs have sprung up devoted to the topic of legal ethics. Among the best is the Legal Ethics Forum,¹⁰ founded by a group of prominent law school professors. This site is topical, fresh, and a great jumping-off point to other legal ethics resources on the Internet. Many blogs provide the option of an RSS feed that delivers new content directly to subscribers.

The area of legal ethics is populated by a number of law reviews and journals. Among the more well-respected journals are the *Georgetown Journal of Legal Ethics*, the *Journal of the Legal Profession*, and the *Notre Dame Journal of Law, Ethics and Public Policy*. Keeping current with the journal literature in today's research environment requires taking advantage of the alert services on Westlaw and LexisNexis, seeing if your law library subscribes to the SmartCILP current awareness service offered by the University of Washington Law Library,¹¹ and monitoring sites such as the Legal Scholarship Network¹² and BePress¹³ (Berkeley Electronic Press) for working papers and accepted papers posted by law faculty from around the country long before they are published. The resources for helping the legal researcher stay current have never been better; the trick is to know which ones to use and how to use them effectively.

Some Final Thoughts

Even a casual reader of this short piece would notice that I did not address a number of issues pertinent to researching legal ethics. Sometimes this was simply due to lack of space, such as the issue of

multijurisdictional practice (MJP), an issue worthy of its own article, and sometimes the omission was more intentional. For instance, most law students feel relatively comfortable with researching case law, and therefore I did not address the methods and resources for locating cases that discuss or interpret ethical rules. In those instances where there are omissions or I have provided incomplete information, I strongly recommend students consult Lee Peoples, *Legal Ethics: A Legal Research Guide* (2006). This concise yet highly informative guide provides a very accessible overview of the world of researching legal ethics.

The purpose of this piece has been to sensitize students to the various resources that might assist them in this area of research. The topic of legal ethics will inevitably follow students during their time in law school, the taking of the bar exam, and throughout their legal career. Given this inevitability, it is essential that students learn early on how to effectively and efficiently use the literature and resources that accompany legal ethics.

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¹⁰ Legal Ethics Forum, <www.legalethicsforum.com/>.

¹¹ Marian Gould Gallagher Law Library, University of Washington School of Law, SmartCILP, <lib.law.washington.edu/cilp/scilp.html>.

¹² Social Science Research Network, Legal Scholarship Network, <www.ssrn.com/lsn/>.

¹³ Berkeley Electronic Press, <www.bepress.com/>.

Creating Online Tutorials: Five Lessons Learned

Technology for Teaching ... is a periodic feature of Perspectives, designed to introduce and describe the ways in which teachers of legal research and writing are using technology to enhance their teaching. Through Volume 9, this column was edited by Christopher Simoni, Associate Dean for Library and Information Services and Professor of Law, Northwestern University School of Law. Readers are invited to submit their own "technological solutions" to Mary A. Hotchkiss, Perspectives Editor, University of Washington School of Law, William H. Gates Hall, Box 353020, Seattle, WA 98195-3020, phone: (206) 616-9333; e-mail: hotchma@u.washington.edu.

By Lauren M. Collins

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In the fall of 2005, two librarians, a legal research and writing program director, and an instructional technologist at Wayne State University received a grant to create online tutorials introducing novices to the basics of legal research. Tutorials were planned on subjects that the library and the legal research and writing program had traditionally covered jointly via library workshops, coordinated with classroom instruction for first-year law students. Since the mission of the law library is to support campus-wide activity and to assist members of the general public with legal research needs, the content of the tutorials was designed to serve multiple audiences. With a year to finish the tutorials in time for the next incoming class, the group began work toward the completion of seven tutorials on a shoestring budget of \$4,000.

Since the completion of the tutorials, librarians have asked us directly or made general calls for information looking for ideas about tools, costs, and the process of beginning similar projects. Our response to this question has not been to chronicle our journey but, rather, to share a few lessons we learned from the process. There are two reasons for this: (1) we believe there are many ways to accomplish what we did, and (2) we experienced

some bumps in the road we would just as soon see others avoid. There were five main lessons we took away from the process.

Lesson One: More Constituencies Than You Might Imagine Will Be Interested in Your Project—Find and Tap Them

The librarians at the Arthur Neef Law Library at Wayne State University (WSU) provide hands-on legal research workshops to introduce students to basic legal resources over a two-month period at the start of first-year classes. The topics covered follow the schedule of the WSU Legal Research and Writing Program. At the time the tutorial project was conceived, only two law librarians conducted workshops, sharing more than 80 20- to 30-minute instruction sessions between us. We made time for these sessions in addition to our other duties as librarians. Clearly, the idea of supplementary tutorials was a no-brainer for us. In addition, we felt sure we would find support with the legal research and writing instructors who wrestled with enforcement of participation in library workshops and regularly fielded questions from students complaining about the added time commitment workshops required.

To our surprise, others were also interested in the work we planned. First, faculty in other disciplines who had not been willing to give up class time but still required students to use basic legal resources to complete work on policy issues in their areas of study would gladly support our project. In addition, funding was available from the WSU Library System for the creation of model uses of technology that could cross disciplines. Finally, our library administration and other campus librarians whose disciplines crossed campuses were interested in learning new methods to provide instruction online. Support from other disciplines overcame the common perception that those in professional schools often come up against—that we expect

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“Because this project was a marriage of dissimilar components, no single participant had the experience or expertise to answer every question it raised.”

and/or receive preferential treatment. Our project would not only serve as a model for use in other disciplines, but professors teaching hundreds of students across campus were committed to recommending or requiring their students to use our tutorials. By demonstrating such a large audience for the tutorials that crossed the entire campus, we showed the grant committee that its funding would have a significant impact that exceeded the walls of the law school.

Lesson Two: People Who Are Disinterested at First Will Join the Cause if They Understand the Plan

One of our most useful ideas came from a librarian who initially had no interest in the project. Because his position did not include participation in library workshop instruction and our work began with content creation, he did not join our initial meetings. However, as we began to work on the video component of the tutorials, which showed the location of the resources in the library and our use of the materials being introduced, his interest was piqued. This was just about the time we realized there was not a Steven Spielberg among us as our video recording sessions became long and laborious and much of our resulting footage was useless. Having heard our complaints from the sidelines, the nonparticipating librarian suggested using a succession of still photographs in lieu of video, saving us the considerable time and effort of becoming efficient videographers.

When asked why he had not stepped in sooner, it became clear that our group had failed to share our plan and our awareness of its limitations clearly. Because we did not understand the technology available, some of our ideas were uninformed and unsuccessful. Since our goals were not clear, people with useful skills and expertise were not yet interested enough in our project to provide their full support. Once we were able to better communicate our goals, we were able to attract the interest of those with the proper mix of skills to successfully complete the project.

Lesson Three: Bring Everyone to the Table at the Start of the Project

Because this project was a marriage of dissimilar components, no single participant had the experience or expertise to answer every question it raised. By including librarians, instructors, and an instructional technologist in our initial working group, we thought we had covered all of the necessary bases. Though our group represented a good start, it did not include all of the necessary players. Having an instructional technologist in the group covered design but not necessarily product functionality. When the finished product was not compatible with Mozilla Firefox, it was the library system's webmaster who had to fix the accessibility problems. Had he been involved in the project from its inception, our technologist's choice of software might have differed and late efforts to make the tutorials Web-ready may not have delayed the launch of the project.

In addition, though we had the support of library system administration¹, their support did not necessarily mean our project was a priority. We were a small fish in a big pond. At the time we realized the tutorials could not function on various Internet platforms, the library system was migrating the law library Web page to a new, system-wide format, several digital projects were in process, and our comparatively small project was not at the top of anyone's to-do list but our own. Though our webmaster's dedication eventually got our tutorials up and running,² our initial launch was only available on computers in the law library's computer lab, which meant they were only accessible to law students. Though this was our primary audience, much of the appeal of our funding application was the number of students the tutorials promised to reach across campus. Nearly six months passed

¹ The law library at WSU is governed under the general university library system. Many departments, like Library Computing and Media Services, are centralized and directly governed by library administration. Thus, the law library does not provide its own Web services.

² The webmaster re-recorded the tutorials using independent software that published into multiple formats that were not limited to play on Microsoft platforms.

before Web access was available and the tutorials became accessible campus-wide.

Lesson Four: Do the Easy Part First

One thing that we did right in planning this project was starting the actual work with what we knew as librarians. Developing the content seemed a natural starting place as it allowed us to begin within our comfort zones and ease into the more technical work.

One side effect of starting with the content was the comfort and commitment it developed among the team of librarians. By the time the content development began, a new law librarian had been added to our staff. The three librarians began regular meetings to determine our focus and develop scenarios for the tutorials to follow. Though we would later divide the seven topics among us and one of the students we hired, for continuity's sake, we determined the direction and focus of each tutorial together.

We all agree those were the best meetings of our careers. Because we were aware of each others' commitments, meetings were planned for the convenience of all and started on time and ended on time. Each meeting was both productive *and* enjoyable. Our tutorial-planning group shares memories of creating stories about TV characters in high-speed car chases and fictionalized athletes engaged in drug smuggling. When the work got technical and difficult, students did not show up for shifts, and deadlines were in jeopardy of being missed, we all stayed on board not simply because of our commitments as professionals to a worthwhile project but also because of the relationships that emerged as we developed the content of the tutorials.

Lesson Five: Be Prepared for Change

Some changes are welcome—discovering the ease of working with still photographs over video, finding people with useful skills who are more interested in your project than you expected, figuring out how to get the best out of a student with potential—but some added obstacles to an already challenging project. The week after we

completed the photos of the *Federal Practice Digest*[®] to be used in the tutorial entitled “Finding Federal Case Law,” a new, full set of volumes arrived. An urgent message from the law library director alerted us to this wrinkle. New photos and page references were immediately required. There was newly reported case law related to our topic. Our experience with the video, however, had taught us a lot about responding well to change. With a new run-through of the research, a rush processing job, and a Saturday morning photo session, “Finding Federal Case Law” became a reality with minimal stress and panic.

Conclusion

By the end of our project, we had completed seven tutorials:

- Finding Federal Case Law
- Finding Michigan Law
- Finding Online Resources
- Finding Federal Statutes
- Updating Legal Information
- Using Secondary Resources
- Free Online Legal Resources

Each guide to using a print resource provides moving photos of the library showing the location of the resources and our progress as we complete research using each resource to demonstrate its structure. At the same time, the user views slides with teaching points and listens to voice-over explanations of the process. Tutorials introducing online resources show the actual use of the resource and also include voice-over instructions. The tutorials reach users through two senses and address several learning styles. The user can advance or rewind the tutorials and learn the research lessons taught at his or her own pace. In completing the tutorials we used Camtasia, Microsoft Producer, Microsoft PowerPoint, a digital camera, an audio recorder, 200 hours of paid student time, and countless hours of time from library and instruction professionals.

“Developing the content seemed a natural starting place as it allowed us to begin within our comfort zones and ease into the more technical work.”

“Though access limitations affected the number of survey results, the responses we did receive were enthusiastic, and anecdotal student reviews have been overwhelmingly positive.”

Student surveys have shown that our first year of providing the tutorials was moderately successful. Our student response and survey data is limited as a result of the delay in making the tutorials available via the Web. Though access limitations affected the number of survey results, the responses we did receive were enthusiastic, and anecdotal student reviews have been overwhelmingly positive. Despite the obstacles, the project has been, unquestionably, worthwhile. Had we been aware of some of the challenges that could occur at the planning stage, we might have saved considerable time and avoided some of the frustration. Hopefully our story will encourage you to consider similar projects of your own and help you eliminate some of the potential kinks as you complete them.

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Another Perspective

“[L]egal research is a skill, and like other skills components of law school curricula, including trial advocacy, negotiations, and brief writing, it requires considerable resources to be taught well. Skills training requires on-going development of detailed problems, a high faculty-student ratio, and substantial clerical and administrative support, as well as funding for new staff or the time and attention of existing faculty—all of which translates into a very resource-intensive curriculum. By that measure, perhaps it is not alarming when we hear the often-repeated tales of the graduate from a top tier law school who objected to his own motion in court; the associate who rang up several hundred dollars in Westlaw charges to read a single newspaper article; or associates who think the Federal Reporter 2d only contains cases from the Second Circuit. In traditional legal pedagogy, law firms have largely been left to resolve these problems, not the academic community.”

—Matthew C. Cordon, *Beyond Mere Competency: Advanced Legal Research in a Practice-Oriented Curriculum*, 55 *Baylor L. Rev.* 1, 11–12 (2003).

Finding Foreign Law: It's Not Just for the Experts

By **Teresa C. Stanton**

Teresa C. Stanton is a Reference Librarian for Foreign and Comparative Law at the University of California, Berkeley, Law Library.

As the forces of globalization reshape the world, finding the law of jurisdictions other than our own has grown in importance. Legal issues that once were exclusively in the domain of state or federal United States law may now involve transnational law questions in subjects as diverse as family law, criminal law, or business and trade. Foreign law has been used as precedent in U.S. courts¹ and a growing number of law schools integrate the teaching of international and transnational law into the traditional first-year courses.

Finding primary sources of foreign law is much easier today than it was five or 10 years ago, as many governments and international organizations post materials on the Web. However, contrary to popular belief, not everything is on the Internet. Even official materials posted by governmental agencies may not be complete or up-to-date. And then there is the language problem. But do not be discouraged; it is possible to find foreign law.

One of the biggest problems in researching foreign law is the same as when researching domestic law: knowing what to look for. If seeking a fairly recent legislative act or presidential decree with a citation of some sort, a brief search of the Web may produce the document in full text. More often the task is to find what law governs a specific situation or transaction in a given jurisdiction. First, it is important to take the time to carefully define the legal issue being investigated. A focused search has a much greater chance of producing relevant results.

Second, it is important to ascertain what the sources of law are in the jurisdiction under consideration. The classic example is recognizing that while case law is a source of primary law in common law systems, it is a secondary law source in civil law systems. Third, it helps to know the legal terminology that is used in that jurisdiction. Never underestimate the importance of legal dictionaries, bilingual or polyglot dictionaries such as Maria Chaves de Mello's *Dicionário Jurídico Português- Inglês, Inglês-Português* (2002), or legal dictionaries in the vernacular of the foreign country, such as Alfred Romain's *Wörterbuch der Rechts- und Wirtschaftssprache* (2002). And consider that although the United States, the United Kingdom, and Australia are English-speaking, common law jurisdictions, the spelling, the use, and the meaning of legal terminology can vary. A few hours of fruitless research may well be avoided by five minutes spent consulting a legal dictionary. Fourth, seek professional help. Two well-known, professional foreign and international law librarians have written guides on how to conduct foreign legal research. Mary Rumsey's Web-based article is *Basic Guide to Researching Foreign Law*,² and Marci Hoffman's University of California–Berkeley course materials on foreign and comparative legal research are publicly available on the Web.³

For a crash course on a foreign legal system, look for a country-specific legal research guide from a credible source. The availability of such guides has increased tremendously in the last few years and many are freely available on the Internet. Research guides created by law librarians, law professors, and lawyers can be found on LLRX.com,⁴ on academic

“One of the biggest problems in researching foreign law is the same as when researching domestic law: knowing what to look for.”

¹ See Austen L. Parrish, *Storm in a Teacup: The U.S. Supreme Court's Use of Foreign Law*, 2007 U. Ill. L. Rev. 637; Eric Engle, *European Law in American Courts: Foreign Law As Evidence of Domestic Law*, 33 Ohio N.U. L. Rev 99 (2007).

² <www.nyulawglobal.org/globalex/Foreign_Law_Research1.htm>.

³ <www.law.berkeley.edu/library/classes/iflr/foreignlaw.html>.

⁴ <www.llrx.com/category/857>.

“If language is a problem or if full text is not available, it is possible that there will be an English summary of the law in question.”

law library Web pages,⁵ and on law firm Web pages.⁶ Legal research guides are also published in legal journals⁷ and in treatises such as Danner’s *Introduction to Foreign Legal Systems* (1994) and the looseleaf publication *Germain’s Transnational Law Research* (1991–). The leading multivolume looseleaf set with a fairly detailed overview of each country’s legal system and legal history is Reynolds and Flores’ *Foreign Law: Current Sources of Codes and Basic Legislation in Jurisdictions of the World* (1989–). The electronic version of this set is the subscription database Foreign Law Guide.⁸

Research guides are time-saving devices because they identify the sources of law for each jurisdiction (are contracts covered in the civil code?) and name the publications where these sources can be found (Peruvian legislation gets printed in the official gazette *El Peruano*.) Most research guides written for English speakers will also detail what materials are available in English. While a growing number of statutory materials and individual case reports are being translated,⁹ the majority of primary law from foreign jurisdictions is not.¹⁰

If language is a problem or if full text is not available, it is possible that there will be an English summary of the law in question. Summaries may be found in looseleaf publications such as *Modern Legal Systems Cyclopaedia, Digest of Commercial*

Laws of the World, Foreign Commerce and the Antitrust Laws, Company Law in Europe, Tax Laws of the World, and the hardcover *Martindale-Hubbell International Law Digest*. The multivolume looseleaf series *International Encyclopaedia of Laws* provides important background information and covers various subjects, from family law to intellectual property to civil procedure. Take, for example, the article on Morocco in the civil procedure series. It is more than 300 pages long and gives detailed information on the political and judicial systems, administration of the courts, and organization of the bar in addition to detailed commentary on issues of civil procedure. The Global Legal Information Network (GLIN)¹¹ is a public database with official texts of laws, regulations, and judicial decisions submitted by government agencies and some international organizations. The documents are in the official language of the contributing party but English summaries of each document are included. Access to some of the full text may be restricted to GLIN members but the summaries are freely available.

Westlaw® and LexisNexis® have relatively few comprehensive primary law databases but do offer many secondary source materials, such as legal newspapers, journal articles, and the occasional treatise. Not surprisingly, coverage of English-speaking, common law countries and the European Union is greater than other jurisdictions. LexisNexis offers more primary law materials than Westlaw but content is always changing so it is worth checking to see what is available. When using legislative materials and case reports on either service, be sure to check the database description to see how often it is updated and what it actually covers.

There are many resources for finding foreign law on the Web. Silke Sahl’s *Finding Foreign Law Resources on the Internet*¹² and Charlotte Bynum’s *Foreign Law: Subject Law Collections on the Web*¹³ are good

⁵ See, for example, GlobaLex, on the Hauser Global Law School Program, New York University Law School page, <www.nyulawglobal.org/globalex/index.html>; Cornell’s Legal Information Institute guides, <www.law.cornell.edu/world>; the University of California–Berkeley Law Library, <www.law.berkeley.edu/library/online/foreign/general.html>; and Chicago’s D’Angelo Law Library guides, <www.lib.uchicago.edu/e/law/intl/foreign.html>.

⁶ See, for example, The Virtual Chase, sponsored by the law firm of Ballard, Spahr, Andrews & Ingersoll, LLP, and posted at <www.virtualchase.com/topics/foreign.shtml>.

⁷ See, for example, *Legal System of Brazil*, 40 St. Louis U. L.J. 1337 (1996).

⁸ <www.foreignlawguide.com>.

⁹ See, for example, *Civil Code of the Russian Federation*, translated from Russian with an introduction by William E. Butler (2002).

¹⁰ It is important to remember that law that has been translated into English is not “the law.” It is merely the translation of the law.

¹¹ <www.glin.gov/search.action>.

¹² <www.law.columbia.edu/library/Research_Guides/foreign_law/forlawresources>.

¹³ <www.nyulawglobal.org/globalex/Foreign_Collections.htm>.

places to start. Other Web resources with links to collections of foreign law include the Law Library of Congress' Nations of the World¹⁴ and Washburn University School of Law's WashLaw: Legal Research on the Web, with a page devoted to foreign and international resources.¹⁵ Some international organization Web sites also have subject-specific legislation. For example, the International Labour Organization has NATLEX,¹⁶ a database with abstracts of, and some links to, the text of national laws on labor and related human rights issues. Similarly, the World Intellectual Property Organization's Web site hosts CLEA, Collection of Laws for Electronic Access,¹⁷ which has national intellectual property legislation from various countries as well as intellectual property treaties.

A growing number of Web sites are being created by and for legal researchers with the express aim of making legal information freely available. Global Courts¹⁸ is a gateway to supreme court decisions from around the world as well as to information about the courts, electronic filing, and electronic courtrooms. The World Legal Information Institute (WorldLII)¹⁹ is practically a one-stop-shopping site. It has links to material from more than 860 databases from 123 countries and is adding new content on a regular basis. The Web site offers access to constitutions, legislation, case law, treaties, international organizations, and electronic journals and can be searched by topic, country, region, or language. However, like everything on the Web, it is limited to what is available electronically.

Print materials and the Web are usually the best tools when looking for foreign law. Thanks to the Internet, foreign legal research is not just for experts anymore. Of course, sometimes it helps to know one. When all else fails, ask a law librarian for help.

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“The World Legal Information Institute (WorldLII) is practically a one-stop-shopping site.”

Another Perspective

“Legal research should pervade the law school curriculum in much the same ways as do legal analysis, legal writing, oral advocacy, and professional responsibility. It cannot be taught only as a discrete unit early in a student's law school career and then be allowed to atrophy until it is needed again in practice. Nor can an advanced legal research elective be considered the cure-all. Many important electives compete for a student's needs and interests. Fill-in-the-gap 'advanced topics in research' sessions, remedial 'refreshers,' and summer associate training programs, while helpful, also serve to illustrate preexisting deficiencies.”

—Donald J. Dunn, *Why Legal Research Skills Declined, or When Two Rights Make a Wrong*, 85 *Law Libr. J.* 49, 62–63 (1993).

¹⁴ <www.loc.gov/law/guide/nations.html>.

¹⁵ <www.washlaw.edu/forint/forintmain.html>.

¹⁶ <www.ilo.org/dyn/natlex/natlex_browse.home>.

¹⁷ <www.wipo.int/clea/en/index.jsp>.

¹⁸ <www.globalcourts.com/index.html>.

¹⁹ <www.worldlii.org/>.

Bluebook Madness: How to Have Fun Teaching Citation

By Marci L. Smith and Naomi Harlin Goodno

Marci L. Smith taught Legal Research and Writing at Pepperdine University School of Law in Malibu, Cal., for four years. This year she will clerk for the Honorable Thomas G. Nelson of the U.S. Court of Appeals for the Ninth Circuit. Naomi Harlin Goodno is an Assistant Law Professor at Pepperdine University School of Law. During her sabbatical this academic year, she will clerk for the Honorable Arthur Alarcon of the U.S. Court of Appeals for the Ninth Circuit.

We look around the large, windowless lecture hall. More than 250 first-year law students are intently focused on *The Bluebook*, driven to read citation rules, and seemingly enjoying it. A dream? It seemed like one, but this actually happened at Pepperdine's first annual citation competition. And even though attendance at the competition was voluntary, the room was packed and the atmosphere was pitched. The students all wanted their section to win. Many even brought signs suitable for getting on television at a sporting event. (Two examples: *Cite This!* and *Go Section B!*) In other words, our students were actually having fun learning citation.

How did we pull off this Herculean feat? And, more importantly, can you do it? Absolutely. In fact, it's easy. All you need are basic PowerPoint skills, a few campy prizes, and a citation manual. We'll provide the nuts and bolts for creating a successful citation competition, but first, let us tell you why we held the competition.

During the fall semester, as we prepared for a *Bluebook* lecture, even we were bored to tears. (Of course that should have been our first clue that the class might be less than inspiring.¹) So we did what

¹ See James B. Levy, *The Cobbler Wears No Shoes: A Lesson for Research Instruction*, 51 J. Legal Educ. 39, 40 (2001) (discussing "the direct link between a teacher's passion for the subject matter and the student's ability to learn it").

all good professors do—we procrastinated. We did, however, manage at least one productive activity during this rather prolonged bout of procrastination: We read the Spring 2003 issue of *Perspectives* and happened upon Sheila Simon's article, *Top 10 Ways to Use Humor in Teaching Legal Writing*.² And there it was—tip no. 8: Who Wants to Be a Citationaire? We related completely to the opening lines of this tip: "What's more exciting than learning the citation manual? Just about anything." Simon then went on to explain that she spiced up her *Bluebook* lectures with game shows, complete with tacky prizes. We may not like *The Bluebook*, but we love game shows, so we clamped onto this idea immediately.

A. The Nuts and Bolts of a Citation Competition

But how exactly would this game show play out? After brainstorming and conferring with a few friends,³ we settled on the format described below, which worked beautifully for a classroom presentation and was then easily developed into the first annual *Bluebook* game show for the entire class. The fourth annual competition this year was just as fun as the first.

For the classroom presentation, the students were first shown the following slides, which explain the rules and rewards of the game:

² Sheila Simon, *Top 10 Ways to Use Humor in Teaching Legal Writing*, 11 *Perspectives: Teaching Legal Res. & Writing* 125 (2003).

³ Our colleague Selina Farrell, who formerly taught legal research and writing at Whittier Law School and will be teaching at Pepperdine University School of Law beginning in the fall of 2007, created many of these specific rules and allowed us to use them in our competition.

"We look around the large, windowless lecture hall. More than 250 first-year law students are intently focused on *The Bluebook*, driven to read citation rules, and seemingly enjoying it."

The Rules

- You will be given a set amount of time to identify *Bluebook* errors in a citation.
- The official timekeeper will determine the expiration of the time period. No appeals!
- The professor will have the discretion to change the time period during the game.

More Rules

- If you don't know the answer, you may use a lifeline, though you are limited to two lifelines during your turn.
- If you decide to use a lifeline, the clock stops.
- If any student identifies an error in the answer slide, that student earns a rubber duck.

Prizes!

3 correct answers = Soda

5 correct answers = Soda + Candy Bar

10 correct answers = Rubber Duck!

- Less than 3 correct answers: no prize
- You may continue after earning a prize, but any incorrect answer means that you forfeit all prizes earned.

After explaining these rules, we selected one student to act as timekeeper. And we were off.

We selected our first contestant from among the more eager students in the audience. As for the questions themselves, the student was shown a citation containing one or more errors. The student then had a set amount of time to identify the errors and provide the correct citation. For example, here's our first set of slides:

Smith v. The United States of America

25 seconds

Smith v. United States

- *Rule 10.2.1(d) – Omit “The”*
- *Rule 10.2.2 – Do not abbreviate “United States”*
- *Rule 10.2.1(f) – Omit “of America”*

At this point in the semester, the students were just learning the correct *Bluebook* form for citing case names. As the semester went on, and we hosted additional rounds of our now highly anticipated game show, the questions covered the full gamut of citation form.

The game show format worked beautifully. The students who actually played the game had a great time and were delighted to win small prizes. The students who preferred to pose as audience members were fully engaged because they wanted to help out by being a lifeline for those who were competing. We sat back in disbelief as we watched the students searching through *The Bluebook* to find out exactly where it says that you should not abbreviate “United States” or that you must omit “The.” If we had simply asked either of those questions in a noncompetitive format, perhaps 50 per cent of the class would have tuned out and waited for more ambitious students to find the answer. The class even went 10 minutes over, with students happily tracking down *Bluebook* rules the entire time. We often paused on the answer slide to discuss the rules applicable to that question, as well as related rules.

After class, several students said how much they loved (yes, they really did use the word “love”) the citationaire game. Throughout the semester, they

“We sat back in disbelief as we watched the students searching through *The Bluebook* to find out exactly where it says that you should not abbreviate ‘United States.’ ... ”

“Given all this classroom excitement about the game show, we decided to have an intra-sectional competition among the entire first-year class.”

kept asking for more. (Again, this is no exaggeration.) Unbelievably, quite a few students even went so far as to praise the game in classroom evaluations, including our personal favorite: “I ♥ *Who Wants to Be a Citationaire*.”

Given all this classroom excitement about the game show, we decided to have an intra-sectional competition among the entire first-year class. That turned out to be even more successful than the classroom games, despite the fact that the intra-sectional competition was voluntary, both in terms of taking the qualifying test and attending the actual competition. Here is how we made the larger competition a success.

Like many schools, our first-year students are divided into three separate sections—A, B, and C. During the fall semester, after the students had completed several rounds of *Interactive Citation Workbook*⁴ exercises and after they had received some citation instruction during class, we administered a 10-minute, multiple-choice citation test. The top four students from each section were crowned Section Citation Wizards and they advanced—as a team—to the final competition, which was held several weeks later, during the spring semester. Importantly, this intra-sectional competition was held one or two days before a citation exam, which accounted for 10 percent of the student’s final grade in the class. So the final competition served as a fantastic review session.

The format of the intra-sectional competition was similar to the in-class citationaire game described above. The only difference was that teams competed against each other rather than individual contestants. We asked one of the law school deans to serve as the host of the game show. In addition, we conducted the competition in rounds. During round one, each team (A, B, and C) fielded a question and had the opportunity to score one point. During round two, each team had the opportunity to score two points, and so on. We tried to ensure that all three questions in any round

⁴ See Tracy L. McGaugh et al., *Interactive Citation Workbook for The Bluebook: A Uniform System of Citation* (2006).

were roughly at the same difficulty level. In addition, during each successive round, the questions increased in difficulty. We also had a judge resolve any disputes about the answers—and trust us, there will be disputes. We used the editor in chief of our law review, who also happened to be a legal research and writing (LRW) teaching assistant. You could use any citation expert, but we advise against using the LRW professors. (That would be sort of like having the coaches at a basketball game decide the close calls.)

B. The Benefits of Using a Citation Competition

As described, the citation competition was a terrific success. Not only was it fun and easy to put together, it also significantly enhanced the students’ learning experience. Indeed, there are at least four pedagogical benefits to using a citation competition.

1. The Students Mastered Citation Form

First, and most importantly, the students mastered the material. The students’ citation form in the final appellate briefs that year was noticeably better than that in previous years’ briefs.

2. The Students Were More Motivated to Learn Citation

Second, the students were more motivated to learn the material.⁵ Of course, Pepperdine students always have some motivation to learn correct citation form—we have a citation test every year and, in each written assignment, correct citation form improves the score on that assignment. In addition, we always tell students how important citation is in the “real world” and we throw in a few war stories for good measure. But even if citation counts for as much as, say, 15 percent of the students’ LRW grade, and the students really believe your war stories, how

⁵ James B. Levy, *Legal Research and Writing Pedagogy—What Every New Teacher Needs to Know*, 8 Perspectives: Teaching Legal Res. & Writing 103, 106 (2000) (“Educational theorists agree that effective learning cannot take place unless students are motivated to learn the subject matter. That motivation can arise either because the material is inherently interesting to students or because it relates to educational or professional goals they want to achieve.”) (internal footnote and citations omitted).

motivated are they to learn correct citation form during their first year of law school?

In our experience, during the first year, many students are preoccupied with doing well on their exams, which is understandable because those scores will significantly impact their legal careers. Mastering *The Bluebook* pales in comparison to getting a good cumulative GPA. And many students will do a cost-benefit analysis: How much time and effort should I put into citation, which counts for around 10 or 15 percent of my two-credit LRW course? Moreover, students often perceive the subject matter as tedious and boring, and the reward for mastering the material as miniscule and remote. Offering an immediate reward⁶—even a small one, such as a candy bar, a soda, or a rubber duck, or a purely psychological one, such as the glory of being crowned Section Citation Wizard⁷—motivated the students to learn the material.

3. Classroom Time Was Fun and Engaging

A third benefit of the game show format is that class time spent on *The Bluebook* was fun and seemed to engage all students in the room. In theory, the Socratic method will engage only the student who is actually on the spot. The remaining students are mere passive learners.⁸ Theoretically, that should be true of the citationaire game—only the student who is in the hot seat is engaged in active learning. But as we watched the game play out in class, we noticed that the entire classroom was actively searching their *Bluebook* for the answers. Perhaps the students wanted to be a

lifeline, or maybe they were simply anxious to test their knowledge of *The Bluebook*. Each question had immediate relevance; we had told the students that any one of these questions could be similar to an exam question they would face, so this gave them the chance to practice. Further, within 20 to 30 seconds of posing a question, the students would receive an answer. This type of immediate feedback helps students master the material.⁹

4. The Students Worked Together

A fourth benefit was that the competition brought the entire class together. The students in each section worked together and were focused on intra-sectional competition rather than competing with each other. Working together toward a common goal—or, cooperative learning—is one of the most effective ways for adults to learn.¹⁰ We saw many of the benefits of cooperative learning, such as higher achievement, increased social support, and an improved attitude toward the subject matter.¹¹

5. We Became Better Teachers

A final benefit of the competition is that you may actually find yourself with a new, improved attitude toward teaching citation. In fact, you might even become downright enthusiastic about the subject. Inevitably, this will make you a better teacher.¹² And everyone benefits when that happens.

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“We saw many of the benefits of cooperative learning, such as higher achievement, increased social support, and an improved attitude toward the subject matter.”

⁶ See, e.g., Tracy L. McGaugh, *Generation X in Law School: The Dying of the Light or the Dawn of a New Day?*, 9 *Legal Writing* 119, 134–38 (2003) (explaining that today’s law students need “multiple and varied stimuli so they can fully engage”).

⁷ See Levy, *supra* note 1, at 49 (“Commentators have noted the positive effect gaming can have on student motivation.”) (citing Joseph D. Harbaugh, *Simulation and Gaming: A Teaching/Learning Strategy for Clinical Legal Education* (Report of the AALS-ABA Committee on Guidelines for Clinical Legal Education) 191, 192 (1980)).

⁸ See Vernellia R. Randall, *Increasing Retention and Improving Performance: Practical Advice on Using Cooperative Learning in Law Schools*, 16 *T.M. Cooley L. Rev.* 201, 206 (1999) (“[E]ven the best of socratic questioners can only actively and effectively engage four to eight students per fifty minutes”) (citations omitted).

⁹ See Elizabeth A. Reilly, *Deposing the “Tyranny of Extroverts”*: *Collaborative Learning in the Traditional Classroom Format*, 50 *J. Legal Educ.* 593, 601–02 (2000) (noting that students learn better “when they receive immediate feedback on their level of performance.”) (citing David W. Johnson & Roger T. Johnson, *Learning Together and Alone: Cooperative, Competitive and Individualistic Learning* 57–58 (4th ed. 1994)).

¹⁰ See, e.g., Levy, *supra* note 1, at 41; Reilly, *supra* note 9, at 601–02 (defining cooperative learning, collaborative learning, and competitive learning; noting the benefits of cooperative and collaborative learning) (citations omitted).

¹¹ See Randall, *supra* note 8, at 218–22 (listing the benefits of cooperative learning as (1) producing higher achievement; (2) reducing student attrition; (3) increasing critical thinking competencies; (4) increasing social support; (5) improving attitudes toward the subject matter; (6) leading to healthier psychosocial adjustment; and (7) increasing respect for diversity).

¹² See, e.g., Levy, *supra* note 1, at 41.

“Standards of punctuation have become a popular subject, in part because punctuation is a fluid, complex matter that is profoundly important to written texts.”

Matters of Punctuation: Open or Close

By **Martha Faulk**

Martha Faulk is a former practicing attorney and English instructor who teaches legal writing seminars through The Professional Education Group, Inc. She is co-author with Irving Mehler of The Elements of Legal Writing (1994). She is a regular contributor to the Writing Tips column in Perspectives.

Poor punctuation did not prevent Alon Mizrahi from being refused entry into the United States. It did, however, prompt the U.S. Court of Appeals for the Second Circuit to chide Congress for incompetent drafting of a federal statute relating to drug crimes.¹ Mizrahi pled guilty to solicitation of the sale of controlled substances and received a sentence of probation. He left the United States to visit Israel, and, when he returned to this country, he was denied admittance because he had been convicted of a crime related to trafficking in controlled substances.

Interpreting the Statute

In his case challenging the decision, Mizrahi argued that the federal statute specifically mentioned two inchoate crimes associated with drug-related offenses. The law applied to any person who “has been convicted of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance.”² Mizrahi’s theory was that the “disjunctive parenthetical” identified conspiracy and attempt as crimes falling within the statute, but because solicitation did not appear in the enumeration, it was excluded from the prohibited conduct.

The Second Circuit rejected the argument, but in doing so, the court’s opinion made crucial

observations about legal writing. Citing an earlier precedent, the court said: “In the provision at issue in *Bronsztejn*, the disjunctive reference to ‘conspiracy’ was set off by commas. This court has previously recognized that such punctuation may indicate that a disjunctive phrase was not intended to have a distinct meaning from, but rather to illustrate or stand in apposition to, preceding language.”³ In other words, had Congress written “a violation of, or a conspiracy, or attempt, to violate . . . ,” the meaning would have been clear. The original text, unfortunately, allowed for alternative meanings, including the interpretation that only conspiracy and attempt supported inadmissibility.

Congress Could Have Been Clearer

Using other aids to construction, the court held that Mizrahi’s argument was not persuasive and that Congress did not intend to exclude solicitation from inchoate offenses. But, the court added, “That being said, Congress certainly could have used clearer language and punctuation in § 1182(a)(2)(A)(i)(II) if its intent was to use the disjunctive form merely to illustrate the broad scope of the phrase ‘a violation . . . of any law . . . relating to a controlled substance.’”⁴ Even though it was able to reach the appropriate result, the court made clear that more attention to the proper use of language through correct punctuation would have eliminated the expenditure of costly judicial resources in dealing with this issue. Defining correct punctuation, however, is not a simple task.

Standards of Punctuation

Standards of punctuation have become a popular subject, in part because punctuation is a fluid, complex matter that is profoundly important to

¹ Mizrahi v. Gonzales, 492 F.3d 156 (2d Cir. 2007).

² *Id.* at 160.

³ *Id.* at 165.

⁴ *Id.* at 166.

written texts. In 2003, Lynne Truss published her best-selling book, *Eats, Shoots & Leaves: The Zero Tolerance Approach to Punctuation*. Truss' thesis is that, at least in the United Kingdom, "standards of punctuation are abysmal."⁵ David Crystal, world authority on language and author of *The Cambridge Encyclopedia of the English Language*, comments that he "agree[s] totally with her underlying message, which is to bring the study of punctuation back into the centre of the educational stage." But he disagrees strongly with the "zero tolerance" approach because it "does not allow for flexibility." He observes further "that no rule of punctuation is followed by all of the people all of the time."⁶ That, precisely, is the problem with punctuation, and the nature of the problem can only be understood in a historical context.

Origins of Punctuation

Early classical texts were unpunctuated, lacking even spaces between words. The first punctuation marks were added as guidelines for orators "when reading aloud was a prestigious and professional activity."⁷ The advent of printing in the 15th century gave impetus to the formation of standard language, spelling, and punctuation. But, observes Crystal, "punctuation never achieved the same degree of rule-governed consistency as appears in spelling."⁸ Yet, legal writers have a compelling need for consistency and certainty. Terri LeClercq, now retired from teaching legal writing at the University of Texas, notes that "[i]n the segment of society controlled by stare decisis and detail-oriented judges, legal writers necessarily lean toward a narrower, more traditional sense of punctuation because the consequences of a loose or sloppy construction are so grim."⁹

But, what exactly is "traditional" punctuation? Crystal observes that "[s]cribes and publishing houses have always varied in their practices, and even today punctuation remains to some extent a matter of personal preference." Of course there are many reference books detailing rules of grammar and punctuation, and most college courses and some law firms and other organizations require the use of a specific reference book for matters of grammar. Citation to authority in a legal context is made easier by the many examples provided in *The Bluebook*.¹⁰

Two Basic Styles

Another and perhaps more useful way to think about punctuation guidelines is to consider what Crystal identifies as "heavy versus light styles." The light style, in contrast to the heavy style, is "simpler, less cluttered." Crystal prefers the light style in letters and other informal documents and uses the heavy or formal style in books and other written texts.¹¹ These contrasting styles are also described as "close," or sometimes called "closed," and "open." Russell Baker, an essayist and Pulitzer Prize-winning journalist, writes in *How to Punctuate* that "[t]here are two basic systems of punctuation" which he describes in the following way:

1. The loose or open system, which tries to capture the way body language punctuates talk.
2. The tight, closed structural system, which hews closely to the sentence's grammatical structure.

He adds that "[m]ost writers use a little of both."¹²

Most legal writers probably use a little of both styles, too. E-mail messages, letters, newsletters, and magazine articles may seem more readable and less formal without many commas, unless those commas are essential to the reader's understanding. Formal legal documents such as briefs, contracts,

“The first punctuation marks were added as guidelines for orators ‘when reading aloud was a prestigious and professional activity.’”

⁵ Lynne Truss, *Eats, Shoots & Leaves* xx (2003).

⁶ David Crystal, *The Fight for English* 132, 133 (2006).

⁷ David Crystal, *The Cambridge Encyclopedia of the English Language* 278 (1995).

⁸ *Id.*

⁹ Terri LeClercq, *Expert Legal Writing* 149 (1995).

¹⁰ *The Bluebook: A Uniform System of Citation* (18th ed. 2005).

¹¹ Crystal, *supra* note 7, at 278.

¹² Baker's essay is widely reproduced. It is available online at <www.harmonize.com/Probe/aids/manual/punctuate.htm>.

“ Mizrahi’s argument about what Congress said and what its words meant forced the Second Circuit to engage in a sophisticated analysis of how language is understood. ”

appeals, and other agreements will be best served—and perhaps avoid litigation over ambiguity—by proper placement of punctuation. To illustrate, we can consider a particularly contentious rule regarding the placement of commas.

The Serial Comma

Perhaps there is no more disputed piece of punctuation than the serial comma. The rule advises writers to “[u]se commas to separate words, phrases, and clauses in a series.”¹³ It is a rule that is easily stated and of long usage, but modern trends have led to uncertainty about its correctness.

Legal writers may prefer to keep the serial comma before the conjunction *and* because they feel it is safer to do so, and because their readers expect to see the comma there. Keeping the comma before the conjunction is an example of *close* or *heavy* punctuation.

However, many writers, and some editors, routinely omit the comma before *and* in a series of words unless the omission would cause a misreading. The quoted sentence that follows illustrates *open* punctuation. “His practice was limited to wills, estates and taxation.” Although there is little chance of misreading this example, legal writers usually

conform to close punctuation and insert the comma before *and*.¹⁴ That practice eliminates the possible meaning that his practice is limited to the way governments extract revenue from inheritances depending on how a will is written.

The End of the Matter

Mizrahi’s argument about what Congress said and what its words meant forced the Second Circuit to engage in a sophisticated analysis of how language is understood. Without its elaborate apparatus of past precedent, contextual implication, and legislative purpose, the court could not reasonably have upheld Mizrahi’s denial of admittance. After all, Congress specified that the offense was a *violation of or a conspiracy or attempt to violate a drug law*. For the average reader unschooled in the complexities of legal reasoning, it makes little sense to add some other unmentioned element to this bare statement—the fact is that Mizrahi neither violated nor conspired to nor attempted to violate a drug law. Thanks to a skilled judicial interpreter, however, the intent of the statute was upheld.

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Another Perspective

“Take another look at the Fifth Amendment. Look carefully. If you read it with an eye toward punctuation, you will notice that the Amendment itself is one long and complex sentence; you will notice that it contains a number of restrictions on governmental power and that those restrictions seem to be independent and separated by three semicolons.”

—Michael Nardella, *Knowing When to Stop: Is the Punctuation of the Constitution Based on Sound or Sense?*, 59 Fla. L. Rev. 667, 668 (2007).

¹³ For a discussion, see Martha Faulk & Irving Mehler, *The Elements of Legal Writing* 69 (1994).

¹⁴ *Id.*

Legal Research and Writing Resources: Recent Publications

Compiled by Barbara A. Bintliff

Barbara A. Bintliff is the Nicolas Rosenbaum Professor of Law and Director of the William A. Wise Law Library at the University of Colorado Law School in Boulder. She is a member of the Perspectives Editorial Board. This bibliography includes references to books, articles, bibliographies, symposia, and research guides that could prove useful to instructors of legal research and legal writing and their students. Also included are citations to related resources that may be of interest to those who teach legal research and legal writing. It includes sources noted since the previous issue of Perspectives, but does not include articles in Perspectives itself.

Kenneth A. Adams & Alan S. Kaye, *Revisiting the Ambiguity of “and” and “or” in Legal Drafting*, 80 St. John’s L. Rev. 1167–1195 (2006).

“[E]xamines the ambiguity engendered by plural nouns, a topic that is closely related to the ambiguity of and and or. . . . [D]iscusses in turn the ambiguity engendered by and and by or and closes with a discussion of and/or and the ambiguity of and used in conjunction with or.” *Id.* at 1167. Numerous examples are included.

Zenon Bankowski & James MacLean, eds., *The Universal and the Particular in Legal Reasoning*, 2006 [Aldershot, Hampshire, England; Burlington, VT: Ashgate, 292 p.]

A tribute to Neil McCormack, a leading legal philosopher from Britain, whose earlier works on legal reasoning and legal theory are standards. Chapters are written by leading scholars.

William C. Burton, *Burton’s Legal Thesaurus*, 4th ed., 2007 [New York: McGraw-Hill, 1040 p.]

This new edition of a standard work adds more than 1,000 words and terms, including some nonlegal terms in common use by attorneys.

Kenneth D. Chestek, *MacCrate (In)action: The Case for Enhancing the Upper-Level Writing Requirement in Law Schools*, 78 U. Colo. L. Rev. 115–145 (2007).

“The article examines the 2001 amendment to the ABA Standards for Accreditation,

which required, for the first time, an ‘additional rigorous writing experience after the first year,’ to see if it had the intended impact. The research presented herein concludes that the amendment had little or no effect on how law schools educate law students in practice skills and suggests that the amendment constituted a missed opportunity to move schools toward a more practical approach to legal education.” *Id.* at 115.

Terrye Conroy, *The Voting Rights Act of 1965: A Selected Annotated Bibliography*, 98 Law Libr. J. 663–690 (2006).

A selective bibliography intended to introduce researchers to the issues involved in the debate of the reauthorization and future implementation of the Voting Rights Act of 1965.

Helene E. Davis, *Keeping Validity in Cite: Web Resources Cited in Select Washington Law Reviews, 2001–03*, 98 Law Libr. J. 639–661 (2006).

An analysis of three years of law review articles reveals high invalidity rates for URLs, raising concerns about the impermanence of Web resources.

Lee Epstein, Andrew D. Martin & Matthew M. Schneider, *On the Effective Communication of the Results of Empirical Studies, Part I*, 59 Vand. L. Rev. 1811–1871 (2006).

Examines the use and presentation of statistical information in legal writing. The authors conclude that a large percentage of legal empirical works would be improved, and the level of intellectual discourse raised, by a more understandable presentation of statistical information. Included as part of the 2006 *Vanderbilt Law Review Symposium: Empirical Legal Scholarship*, 59 Vand. L. Rev. 1811–2094 (2006).

Dorothy H. Evensen, *Group Learning Contexts and Processes Within Law Schools*, 2006 [Newtown, PA: Law School Admission Council, 104 p.] [LSAC Research Report 04-03] (available online at <members.lisacnet.org>).

Results of a three-year investigation into the operations and outcomes of study groups in law schools. The conclusion was that, while

only a small number of law students valued group study experiences, participation in study groups by first-year students correlated with higher academic performance.

Michael P. Forrest & Mike Martinez Jr., *Too Broke to Hire an Attorney? How to Conduct Basic Legal Research in a Law Library*, 9 *Scholar* 67–86 (2006).

“This article targets as its audience *pro se* patrons—individuals who cannot afford counsel and need to conduct their own legal research. The poor and disenfranchised have historically had difficulty getting equal access to justice. . . . A solution might be self-representation, which presents its own difficulties. In the latter role, the *pro se* litigant will likely need to access resources in a law library.” *Id.* at 67–68.

Ian Gallacher, *Cite Unseen: How Neutral Citation and America’s Law Schools Can Cure Our Strange Devotion to Bibliographical Orthodoxy and the Constriction of Open and Equal Access to the Law*, 70 *Alb. L. Rev.* 491–536 (2007).

Includes a review of the history of legal citation, a discussion of how citation rules affect our ability to cite to court opinions, and a scrutiny of some proposed alternatives to present citation practices and the reasons those alternatives have not, as yet, become standard. *Id.* at 499. The author suggests that the strict adherence to legal citation form results in impeding the free and open access to the law, and he concludes that the current citation form has an unintended consequence of strengthening the “preeminent positions” of Westlaw® and LexisNexis® as providers of American legal information. *Id.* at 500.

Paul Hellyer, *U.N. Documents in U.S. Case Law*, 99 *Law Libr. J.* 73–86 (2007).

The author explores the role played by U.N. documents in the opinions of United States courts. He examines the subject matter of opinions in which U.N. documents were cited, the types of documents that were cited, the purpose of the citations, the treatment received by the cited documents, and the time periods in which the citations occurred. Abstract.

Carole A. Levitt & Mark E. Rosch, *The Lawyer’s Guide to Fact Finding on the Internet*, 3d ed., 2006 [Chicago, Ill.: American Bar Association, Law Practice Management Section, 850 p. plus CD]

Categorizes and describes hundreds of free, fee-based, and subscription Internet resources of interest to attorneys. Also includes information on blogs, search engines, browsers, library databases and catalogs, and other resources.

Pamela Lysaght, *Michigan Legal Research*, 2006 [Durham, N.C.: Carolina Academic Press, 128 p.]

Explanation of Michigan legal resources, including information on research methods and strategies.

Matthew Mantel, *Private Bills and Private Laws*, 99 *Law Libr. J.* 87–100 (2007).

An in-depth investigation into the history and use of private laws, with suggestions as to why their use seems to be declining.

Elisa Mason, *Guide to International Refugee Law Resources on the Web*, LLRX.com, May 29, 2007 (available online at <www.llrx.com/features/refugee.htm>).

This guide directs readers to some of the key texts and resources available on the Web including U.N., international, regional, and state instruments and commentary, periodicals and bibliographic tools, and leading associations. Updated version of the July 2000 guide.

James G. Milles, *Redefining Open Access for the Legal Information Market*, 98 *Law Libr. J.* 619–637 (2006).

Argues that the open access movement in legal scholarship fails to address—and in fact diverts resources from—the real problem facing law libraries today: the soaring costs of non-scholarly, commercially published, practitioner-oriented legal publications. The author suggests that one solution to this problem is for law schools to redirect some of their resources—intellectual capital, reputation, and student labor—to publishing legal information for practitioners rather than legal scholars. Abstract.

Marilyn J. Raisch, *European Union Law: An Integrated Guide to Electronic and Print Research*, LLRX.com, May 29, 2007 (available online at <www.llrx.com/features/eulaw2.htm>).

Comprehensive research guide and bibliography presented in the context of research strategies. The five major institutions of the European Union are covered, along with treaties, draft constitution, legislation and legislative history, cases, and secondary sources. Finding tables for both print and electronic formats simplify locating major resources. Citation guides and links to related information are included

Gail S. Stephenson & Linda C. Fowler, *Keeping It Real: Developing a Culturally and Personally Relevant Legal Writing Curriculum*, 10 J. Gender Race & Just. 67–92 (2006).

This article explains the concept of a culturally and personally relevant curriculum. The effectiveness of such a curriculum is illustrated by describing how the goals of cultural and personal relevance were achieved in the authors' legal writing curricula. It includes suggestions for ways in which legal writing instructors can create problems that will be relevant to their own students.

William M. Sullivan, et al., *Educating Lawyers: Preparation for the Profession of Law*, 2007 [San Francisco: Jossey-Bass/Wiley, 240 p.]

Presents the results of a two-year, comprehensive study of American and Canadian legal education. The study encourages a rethinking of the concept of "thinking like a lawyer," which is a guiding principle in legal education today. It encourages additional scholarship and dialogue about teaching and learning the law. Prepared under the auspices of the Carnegie Foundation for the Advancement of Teaching.

Symeon C. Symeonides, *Conflict of Laws Bibliography: U.S. Sources, 2005–2006*, 54 Am. J. Comp. L. 789–798 (2006).

Unannotated bibliography of books, symposia, and articles and essays written in 2005–2006; part of a continuing series of bibliographies in this journal.

Symposium on Archival Legal Information, 75 UMKC L. Rev. (no. 1) 1–182, 283–332 (2006).

Articles of particular interest include:

Kathleen Hall, *File Sessions: Archival Court Records in Higher Education*, 75 UMKC L. Rev. 25–43 (2006).

Explains the educational potential, especially for law school courses, of archival court records, including how to read the files. Includes a summary of ideas generated by participants in the conference session on possible classroom uses for the records.

Mark Lambert, *More Than You Imagined: Sources of History in the Records and Papers of the Federal Courts of Texas*, 75 UMKC L. Rev. 81–101 (2006).

Explains the many uses of federal court records, including judicial manuscript collections; court history, judicial biography, and political, social, economic, and state and local histories can be enriched by these materials. The author gives examples of the historical sources available in the official court records and the manuscript collections of the judges for the federal courts of Texas.

Timothy Rives, *Legal History Research Opportunities and Resources at the National Archives and Records Administration—Central Plains Region*, 75 UMKC L. Rev. 137–148 (2006).

Explains the types of materials held by the National Archives and Records Administration (NARA), and describes opportunities for research in those records. The article provides an annotated finding aid to major legal history resources available in the National Archives—Central Plains Region (Kansas City).

Stephen Spence, *Addendum to Legal History Research Opportunities and Resources at the National Archives and Records Administration—Central Plains Region*, 75 UMKC L. Rev. 149–154 (2006).

Addendum to Rives (above), consisting of a selective listing of cases with records in the NARA–Central Plains Region archives. Includes Chuck Berry’s trial for “inducing and enticing” a 14-year-old girl to “give herself up to debauchery and to engage in other immoral practices” and similar high-profile cases. *Id.* at 149. Organized by topic including kidnap, murder, mayhem, and more; wartime; intellectual property; and constitutional and civil liberties.

Peter M. Tiersma, *The Textualization of Precedent*, 82 Notre Dame L. Rev. 1187–1278 (2007).

Traces historical development and resulting differences in interpretation of English and American judicial decisions. The American emphasis on writing and publication of judicial decisions has resulted in its increasing textualization, with fixed rules and principles replacing more conceptual opinions. As a result, Americans’ concept of what precedent means in terms of the common law is in flux, especially in view of the changes in citation rules for unpublished opinions.

Louise Tsang, *Legal Protection of Cultural Property: A Selective Resource Guide*, LLRX.com, April 24, 2007 (available online at <llrx.com/features/culturalproperty.htm>).

Coverage of print and electronic sources on the protection of cultural property in wartime, international trade in cultural property, and the laws relating to illicit trade of art and antiquities. Sections list major treatises, bibliographies, journals, proceedings from international conferences and meetings, treaties and international legal instruments, and national and international agencies dealing with cultural properties. Includes resources specific to Nazi-looted art and stolen cultural property in Iraq.

Mary Whisner, *How Do You Know When Research Is Good?*, 98 Law Libr. J. 721–725 (2006).

A short exploration of the common problem of determining when research is “good,” and whether the researcher has completed satisfactory research.

Lauren A. Wiggins & Timothy Sandefur, *A Bibliography of Sources on “Public Use” in Eminent Domain*, 10 Chapman L. Rev. 235–255 (2006).

Extensive, unannotated bibliography of articles (law reviews, legal magazines, and newspapers) and books, arranged chronologically from 1840 to the present.

Bryan Wright, Note, *But What Will They Do Without Unpublished Opinions?: Some Alternatives for Dealing with the Ninth Circuit’s Massive Caseload Post F.R.A.P. 32.1*, 7 Nev. L.J. 239–262 (2006).

Reviews the arguments for and against limited citation rules including a detailed look at limited citation rules in the context of precedent.

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Donald J. Dunn retired from the *Perspectives* Board in Spring 2007. He joined the original board in 1992. His annotated bibliographies on recent publications of legal research and writing resources appeared in every issue of the first 15 volumes. When announcing his decision, he wrote:

I have enjoyed my association with *Perspectives* immensely, and I know it will continue to grow in both distribution and stature. I want to express my thanks to the large readership that has developed. To my colleagues, thank you for making this such a wonderful experience for me.

Don, we’re grateful for your many years of service to the legal research and writing communities. Godspeed.

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Prepared by **Mary A. Hotchkiss**

Mary A. Hotchkiss is Director of Academic Advising at the University of Washington School of Law in Seattle.

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Perspectives

Teaching Legal Research and Writing

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