

2003

# The Transition to Legal Analysis Begins with Orientation

Myra G. Orlen

*Western New England University School of Law*, [morlen@law.wne.edu](mailto:morlen@law.wne.edu)

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## In This Issue

<i>Essays: What Are We Teaching?</i> .....	1, 4-12
The President's Column .....	3
<i>The Next Step: Starting a Dialogue About Upper Level Writing</i> .....	13
<i>From the Desk of the Writing Specialist: Bite-Sized Success</i> ..	14
<i>[Not Just] For New Teachers: Writing a Winning Conference Proposal</i> .....	15
<i>Special Feature: Using Teaching Assistants</i> .....	16
Fostering Self-Motivation .....	18
News .....	19
Calendar .....	23

## What Are We Teaching? Competence and Confidence

*Nancy Soonpaa, Texas Tech University School of Law*

In six credits and two semesters, the goals of our Legal Practice Program are to teach competence and instill confidence in our first-year law students. Texas Tech offers few upper-level writing opportunities other than in seminars, so for many of our students, Legal Practice is the only skills course they will take in their three years of law school.

### Competence

We want students to leave our course with basic competence in the following areas:

*Researching Legal Issues.* Overall, our approach to teaching research is process-oriented and starts with how to plan a research project. Through a series of research exercises tied to their major fall fact pattern, students learn about secondary and primary research sources. They learn not only about constitutions, cases, and statutes, but also about legislative history and administrative law. Although their initial training is book-based, students also receive introductory computer assisted legal research (CALR) training in the fall, and we begin to address how to choose among research sources, both print and computer-based. In the spring semester, the CALR training continues, and we move into non-vendor-based Internet research, including both legal and fact research. Each new research method coincides with a new research and writing assignment to encourage students to immediately apply what they have learned. We wrap up the spring semester with sessions comparing and contrasting the on-line research options.

Our research training is a cooperative effort between the librarians and the Legal Practice faculty. While the Legal Practice faculty handles the book research classes, the librarians assist with both large-group and small-group activities related to the CALR training. In this way, we call on the librarians' expertise and eagerness to work with the students and avoid relying on the

**CONTINUED ON PAGE 4**



*LWI's new home: Mercer University School of Law in Macon, Georgia, has been selected as the host school for the Institute.*

# From the Editors

With this issue of *The Second Draft* we welcome a new co-editor, Joan Malmud, from the University of Oregon. Joan has been teaching at Oregon for two years. Her introduction to the job took the form of total immersion, thanks to a combination of conflicting travel schedules (ask us about Guatemala, Japan, or Sri Lanka!) and old-fashioned computer accidents. We are thoroughly grateful to Joan for her enthusiasm, patience, and most of all, her superb editing.

We are also excited to welcome a new column that, we hope, will become a regular feature: "What's Next?" This column was inspired by the Upper Level Writing Committee of the Legal Writing Institute, and seeks to explore what is happening, could happen, or should happen in legal writing courses beyond the first year. The inaugural column, by Ruth Anne Robbins (Rutgers-Camden), challenges us to think about what we should be doing in upper-level courses, and proposes that these courses should be used to add depth to what is covered in the first year.

Our theme for the next issue of 2003 builds on "What are we teaching?" to ask "Who are we teaching?" In particular, what differences in your audience have you noted as our students move through Generations X and Y? Tracy McGaugh's article from the Fall 2002 issue might be a good starting point; the popularity of her conference presentation on "Teaching Gen X" at the 2002 LWI conference in Knoxville shows that this is something a lot of us are thinking about. If you're among the "Boomers," what specific things have you done to adapt to teaching students with different learning styles and expectations? For those who are members of Generations X or Y, have you noticed differences between your teaching style and that of your more...seasoned...colleagues? Do you have any suggestions for people who grew up with record players and typewriters? We look forward to hearing from you.

*Barbara Busharis (Florida State)*  
*Sandy Patrick (Lewis & Clark)*

*Deadline for submitting material for the next issue of The Second Draft: October 15, 2003.*

## THE LEGAL WRITING INSTITUTE

*The Legal Writing Institute is a non-profit corporation founded in 1984. The purpose of the Institute is to promote the exchange of information and ideas about legal writing and to provide a forum for research and scholarship about legal writing and legal analysis.*

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*The Second Draft is published twice yearly and is a forum for sharing ideas and news among members of the Institute. For information about contributing to The Second Draft, contact one of the editors:*

Barbara Busharis (Florida State), [bbushari@law.fsu.edu](mailto:bbushari@law.fsu.edu)  
Sandy Patrick (Lewis & Clark), [patrick@lclark.edu](mailto:patrick@lclark.edu)  
Joan Malmud (Oregon), [jmalmud@law.uoregon.edu](mailto:jmalmud@law.uoregon.edu)

## Guidelines for Contributors

We welcome unsolicited contributions to *The Second Draft*. Our goals include providing a forum for sharing ideas and providing information that will be helpful to both experienced and novice instructors. Each newsletter will have a "theme," with the exception of newsletters that follow the LWI biennial conferences, but the content of the newsletter will not be limited to a particular theme.

**Content of submissions.** We encourage authors to review recent issues of *The Second Draft* to determine whether potential submissions are consistent with the type of contribution expected, and with the format and style used. Submissions should be written expressly for *The Second Draft*, but we will consider submissions which explore an aspect of a work in progress that eventually will be published elsewhere. The ideal length for submissions for a "theme" issue is approximately 500 words. Longer articles will be considered if their content is particularly newsworthy or informative.

**Deadlines.** Material can be submitted to the editors at any time. Submissions received after a deadline for one issue will be considered for a later issue, with the exception of submissions written to respond to a particular "theme." For the next issue, the deadline for submissions will be October 15, 2003.

**Form of submissions.** We encourage electronic submission. Submissions can be attached to an e-mail and sent to Barbara Busharis, [bbushari@law.fsu.edu](mailto:bbushari@law.fsu.edu); Sandy Patrick, [patrick@lclark.edu](mailto:patrick@lclark.edu); or Joan Malmud, [jmalmud@law.uoregon.edu](mailto:jmalmud@law.uoregon.edu). If electronic submission is not possible, please contact the editors. Documents in WordPerfect or Word are accepted. Include your name, full mailing address, phone number(s), and any other contact information.

**Review and publication.** Submissions are reviewed by the editors. One of the editors will notify the author of the article's acceptance, rejection, or a conditional acceptance pending revision. Articles that require extensive editing will be returned to their authors with suggestions and their publication may be delayed. If an article is accepted, it may be further edited for length, clarity, or consistency of style.



## The President's Column

*Steve Johansen, Lewis & Clark Law School*

As I write this, Spring has finally arrived in Oregon. The view outside my office window reveals colorful blossoms and trees full of new green leaves that reflect the renewal the season brings. It is with that same sense of renewal that I am pleased to announce that the Legal Writing Institute has found a new home. Over the course of the next few months, we will transfer our base of operations from Seattle University to Mercer University School of Law in Macon, Georgia, where Linda Edwards will take on responsibility for overseeing the Institute's operations.

While we are very excited that Mercer will be our new home, the selection process was quite challenging. Several schools submitted outstanding proposals, and it was difficult to choose among them. It is a tribute to the strength of our discipline that so many schools were willing and able to take on this challenge.

Of course, the move to our new home does not mean we are saying goodbye to Seattle. We will meet in Seattle for our next Conference, July 21-24, 2004. We will celebrate the twentieth anniversary of the Institute's founding. Plan now to join us as we honor the vision of Laurel Oates, Anne Enquist, and Chris Rideout in the best way possible—three days of superb presentations, workshops, and collegial exchange.

This volume of *The Second Draft* asks the question, "What do we teach?" As one might expect, there are a variety of answers to this fundamental question. The articles range from Danielle Istl's unique perspective on teaching U.S. and Canadian law to the same students, to Jim Levy's reflections on writing as thinking, to Brooke Bowman's ideas for incorporating Teaching Fellows into the extended Legal Writing family. These and the other articles in this volume remind us that as our discipline matures we are unlikely to uncover a one-size-fits-all "right way" to teach Legal Writing. Rather, we will continue to weave a rich fabric of diverse methods and tailor our teaching to meet the needs of our own law school communities.

If there is a unifying theme to these articles, it is that Legal Writing is about much more than spelling and semi-colons. We are not the Grammar Police. Our task is to teach our students to understand the subtleties of legal analysis and to convey complex ideas simply. But, recognizing the inextricable ties between writing and analysis is only a starting

point. The greater challenge is finding how to teach sophisticated, abstract reasoning and communication skills to novices who quite naturally crave concrete, specific direction. The following pages offer insights into how we might meet that challenge. We will no doubt continue to explore these ideas next year in Seattle and for many years to come.

With your forbearance, I would like to close on a personal note. This past year, I experienced that which I both long desired and long dreaded—the tenure review.

It was humbling.

Consider the day last fall when the faculty curmudgeon sat in on my Legal Writing class—a class in which I spent considerable time talking about Plain English. Everything went fine until I flashed two writing samples on the classroom screen. "What do you think of these examples?" I asked. My students, bless them, sensing our visitor in the back of the room, were thoroughly engaged. They knew their participation was especially important on this day. Everyone quickly recognized that one example was clearly better than the other. Yep, within three or four minutes, the class unanimously agreed: Example One was clearly the best. Example One. A model of prolix prose. A verb-less sentence. Example One. And teaching was supposed to be my strong suit.

Fortunately, the Legal Writing Institute saved my career once again. After the tenure-review ordeal was mercifully over, every faculty member I talked with commented on the letters of support I had received from colleagues around the country. Our entire faculty was simply overwhelmed by the tremendous efforts of the Legal Writing community on my behalf. So was I. Thanks.



2004 LWI Conference

*Seattle University  
School of Law  
Seattle, WA*

*Wednesday, July 21–  
Saturday, July 24, 2004*

## Competence and Confidence

*Continued from page 1*

vendor representatives.

*Drafting Objective Memoranda of Law.* Our students write a closed mini-memo and an open memo during the fall semester. The closed mini-memo introduces the students to primary authority, the structure of legal analysis, and the drafting process, without overwhelming them. As an added bonus, we use a common fact pattern for this assignment. I create tutorial exercises based on that fact pattern. Teaching fellows use these exercises, based on a known fact pattern, throughout the year as they work with students.

The open memo allows students to relate how they research and what they find to how they analyze and write about a legal issue. So that they focus on the writing, we “close the universe” before the first draft to prevent them from continuing to search for a non-existent perfect case.

*Drafting Persuasive Briefs.* In the second semester, the students meet new clients. For their new client, they research and analyze two issues. One issue is the topic of a trial brief. Both issues are the subject of an appellate brief. Our goals here are not only to introduce the students to persuasive writing, but also to teach them how to organize and analyze different kinds of legal issues. For instance, in the fall semester, they might have focused on how the law applied to a given set of facts, while in the spring, they might write about what the law should be. We also try to offer a mix of substantive and procedural legal issues.

*Understanding the Basics of ADR.* Because our course in its present form is a merger of a four-credit LRW course and a two-credit non-judicial dispute resolution course, we have a fairly heavy emphasis on ADR, somewhat limited by the experience (or lack-of-experience) level of first-year law students. We introduce ADR early in the fall semester in the context of offering clients a range of options for resolving their legal

concerns. We include ADR in all of our client interviewing, client counseling, and client letter exercises.

Over the two semesters of Legal Practice, students negotiate twice and mediate once, following several classes of lectures, videos, and in-class exercises. For the second negotiation, they also learn basic contract drafting skills and draft a negotiated agreement. When they mediate, they learn to use mediation forms from the local dispute resolution center. For both negotiation and mediation, they also write individual reports about what they learned about the process and about themselves. Our arbitration classes are somewhat limited; typically, we provide an overview lecture or two and perhaps a video.

*Giving an Oral Argument.* Our students have one opportunity to give an oral argument; this exercise occurs after the appellate brief. Each student argues one of the two appellate brief issues. While our teaching load makes it difficult to schedule more arguments, we plan to involve the teaching fellows more significantly and would like to move to two oral arguments in the future.

*Appreciating Ethical Obligations and Professionalism.* Throughout both semesters and starting with the first day of class, we incorporate professional responsibility rules and discuss what it means to be a professional. For each assignment or topic in the syllabus, we highlight relevant rules, and we try to bring in cases that show what happens when an attorney is disciplined for failures in that context.

*Understanding the Concept of Client-Centered Representation.* Finally, we appreciate that the vast majority of our students will be practitioners, and one of our strongest themes is how to work effectively with and for their clients. We talk about understanding and separating personal needs and motivations from those of the client, we

talk about skills such as active listening, and we bring in outsiders to play clients so that the students have a concrete image in mind as they research their clients' issues.

### Confidence

Because our Legal Practice course may be the only skills course that students have taken as they go out to their first jobs, we want them to be confident in their ability to think through and appropriately select what to do. For that reason, we focus on process, how to think about an activity, and what questions to ask. We also try to use a developmental approach so that we move from hand-holding to autonomy over the course of two semesters.

For instance, the closed memo requires no research from them; the open memo provides guided research with a mix of suggested cases and optional student add-ins; the trial brief requires a research log from them, but with no limits on cases from us; finally, the appellate brief is completely independent research.

We try to start with and then build on the familiar so that they can identify patterns and relationships. For instance, most everyone has negotiated in some way, so we start the practice exercises there. Once they feel comfortable with negotiation, we move to mediation and discuss what skills they can take from negotiation and use as they learn about mediation.

We also build confidence through exercises that demonstrate to them their ability to problem-solve. We might give them a fact pattern to work through in class and ask them to design a research plan. We might hold an impromptu group oral argument in which students are called on to answer substantive legal questions related to their writing assignment. We push them to practice process in the protected setting of the classroom so that they have mental models to follow. Then, when they are called on to execute the same activity in real life, they can do so competently and confidently. ♦

# What Are We Teaching? Form, Substance and Personal Responsibility

*Amy Stein, Hofstra University School of Law*

In my first-year legal writing class, I use formatting and editing to teach personal responsibility. I explain to my students that my first job after law school was at a large Manhattan law firm, where a heavy emphasis was put not only on the content and substance of legal documents but also on their appearance. Paying attention to detail, I explain, served me in good stead both in my subsequent practice and as a Legal Writing Instructor.

As I moved to smaller firms, time and personnel constraints precluded the quantity of rewrites and attention to detail that had been standard at the large firm. However, I still took with me the basic lesson that, right or wrong, appearances do matter in life. Obviously, high-quality work must always be a priority. Yet, judges are only human. Despite the quality of your work, if it is fraught with typos and grammatical errors, or lacks accurate Tables of Contents and Authorities, or lacks a discernible citation format, no

judge or busy law clerk is going to give it the attention that it warrants. That is simply human nature.

This is a lesson that I work hard to convey to my students as a Legal Writing Instructor. I ask the class if any of them would go to a job interview in a wrinkled shirt or with unbrushed hair. They all immediately respond with righteous indignation that they would never do such a thing. Then why, I ask them, do they hand in a brief with errors that show the same lack of respect for a reader that a messy appearance demonstrates to an interviewer? I suggest to them that, while a neat appearance shows a willingness to accept responsibility for themselves and their actions, so too does a well-prepared brief.

To assist them in incorporating form into their work, prior to handing in the first drafts of both their trial and appellate briefs, I provide the students with a detailed handout explaining which sections their briefs should contain and examples of how these sections should be laid out. I also distribute a handout which provides

the students with a step-by-step guide to set up properly formatted Tables of Contents and Authorities.<sup>1</sup> Not only does the handout make their job of preparing the tables easier, if they do it properly, it is also very hard for them to do it incorrectly.

This emphasis on personal responsibility also allows me to teach a life lesson. When a student complained that it was the spell checker's fault that she spelled "brief" wrong on the front cover of her brief or when another student told me that it didn't matter that he didn't know how to format his tables because "he would have a secretary to do that stuff," I responded by saying that their work is ultimately their own responsibility. As professionals, the buck stops with them. This lesson, while a hard one to learn, is one that will ultimately make them better lawyers. Who knows, it might even make them better people, too.

<sup>1</sup> *I would like to acknowledge, with gratitude, my colleague, Nancy Brown, who provided me with the initial forms for both of these handouts.*

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## Encouraging Strategic Decision-Making

*Bonnie M. Baker, NYU School of Law*

How can an attorney thoughtfully anticipate a strategic decision? By seeing consequences and anticipating contingencies. Thus, in virtually every exercise of my Lawyering<sup>1</sup> course, I train my students to consider the consequences of each decision they make and to envision the contingencies that might arise.

Perhaps the instance in which students are most surprised by the requirement that they give conscious consideration to the consequences of their choices occurs as they draft a settlement agreement in the context of a negotiation exercise. Cast as the

attorney for either a homeowner or a swimming pool contractor, students attempt to negotiate a settlement of a dispute arising out of delays and errors in the pool's construction. The parties have an executed contract, complete with diagrams detailing the exact specifications of the pool, but due to a variety of obstacles—a bumbling plumbing subcontractor, inclement weather, temporary denial of access to the work site, a compressed work schedule and poorly supervised construction—the pool is completed with serious defects and a portion of the contract price is left unpaid. Although the contract contains an arbitration clause, upon interviewing their respec-

tive clients, the students should learn that the client would like to avoid arbitration if possible and reach a negotiated settlement. If the students diligently research the doctrine of substantial performance (the legal backdrop against which arbitration would unfold); develop a thorough understanding of both the cost to their client of the different repairs and the transaction costs associated with arbitration; and clearly identify the client's goals, priorities, and interests, then a bargaining range sufficient to permit a range of negotiated resolutions should exist. If they negotiate an agreement, student-attorneys must then work with their adversaries to reduce their agreement to writing.

**CONTINUED ON PAGE 6**

## Encouraging Strategic Decision-Making

(continued from page 5)

What strategic considerations, I ask students, are involved in determining which attorney will create the first draft? If an attorney's primary duty in drafting a contract is to be precise and minimize potential interpretive disputes, might occasions still arise when ambiguity is strategically advisable? If ambiguity exists because the attorneys are unwilling to hold a global settlement hostage to a single niggling detail, for example, does the agreement contain sufficient incentives for compliance such that the parties will be unlikely to later seek an arbiter's interpretation? Have the students anticipated, and sought to address, not only the range of problems the parties have already encountered in their relationship, but also the things that might go wrong in the future?

It is always an eye-opening experience for students to see that, although they honestly believe they have reached a definitive agreement, interpretive gaps remain. Have they planned for contingencies? What happens if something outside of her control prevents the contractor from completing the agreed-upon work by the specified date? Is there a way to protect her *ex ante*? Or, if the agreement states that the homeowner will pay a sum certain in exchange for certain repairs, have the students considered whether this money is due on completion or up-front? If due on completion and the homeowner is dissatisfied, will the agreement protect him? How can the drafter anticipate such a potential pitfall and address it? If the contractor is concerned for her reputation in the community, should the agreement contain a non-disparagement clause? If angry words have passed between the parties, would an apology be a valuable concession? If students have found ways to add value by agreeing, for instance, that the homeowner will put a sign on his property identifying the pool as the

work of this contractor, are the specifications of such a sign delineated? What risks emerge where ambiguity lurks?

The settlement agreements the students produce offer rich opportunities to see how their ability to predict the full panoply of contingencies is tied to the planning they did—or didn't do—when they interviewed and brainstormed with the client. The better they understand the full range of the client's concerns and interests, the more likely it is that they will address a fuller array of issues when drafting the agreement. In this way, I hope my students come to see drafting a settlement agreement not as a task that involves mundane recitations of boilerplate, but as a kind of advocacy, the success of which depends upon thoughtful preparation and strategic planning.

<sup>1</sup> *At NYU, Lawyering is a required, year-long course for first-year law students. Lawyering routinely places students in role as attorneys in a variety of simulated practice settings, and demands that students rigorously analyze their experiences in order to begin to understand the sophisticated interactive, fact-sensitive and interpretive work that is foundational in legal practice. As part of this process, Lawyering students engage in legal research, draft memoranda, and write briefs on a range of complicated legal issues. They interview, counsel, negotiate, mediate and engage in formal and informal oral advocacy.* ♦

### Southeastern Regional Conference

Stetson University School of Law will host the 2003 Southeastern Regional Research & Writing Conference on Saturday, September 20, 2003. The conference theme is "The Basics and Beyond: Building Solid Skills on Flawed Foundations." More details and a registration form are available at [www.law.stetson.edu/darby/2003conference.htm](http://www.law.stetson.edu/darby/2003conference.htm).

## Building a Strong First-Year Foundation in a Three-Semester Curriculum

Jennifer Brendel and Alice Perlin,  
Loyola University Chicago School of Law

At Loyola University Chicago School of Law, the teaching goals of our first-year program center on developing students' analytical and communication skills through a building block method. We have three required Legal Writing courses: Legal Writing I, Legal Writing II, and Advocacy. Legal Writing I and II are taught in the first year, and each is a two-hour graded credit course. Advocacy is required in the third semester. Our program is taught by adjunct instructors who are experienced attorneys. As the two full-time professionals responsible for the Legal Writing Program, we have the time-intensive job of selecting, training, and supervising the adjunct instructors. Additionally, we design the entire first-year curriculum, including a uniform syllabus, all of the problems, and the weekly lesson plans.

Our program focuses on developing students' analytical and communication skills. Over the course of the first year, students write a closed memo, a research memo, and a trial level brief. Small class sections (approximately 12 students) permit instructors to require the students to rewrite each of these assignments. The rewrite allows students to actively implement instructor feedback and commentary in the context of an ongoing assignment. We also require students to meet individually with their instructor before they begin rewriting the assignment.

Each Legal Writing class is also assigned a second- or third-year law student as a Legal Writing Tutor. Although the tutors are primarily

responsible for teaching citation format, they also attend class weekly, hold office hours, and generally assist the instructors. This structure and its opportunities for individualized rapport with instructors and tutors help us to achieve our program's goals.

The first assignment, the closed memo, is taught in a very methodical process, using a number of building block assignments. Typically, the work progresses through the following stages: case chart/briefs, notetaking outline, one case explanation, synthesis of assigned cases, question presented and brief answer, full memo, and a memo rewrite. Instructors comment on all written assignments and award an advisory grade for the synthesis assignment; however, the first grade that "counts" toward the final grade is the first draft of the full memo. Our goal with this detailed approach is to give students a strong foundation in legal analysis and writing skills. We consider this initial building-block approach fundamental to our teaching strategy; the pace picks up significantly after this point.

After the closed memo is completed, students write the research memo. The teaching of the research memo begins in Legal Writing I and continues in the spring semester with Legal Writing II. We require one building block assignment (a notetaking outline), one memo, and one memo rewrite. While the instructors review general research principles, the library staff teaches Legal Research.

The final assignment of the second semester is a trial level brief. Again, students follow the same approach by completing a notetaking outline, one brief, and one brief rewrite. We also require an oral argument, which students present before the rewrite is due. Although this structure deviates from "real world" practice, students have commented that the oral argument helps crystallize their understanding of the issues, and they appreciate the opportunity to incorporate new insights into their final briefs.

We recently added a timed

writing exercise based upon the Multistate Performance Exam. We thought it was important for students to "test" their skills by writing more independently, and also to practice writing under a time constraint, before their first set of final exams. This curriculum change has met with mixed reaction, but as we refine how we teach it, the feedback has improved.

In addition to our required three-semester curriculum, we offer an elective Introduction to Lawyering course for incoming first-year students. This course prepares students for the study of law and provides a good transition into Legal Writing.

The methodical, structured process we use in the first-year curriculum allows students to successfully build a firm foundation for legal analysis and writing. The students are then well prepared for an advanced style of writing in their second-year advocacy course. ♦

## The Transition to Legal Analysis Begins With Orientation

*Myra G. Orlen, Western New England College School of Law*

What are we teaching our students in their first-year Legal Research and Writing course? At Western New England College School of Law, a word that we say a lot is "grapple." We are always pleased when we have devised an assignment that will cause our students to "grapple" because when we ask our students to "grapple," we are asking them to analyze.

Beginning with the first orientation reading assignment, our students are grappling. For the past two years, we have asked students to read an edited version of *Paternity of Cheryl*, 434 Mass. 23, 746 N.E.2d 488 (2001). In *Paternity of Cheryl*, the court refused a request to cease child support payments. The request was

made by a father who had belatedly determined that he was not the biological father of the child he was ordered to support. The father had declined an opportunity for DNA testing before the paternity adjudication and had formed an on-going relationship with the child. The court based its decision on procedure but also discussed the best interests of the child.

Many students are familiar with *Paternity of Cheryl* because it has been the subject of wide-spread publicity. We use the familiar, yet controversial, case to encourage students to grapple with their changing perspectives on the cases reported in the news every day. Our orientation session includes an exercise in how to read and brief *Paternity of Cheryl*. But this discussion is always followed by a lively exchange about the case. It appears that none of the major media reported the procedural aspects of the case. The students came to orientation armed with an analysis of the case that was grounded in the media representation of the case and their own particularized sense of what a fair and just result would look like. They left orientation with the seed of understanding how procedural rules alter the legal analysis of a case. Beginning with a case that generated a substantial amount of public opinion causes students to consciously enter the realm of legal analysis.

Once students leave orientation and enter the first year Legal Research and Writing Curriculum, they face successively more complex problems and, of course, more grappling. These increasingly complex problems provide our students with the tools to conduct and articulate their legal analysis. The progression from simple to more complex assignments is inherent in the curriculum of many legal research and writing programs. The first step in our progression, our orientation program, may, however, be unique. That first step takes the students from being casual observers of the law to being members of the legal community. ♦



## Focusing On Analytical and Organizational Skills

Linda H. Edwards, Mercer University

Because we all have too little syllabus time, curriculum design is filled with difficult choices. After years of ad hoc conversation, the Legal Writing faculty at Mercer University decided to undertake a comprehensive process of identifying the subjects and skills most important for our required Legal Writing courses.

We had long ago made the first difficult choice: we decided not to cover other lawyering skills. Also, we were able to focus on teaching research strategy rather than introducing basic research sources because our excellent librarians teach the basic research sources before students enroll in our courses. Therefore, we could devote our planning project to what we consider the most important part of the course: teaching the basic content and organizational formats of written legal analysis.

First, we identified the basic organizational paradigms lawyers use: analysis of a single issue (a version of IRAC), analysis of multiple issues (several IRAC structures with an introductory umbrella section), and the organization of a pure question of law. Second, we identified the two most basic rule structures implicating organization: conjunctive rules (a list of required elements) and factors tests. Third, we identified the most important forms of reasoning: rule-based, analogical, and policy-based. Finally, we identified the most common kinds of

analytical tasks: constructing a rule from multiple authorities (synthesizing and reconciling), fact application, and a case of first impression.

Over the course of eighteen months, we worked on creating course descriptions for Legal Writing I and II. Because students do not have the same teacher for Legal Writing I and II, we needed to allocate the skills between the semesters. Also, for each course description, we wanted to strike a balance between insuring coverage of essential skills and retaining flexibility for individual professors. Here are the course descriptions we created:

*The process of creating course descriptions can lead to greater understanding of our discipline and enhance our teaching.*

*Legal Writing I* covers research strategy, forms of legal reasoning, predictive legal writing, and professionalism. The course examines organizational paradigms and the use of authorities in analyzing questions governed by (1) a single-issue analysis, (2) a conjunctive analysis (a rule with mandatory elements), and (3) a factors analysis. Typically, at least one of the assignments will be based on a statute. The course teaches writing as a constructive process and requires completion of at least two major writing assignments (one based on

state law and one based on federal law) and a final examination.

*Legal Writing II* continues coverage of research strategy, forms of legal reasoning, and professionalism, but now in the context of a new form of discourse: persuasion. The course examines organizational paradigms and the use of authorities in (1) questions governed by a factors analysis and (2) questions raising a pure issue of law. Students will study the standards of appellate review and will write at least one appellate brief. Typically, one of the assignments will require statutory

construction. Course requirements include completion of at least two major writing assignments and two oral arguments.

The course descriptions have worked well, but the best result was what we learned. We had fascinating conversations and explored the substantive content of our discipline. We shared ideas and approaches, becoming better teachers in the process.

All in all, struggling with the question of what to teach was one of the best things we ever did. ♦

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## Training Students in the Basics

Sharon Pockock, Michigan State University-Detroit College of Law

At Michigan State University-Detroit College of Law, the current legal writing curriculum emphasizes core components in two semesters: analysis, research, writing, citation, and advocacy. Each semester is worth two credit hours; students receive a letter grade each

semester. A Research, Writing, and Advocacy class meets for 100 minutes once every week. RWA I also includes a weekly 50-minute Writing Skills Workshop, taught by graduate English students, which focuses on grammar, style, the writing process, and editing.

In RWA I, we begin by focusing on writing to help students read cases, draw out rules of law, and apply them

insightfully to the facts of a problem. During the first month, students submit a case brief, a short analysis (one IRAC), and then a full memorandum based on a small series of cases given to them, all involving one problem.

The class then turns to legal research. This year we have used recorded audio research tours of our law library, to show students basic legal research tools and the steps they might

take in actually researching a problem. After this introduction, students spend the next several weeks working on three simple research projects. Because our library no longer has all the book resources necessary for updating the law, students learn how to use Shepard's and KeyCite online.

Two-thirds of the way into the semester, students are ready for the big, final project of the term: the open research memo. The students of each instructor work on a different problem and prepare a memorandum, 11-14 pages in length.

In RWA II, our focus shifts to persuasive writing and oral advocacy. Students work on a major problem and, in connection with it, research and write a trial brief and then an appellate brief. Oral argument occurs before students finalize the appellate brief.

It is at the start of RWA II that students are trained in computer legal research. This year, in response to comments of former RWA students, we began the semester with a short exercise on drafting a complaint, given that many upper-level students needed this skill for summer jobs.

We teach citation form throughout the year, still using the Bluebook and the Interactive Citation Workstation available on Lexis, and giving students three short quizzes on citation form.

This is the current program at MSU-DCL, which, this year, had both a new director and many new instructors. Just as the unexamined life may not be worth living, an unexamined curriculum may not be worth studying (or teaching). The school is currently undertaking a review of its full curriculum to consider carefully whether students are being prepared in all the knowledge- and skill-based competencies that they need as lawyers. Thus, RWA I and II may change in the near future. At the moment, however, the current program shares the goals of most such programs: it seeks to train students in the basics of legal analysis, objective and persuasive legal writing, book and online legal research, and proper citation form. ♦

## Beyond the Border: The Challenges of Teaching and Learning Research and Writing in a Joint-Degree Program

*Danielle C. Isth, Detroit-Mercy School of Law*

Everyone vividly remembers where he or she was upon learning about the terrorist attack on the World Trade Center. I was in a corner of the Essex Law Library at the court house in Windsor, Ontario, conducting Canadian research for the joint-degree (J.D./LL.B.) legal research and writing course I was teaching. I heard people in another corner of the library talking about a plane crash, but little did I understand the magnitude of that news as I pored over my research materials. When I found out the Detroit-Windsor international border crossing had abruptly closed, I knew I would not be getting to my Detroit office that day. I could never have anticipated that horrific events such as these, in two other states and the nation's capital, would affect my movement from the University of Windsor Law School to Detroit Mercy's School of Law across the river in the weeks and months that followed.

While the border-crossing gridlock was certainly a struggle that fall, there are other less dramatic, yet ongoing, challenges of a two-country LRW course. More specifically, students must learn to continually adjust their approach, in a variety of ways, with respect to researching and writing, and I have had to make (and continue to evaluate) specific choices as to how to teach the material. Because of the difficulty in covering the material for two countries in nine-credit hours, I am forced to be selective in terms of what the focus shall be. I choose to focus most on the major differences between the two legal systems, not only in terms of how problems are researched and documents are written in each jurisdiction, but also with respect to the substantive law of the problem under consideration, where possible.

While basic research sources are similar in both countries (such as consolidated statutes, case reporters, case digests, and secondary sources), certain *features* of these sources are very different. Students quickly learn the advantages and disadvantages of each country's research universe, but more specifically they must quickly learn the differences between the sources to research effectively. To aid them in this endeavor, I create numerous charts comparing the American sources with the Canadian sources. This not only helps the *students* learn the material, because they have a handy comparative source, but it helps me teach it.

With respect to writing, joint-degree law students must at all times be conscious of whether they are writing for an American reader or a Canadian reader (or perhaps both, depending on the assignment). Moreover, they must remember minor, yet not insignificant, spelling conventions that a student writing for a reader in only one jurisdiction would likely never contemplate. For example, American readers expect to see "Your Honor" and "canceled check," while Canadian readers expect "Your Honour" and "cancelled cheque." Students (and even their LRW professor!) must master the different way words are pronounced on each side of the border. For example, Americans say "SUB-stin-tive," "CORE-ah-lary," and "PRAH-cess." Canadians say "sub-STAN-tive," "cur-OLL-er-ee," and "PROE-cess." Even one's choice of words can matter. For example, American professors "grade" papers, while Canadian professors "mark" them.

I advise my students to write in "Canadian" for Canadian readers ("Don't forget the "u"s in all those words!) and in "American" for U.S. readers (Change that "c" to an "s" when spelling "defense." Pleading that you're

CONTINUED ON PAGE 10

## Beyond the Border

(continued from page 9)

“Canadian” is not a defence; oops! I mean defense).

As if spelling, word-choice, and pronunciation were not enough, joint-degree students have to learn two systems of citation, and I don't mean the *ALWD Citation Manual* and the *Bluebook*! But I am pleased to say that my students prefer (as do I) the *ALWD Manual* over the *Canadian Guide to Uniform Legal Citation*, because it is clearer, more comprehensive, and features more colorful (colourful?) examples. In fact, I have taken the liberty of using the *ALWD Manual* as the “default” manual for Canadian citation, where the *Canadian Guide* is silent on a specific rule that can be found in *ALWD*. I have also created reference charts for the students comparing the most common citation rules in each jurisdiction.

Citation differences are minor, however, when one considers that joint-degree students must master the different writing protocols of each jurisdiction with respect to document preparation. While memos and client letters differ very little, other documents—pleadings and appellate documents, for example—are very different. Adjustment is inevitable as students draft a Statement of Claim or Statement of Defence in Ontario after drafting a Complaint and an Answer in Michigan. Students must identify the major differences in the court rules of each jurisdiction and apply them. This results in very different documents.

The capstone assignments in my course are the Appellate Brief and its Canadian equivalent, the Factum. Having to write both documents is a challenging task for students, but certainly not an insurmountable one. Canadian factum writing is actually a blend of both the British and the American traditions. A factum is more than an outline of an argument with supporting law, which one might find in the British document, but it does

not focus as heavily on written argument as does the American Appellate Brief. Making this transition has its challenges, and I attempt to assist the students by comparing the documents from each jurisdiction side by side, using charts and actual samples.

I do not mean to suggest that the students are the only ones facing challenges in a two-country LRW program. The most significant challenge for me is attempting to stay afloat grading numerous comparative assignments in each jurisdiction, or answering questions about the format of a Canadian factum when I am immersed in grading U.S. appellate briefs. Sometimes, I have to briefly stop and think, “Okay, which country are we in now?”

Fortunately, the satisfaction comes when, by year's end, I see my

students competently develop their writing skills, successfully complete two moot court oral arguments—one in each country—and master the basic nuances of the different styles each jurisdiction demands. Perhaps equally as important, they develop considerable stamina and perseverance that serves them well in their second and third years of law school. A second-year student, whom I taught last year, competed in Ontario's Niagara Moot Competition for which he had to write a Memorial for the International Court of Justice. In an e-mail to me, after completing the Memorial, he wrote, “After [J.D./LL.B.] ALTA [the acronym for our course], a memo, factum, appellate brief, or even a memorial seems a little too easy.” So, I tell my current students, “See, it's not so bad once you get used to it, eh?” ♦

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## Integrating Doctrinal and Legal Writing Courses

*Beverly Petersen Jennison, Catholic University*

When I first started teaching legal research and writing in the early 1990s, I struggled to help students understand the importance of researching and writing. After seven

years in private practice, I knew how vital those skills were in my daily life as a lawyer. I was determined that my students would successfully transition from law school to the legal profession smoothly, effectively, and professionally.

*Coordinating with a doctrinal course brings one instructor closer to her goal of preparing students for practice.*

years in private practice, I knew how vital those skills were in my daily life as a lawyer. I was determined that my students would successfully transition from law school to the legal profession smoothly, effectively, and professionally.

The problem facing me when I first began teaching at Catholic University was a very good, but very “canned,” curriculum. Beyond picking my problems, I had limited

room for creative deviations. Additionally, the first-year legal research and writing course, known as *Lawyer-ing Skills*, was ungraded and allocated only two credits per semester. Subsequent to teaching at Catholic University, I worked for several years as an adjunct at two other law schools.

Again, I was expected to strictly follow a curriculum planned to accommodate the vision that each law school had for its ungraded, four-credit legal writing program. Returning this year to Catholic University, I noticed that in my absence of several years, the curriculum (but not the grading system or the credit allocation) had been amended. Importantly, the attitude of at least some of the doctrinal profes-

sors towards Lawyering Skills had changed. In the wake of the MacCrate Report, and other professional commentary on legal writing and practice, suddenly some faculty members wanted to know something more about legal writing. I found myself in the middle of all of this, not quite sure how the change would affect me.

About midway through the first semester, two senior faculty members approached me about integrating the Constitutional Law curriculum with Lawyering Skills for the second semester. Having used constitutional law problems successfully with first-year students in the past, I was excited about the prospect. An idea was launched.

Through a series of planning meetings, we decided upon core competencies. Jointly, we identified logical reasoning, understanding sources of law, interpretation of texts, characterization of fact and law, writing, and oral exposition as areas for skill development. From that initial list, we devised a series of assignments for both Lawyering Skills and Constitutional Law that would help to develop the requisite skills in our mutual students.

Using the syllabus of a legal writing colleague, I manipulated the assignments so that I would address the skills we had discussed while still covering the material taught in the other Lawyering Skills sections, including filing a complaint and answer, drafting motions, writing an appellate brief, and delivering oral arguments. Together, the two doctrinal law professors planned their syllabi to coincide with mine and to incorporate the core competencies that we had discussed. For example, they planned intensive oral argument sessions on Constitutional Law topics. We sketched out some joint evaluation tools. Finally, we picked a mutually agreeable case to explore—the University of Michigan law school admissions lawsuit—and our linkage

was complete.

When the semester began, we met jointly for the first session with the students and explained that their two courses—Lawyering Skills and Constitutional Law—would be experimentally linked during the semester. We detailed the assignments for both courses and told the students that they would receive feedback not only from me but also from their respective Constitutional Law professors on both written products and oral argument skills. Additionally, we told students that their grades in Constitutional Law would be calculated in part based on the work they produced for Lawyering Skills.

As I write this, we are still in the midst of the semester, and so I do not have a final report as to the success of our experiment. During the course of the semester, we have had a few rocky moments. For example, we never thought through some of the minor administrative glitches regarding paper submissions. Our planned joint classes, cancelled due to snow, have yet to occur. We have tried to present uniform comments to the students on their papers, but, as could be expected, some students do not perceive our comments as uniform. Since Lawyering Skills is ungraded here, students whose grades are affected by our experiment have the perception that they are working harder than their peers in other sections. And, of course, some students think the constitutional law problem we chose is more difficult than the problems chosen for other sections.

On the positive side, we have seen some interesting results. Some students who produced only mediocre work for me last semester, in a pass/fail course, have produced spectacular papers this semester. Student interest and attendance are high because students do not want to miss anything that affects the linkage of the two courses. Students receive two sets of comments on their papers, which, although they com-

plain about it, cannot help but prepare them for practice and inevitably working on a big case for two supervising attorneys with very different practice styles. And their oral argument skills are far superior to the skills of students I have taught in the past because they are practicing and preparing for oral argument not only in Lawyering Skills but also in Constitutional Law.

Although the jury is still out on our little experiment, I have a new respect for just how difficult it is to integrate doctrinal courses and Lawyering Skills. I also have many ideas about how I would do it differently the next time. But I must say this: I certainly feel that I am closer now to my original goal of preparing my students for practice than I was ten years ago when I first started teaching. If I have the opportunity in the future to engage in a linked course, I will eagerly embrace the opportunity. ♦

## Central Region Conference

Registration is now open for the Central Region Conference to be held September 12-13, 2003, at Washington University School of Law in St. Louis, MO. The theme for this year's conference is "Research, (W)riting, & Resumes: Strategies for Pedagogical and Professional Development." Please check out all of the great practical presentations.

Conference organizers have again been able to keep registration free, so participants will incur only travel expenses. Register online at: [www1.law.umkc.edu/Academic/LWP/CentralRegionConference/2003.htm](http://www1.law.umkc.edu/Academic/LWP/CentralRegionConference/2003.htm).

# We Teach Thinking, Not Writing

James B. Levy, Nova Southeastern School of Law

When I first began teaching several years ago, I thought that legal writing professors were primarily responsible for teaching students good, technical writing skills. I now think that may be one of the least important things we do. Let me explain.

Bad writing is almost always the result of bad thinking. To borrow the words of clear writing guru William Zinsser: “If Johnny can’t write, it’s probably because Johnny can’t reason.” When we conclude that a piece of student writing is “bad,” it is unlikely we are reacting solely to mechanical flaws like the failure to use the active voice or the incorrect placement of a comma. Rather, the writing likely seems “bad” to us because it reflects underlying problems with the student’s thinking.

We all see papers each semester that reflect such profound “thinking” problems we almost don’t know where to begin offering feedback. The mistake we sometimes make, I believe, is rather than taking on the difficult task of identifying the underlying thinking problems, we offer more superficial feedback relating to the mechanical flaws in the writing. Let’s face it, it’s a lot easier to critique these “technical” problems than it is to diagnose and provide helpful feedback on the root causes of a poorly written paper. So, margin comments too often may consist of things like: “use active voice,” “this isn’t clear” or “put page numbers here.”

These kinds of comments can frustrate the heck out of our students. At semester’s end, they may be left feeling that they’ve learned nothing of consequence from their writing course

other than the teacher’s grammatical pet peeves. This frustration may manifest itself in poor teaching evaluations that leave us confused and upset given the laborious efforts we’ve made all semester grading papers and conferencing with students to improve their “writing.”

*“In contrast to when I first began teaching, I often spend student conferences, especially during the first semester, engaging students in a dialogue intended to assure myself that they understand the assignment, rather than just talking about the ‘writing.’”*

What we need to do instead, I believe, is recognize that writing truly is “thinking in ink.” Thus, bad writing is almost always rooted in bad thinking. The way to correct bad writing, therefore, is to critique papers by identifying flaws in the students’ thinking and offer corrective advice about their analysis and organization.

That’s not to say we should altogether cease paying attention to the technical problems with our students’ writing. But to be most effective, we should reject the wrongly held stereotype of the writing teacher as someone who is merely a “technician” sent in to clean up sloppiness in our students’ writing. Good writing is not about developing a set of discrete, mechanical skills wholly divorced from analytical and organizational abilities. Rather, writing and thinking are so intertwined that only a pedagogical approach that understands the relationship between analytical and writing skills will have any real success producing better writers.

As I gain more experience as a writing teacher, I see less value in spending too much time, either in class

or during student conferences, talking about the technical aspects of writing, at the expense of discussing the underlying concepts on which the writing assignments are based. In contrast to when I first began teaching, I often spend student conferences, especially

during the first semester, engaging students in a dialogue intended to assure myself that they understand the assignment, rather than just talking about the “writing.” A writing course centered on students’ thinking, rather than on their writing, will likely lead to better writing than if the opposite approach is taken.

Of course, diagnosing a student’s analytical and organizational flaws is among the most difficult kinds of teaching there is. It’s mentally grueling work to dissect our students’ writing to figure out why their thinking went awry. But our willingness to engage in this kind of strenuous labor is, to again borrow the words of William Zinsser, what makes us special: Writing teachers “are in one of the caring professions, no more sane in their allotment of their time and energy than the social worker or day care worker or the nurse. . . . [F]ew forms of teaching are so sacramental; the writing teacher’s ministry is not just to the words but to the person who wrote the words.” Professor Zinsser’s words explain the unique commitment “writing” teachers make to students’ learning. ♦

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*Please make sure all of your legal writing colleagues are getting The Second Draft by e-mailing address changes or additions to [lwiaddresses@law.fsu.edu](mailto:lwiaddresses@law.fsu.edu). Address information sent to that e-mail address is forwarded to the editors of The Second Draft and to Lori Lamb, LWI Program Assistant, Seattle University.*

# Starting a Dialogue About Upper Level Writing

Ruth Anne Robbins, Rutgers School of Law-Camden

This edition of *The Second Draft* heralds a new column devoted to the teaching of upper level writing courses. Upper level practical writing courses are the next wave of legal writing curriculum reform. The majority of law schools responding to the most recent ALWD/LWI survey indicate at least one offered course. The courses run the gamut from appellate advocacy to drafting to general survey courses. Moreover, the LWI Board recently created a committee devoted to upper level writing courses, and in turn, the committee has requested space in this bulletin and time at the next biennial conference. The message is clear: our field continues to adapt to the needs of our students.

We did not want the initial article to simply review our accomplishments, because we instead hope that this column will initiate dialogue within our specialty. For that reason, we instead challenge everyone in the Institute to consider this question: What *should* we teach?

Today I start the discussion by offering one answer: “more depth.” I believe that everyone in the Institute would benefit from studying the classic theories behind the so-called “rules” of IRAC and the ilk. Although we have made great strides in breaking out of the confines of the first two semesters of law school, we need to continue to evolve. Our students deserve depth as well as breadth in their learning. Both the forthcoming *ABA Sourcebook on Legal Writing Programs* and an upcoming article in the *Journal of Legal Education*<sup>1</sup> categorize the different types of upper level practical writing courses as either “horizontal” or “vertical” in nature. The former expands the students’ introductory knowledge to new types of documents, such as transactional instruments. The latter continues to delve into more detail with documents already familiar to students such as briefs or memos. Although there are definite benefits to the first type, such as drafting courses, this column installment actually focuses more on the second, “vertical” or depth courses.

A traditional vertical course may ask students to work on a more complex document, such as a more advanced appellate brief. That approach, however, does not necessarily teach students the skills they can translate into everyday practices. Recently, some of the newer texts and courses approach upper level writing courses from a more theoretical

standpoint, studying persuasion itself. This cerebral juncture deserves more of our study and classroom time. One text I highly recommend is our own Michael Smith’s *Advanced Legal Writing* (Aspen Law & Bus. 2002). I am not saying this to provide free advertisement for our colleague; the work stands on its own merits. As one student exclaimed “I actually read this book!” Many other legal writing professionals also are writing about substantive legal writing topics. I exhort you to read these articles to further your own understanding of the discipline. Each year *The Second Draft*, *Perspectives*, and the *Journal of Legal Writing* publish bibliographies of legal writing articles. Moreover, the upper level writing committee is maintaining a bibliography of articles related specifically to those types of courses.

Of course, as we can all attest, teaching a new course is one of the best ways to increase the depth of your own knowledge. For that reason, I end this first column by urging everyone in the Legal Writing Institute who has taught first-year law students for more than a year or two to teach an upper level writing course. Even something as simple as regularly meeting with a few trusted law students over coffee or in your office to discuss legal writing as a discipline can enhance your own depth in the field. Teaching beyond the

first year will force you to expand your own depth and breadth of legal writing principles. Greater understanding translates into improved pedagogy to all law students, including your 1Ls. Moreover, teaching upper division students

provides many other intangible benefits. So many of us harbored early secret beliefs that our students who did not do well in the 1L writing courses were doomed to mediocre careers in law. Teaching a course beyond the 1L program helps put many of those fears to rest. Most law students really do “get it” by the end of their time in school. And those who did well from the beginning can take our breath away by demonstrating abilities greater than we ourselves could have hoped for when we graduated from law school.

Finally, teaching students beyond the first year provides us a better perspective and opportunity to reflect upon our 1L curriculum and correct certain aspects based on defects we continue to see in the students’ later years in law school. Thus, we come full circle. Upper level writing programs ultimately enable us to improve the basic foundation courses. ♦

<sup>1</sup> Michael R. Smith, *Alternative Substantive Approaches to Advanced Legal Writing Courses*, \_\_ J. Leg. Educ. \_\_ (publication slated for 2003); see also Terrill Pollman, *Building a Tower of Babel or Building a Discipline? Talking About Legal Writing*, 85 Marq. L. Rev. 887 (Summer 2002) (advocating a shared vocabulary in legal writing).





## Bite-Sized Success: E-mailing Weekly Grammar Tips to Law Students

*Kim M. Baker, Writing Specialist  
Roger Williams University School of Law*

“Thank you for your ‘Writing Tip of the Week.’ Your e-mails provide a nice, quick reference for rules that I am often confused about.” This testimonial from a third-year law student represents the consistently positive reaction to a pilot project I ran this past academic year aimed at reaching a wider audience with questions about grammar. Although it is essential, appropriate grammar alone, without organization and logic, does not result in a thoughtful and well-developed legal argument that is also easy to read. But refreshing long-forgotten or ill-used basic grammar rules clarifies confusion, strengthens sentence structure, and encourages some law students to visit their professors and/or Writing Specialist, if one is available, to further improve their writing.

Law students tell me that they are aware of how much they have forgotten about grammar but often feel too busy to attend a grammar refresher workshop. Getting around this paradoxical thinking posed a sticky challenge until I began e-mailing grammar tips. The students not only appreciate a weekly grammar tip but tell me that their writing improves because of it. Many students have told me that they maintain the tips in a binder for future reference.

*Sending writing tips in “bite-sized pieces” reinforces long-forgotten rules and increases awareness of writing support services.*

Of course law students can find what they need to know about grammar in numerous textual and online sources, including their legal writing textbook. But the following testimonial suggests that refreshing long-forgotten or ill-used basic rules works for them in bite-sized pieces: “The weekly tips are nice. They provide the reader with short, useful, digestible pieces of information, and I highly advocate continuing the process.” First-year students are more likely to use their time grappling with complex law theories and legal writing formats, while neglecting weaknesses in their sentence skills. The grammar nuggets encourage all students, but especially first years, to use the tips to improve their current legal writing.

In addition to the ease of access, e-mailing a tip once a week reminds students that good writing is important and that the Writing Specialist exists. “I am shocked that someone would go to this much trouble just to make the lives of law students a little easier. I am sorry that I could not thank you in person, (four-case analysis has me busy!), but I just wanted to let you know that your help is greatly appreciated,” comments a first-year student. The tips generate a consistent awareness of writing support services. My business has increased since I started e-mailing the tips. Many students refer to them when they come in to work on their writing, stop me in the corridor to discuss them, and e-mail their thanks.

I began e-mailing the “Writing Tip of the Week” at the beginning of the fall semester, 2002. Its success encouraged me to e-mail a “TRRAC

Tip of the Week” to first-year students that paralleled what they were learning in their legal writing class. (TRRAC is our program’s acronym for issue organization.) “Quick Tips” followed, adapted from Mary Barnard Ray and Jill J. Ramsfield’s *Legal Writing: Getting It Right and Getting It Written*.

The “Writing Tip of the Week” coincided with citation lessons that our Director of Legal Writing, Jessica Elliott, was already incorporating into many class lectures. Our legal writing professors would like to include a five-minute grammar refresher using the writing tips and a five-minute citation lesson in every first-year writing class beginning fall 2003. To get some feedback, Professor Elliott and I took the idea out for a spin to the 2003 Rocky Mountain Regional Legal Writing Conference held at New Mexico School of Law. The idea generated positive feedback and discussion. We learned that other law professors and writing specialists do something similar with citation and writing tips.

E-mailing grammar tips does not guarantee improved writing skills. But it does expose students to long-forgotten and often ill-used grammar rules. Perhaps just as importantly, it emphasizes good sentence structure as a component of legal analysis and encourages ongoing writing improvement, while creating an awareness of writing support services. *If you are interested in incorporating a “writing tip” component into your legal writing program, would like a sample “tip,” or have any questions, contact me at kbaker@rwu.edu or 401-254-4616. ♦*

# [Not Just] For New Teachers: Writing a Winning Conference Proposal

Suzanne E. Rowe, University of Oregon School of Law

With the increased professionalization of Legal Research and Writing (LRW) has come an increase in the opportunities for LRW professors to make presentations at regional, national, and international conferences. The presentations at these conferences are often selected by a program committee, which bases its selection on proposals submitted by those who wish to present.

Before writing my first conference proposal, I wanted to look into the minds of the committee members who would review my proposal and decide whether to put me in the spotlight. This essay provides that look to future presenters, based on my experience reviewing over one hundred proposals for the Institute's national conference in 2002 and helping schedule that program.

*Select a topic that interests you.* LRW conferences welcome presentations on topics that range from teaching techniques to traditional scholarship. Given this broad range, simply select a topic that you find interesting and useful. For ideas, review brochures from past conferences, prior issues of *The Second Draft* (especially the conference proceedings issue), law review articles, and your own teaching notes.

Once you have a topic, conduct some preliminary research. Learn what has already been said about that topic and how your contributions will add to the dialogue. Keep the focus narrow, since most presentations last between 50 and 90 minutes.

*Consider your audience.* Think about your potential audience. Will you be addressing experienced or new teachers? Then decide what you want them to gain from your presentation. Will they leave with an innovative way to teach a fundamental skill? Will you press a debate in a new direction? Emphasize what you can give to the audience.

*Listen to the committee's suggestions.* The Call for Proposals states what the committee will consider important in reviewing proposals. Read the Call several times to catch all of the committee's suggestions. When a bibliography is considered favorably in the selection process, include one that reflects the thought and effort you have already devoted to ensuring an excellent presentation. (The bibliography also ensures that you are building on the work of others, rather than reinventing the wheel.)

A stated commitment by the committee to select a range of presentations on diverse subjects should make you wonder whether many other proposals will address the same issue. If your proposal is one of five on a particular topic, the odds are against yours being selected.

*Be thorough, but concise.* Your proposal must give enough detail to convince the committee that you have developed an idea well enough to implement it. A vague notion of what you might want to discuss will not measure up against a proposal with a clear thesis and a plan of action. At the same time, do not write out your entire presentation. If most proposals are two pages in length, an eight-page proposal may seem excessive.

*Be creative in presentation style.* LRW teachers expect presentations that use different teaching methodologies and that actively engage conference participants. Do not plan to read a paper, and look for alternatives to lecturing. Several successful presentations in 2002 included role playing, video clips, and small group discussions.

In attempting to vary presentation style, most presentation proposals assure the committee a "lively debate," include time for questions and answers, or invoke the use of Power Point. The stronger proposals explain why the topic is likely to promote discussion and highlight the more difficult questions likely to be provoked by the presentation. Note, too, that using Power Point in your presentation may not spice things up if you simply read the Power Point slides instead of lecture notes.

*Edit.* As we tell our students, professional appearance matters. Proposals with misspelled words, missing words, extra words, incorrect grammar, and typographical errors are especially troubling when they come from LRW colleagues.

*Follow the rules.* Read the instructions carefully, and comply with them. This includes submitting your proposal on time. While late proposals may be reviewed by the committee, they may not receive the favorable attention of other proposals on similar topics that were submitted on time.

My teaching and scholarship have benefitted tremendously from the conference presentations I have attended over the years. I'm grateful to each of you who has submitted a proposal and made a presentation, and I am looking forward to the Institute's 2004 conference. ♦

*A special note for newer teachers.* Do not be discouraged from submitting a proposal just because you are new to LRW. Many of us with years of experience want to hear new voices and ideas, and we want to learn from you. While your proposal should be developed, the committee knows you will continue to work on your idea in the months between acceptance and presentation. If you do not have time to devote to a full presentation, many LRW conferences include "Best Ideas" or similar short presentations.



# Special Feature: Using Teaching Assistants

## Our Extended Family

*Brooke J. Bowman, Stetson*

LRW professors are among the most accessible faculty on a law school campus. We are the first to provide feedback, the first to notice when a student is struggling, and the first people students approach with school and personal problems. Although working closely with students is one of the benefits—and joys—of teaching, LRW professors cannot do all that we need to do alone. At Stetson, we use a Legal Writing Clinic with an “extended family” of outstanding upperclass students, called Teaching Fellows, or TFs for short, to help us achieve our mission of teaching fundamental communication and analytical skills.

TFs help in many ways. Their primary function is to provide targeted feedback on drafts of assignments. Each full-time TF works six to seven hours each week in the Clinic—an on-campus office stocked with a desk, computer, printer, and many reference books—and also logs several additional hours each week reviewing and commenting on papers. While in the Clinic, TFs conduct twenty-minute appointments with students. We encourage students to sign up for an appointment in advance and to submit their drafts at least one day before the appointment. We staff the clinic from 8:00 a.m. until 10:00 p.m. during the week, and for several hours during the weekend so that both full-time and part-time students will have adequate access to the TFs. As an aside, TF positions are coveted because they pay the highest student salary on campus.

TFs are particularly crucial in the school’s part-time program, as students in this new program often do not have the time or opportunity to meet upperclassmen and to interact with full-time students. Because TFs have recently completed the LRW courses, first-year students feel they can confide in them. Mentor-mentee relationships develop between TFs and the students who seek help. These relationships often continue beyond the LRW courses; students use TFs as sounding boards for advice about extracurricular activities, class section, job prospects, and professional goals.

TFs also enhance communication between students and LRW professors. TFs can make the professors aware if they receive many questions about a particular topic, or if several students are struggling with a particular topic or skill.

TFs do more than review the student’s written work. Sometimes by asking the student to explain orally what a certain case was about or what a party’s arguments may be, the TF is teaching the student much more than just how to write well—the TF is developing the student’s analytical skills and oral communication skills as well.

Actually, the TFs will find that while they are assisting students with the fundamentals of legal communication, they are improving their own communication skills. The skills that the TF learned in his or her own LRW class are reinforced when a TF critiques a student paper, explains to a student how to write a case description, or helps a student develop a research plan. So, while the TFs are helping us achieve our mission of teaching fundamental communication and analytical skills to the first-year students, we are continuing to develop the communication and analytical skills of our TFs.



## Our Teaching Assistants Set Us Apart

*Carol Lynn Wallinger, Rutgers School of Law-Camden*

At Rutgers-Camden, our Teaching Assistant program is an instrumental part of our legal writing curriculum. Our program is somewhat unique in that each professor has four teaching assistants, and the students receive academic credit, not pay, for this position. Our TAs are selected through a competitive application process, which ensures that we have some of the “best and brightest” second-year students on our staff. Many of the TAs are also on the staff of the Rutgers Law Journal, and some are on various other journals published by Rutgers. Others chose to compete in our intramural moot court program, and they generally do fairly well in the competition.

Teaching assistants are also highly sought after by employers seeking summer associates. A partner at a large firm even told us she values the credential more highly than a law journal position because of the extra training they receive. In addition to excellent summer placements, many TAs obtain clerkships after graduation.

The teaching assistant duties are divided into two basic categories; assisting us in preparing materials for the students, and assisting the students themselves. All TAs assist us by drafting sample memos and briefs. In the spring they also help during oral arguments. The TAs assist the students primarily by informally answering questions one-on-one, often in the library or hallway. They also hold weekly “theme” office hours, schedule two to three individual appointments with each student each semester, and teach the final citation class of the semester. They are responsible for reinforcing the research, citation, and legal writing concepts we discuss in class. We prepare them for this teaching responsibility through a series of five or six TA training sessions each semester, taught by us, as well as weekly staff meetings with

## LWI Committee Chairs 2002-2003

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ruthanne@camden.rutgers.edu.

### Web Site Committee

Mimi Samuel (Seattle), msamuel@seattleu.edu.

us, during which we review each first-year student's progress through the LRW program.

We view our TAs as essential resources of the program, because they exponentially increase the amount of individual feedback each student receives. We are, however, in the process of re-evaluating the "for credit" versus "for pay" system. Giving academic credit has the benefit of making the students actually pay the school in the form of tuition, thereby alleviating a strain on our budget; however, this also encourages the TAs to treat the position as if they were only "quasi-employees," with less-than-firm assignment deadlines. This problem is especially acute during the fall interviewing season; hiring the top students as TAs is a double-edged sword because those same students are often scheduled for multiple first and second interviews. While we could assign lower grades to those late filers, we are loathe to affect the GPAs of good students who generally work very diligently to see that the first-year students succeed in LRW. Paying the students would alleviate this problem.

Overall, the positive benefits of this unique TA program far outweigh the few problems. We work very closely with these students over the course of the year, and not surprisingly, we become very invested in the balance of their careers. Many keep in touch long after graduation, and more than a few decide to enter the LRW field as a result of their experience. In fact, to date, this very successful program has started the LRW careers of one director, six full-time professors, and many more adjunct faculty. ♦

*More on the use of teaching assistants: the 2002 ALWD/LWI Survey included several questions on the use of teaching assistants. Of the programs submitting data for the survey, 58 did not use teaching assistants; 42 programs used them "rarely," and 34 used them "significantly" or "somewhat." Only 5 programs used them "substantially" or "exclusively."*

*In 76 programs, the teaching assistants hold office hours which may cover, among other topics, legal research (68 programs); general writing issues (60 programs); other law school issues, such as exam preparation (55 programs); and citation (68 programs). In 60 programs, the teaching assistants are allowed to discuss writing assignments before the assignments are graded.*

*Most teaching assistants are compensated in some way, with compensation almost evenly divided between credit and payment. In 41 programs the teaching assistants received some amount of course credit. In 45 they were paid, either by the hour or by the term, and four programs reported that their teaching assistants received an offset against tuition.*

*The text of the questions and detailed responses can be found in the Survey results posted on the ALWD website, www.alwd.org.*

# Fostering Self-Motivation

Steve Hartwell, San Diego

Self-motivation has to be voluntary; as teachers we cannot command it, but can only, at best, create conditions that encourage it. By “self-motivation” I mean getting students to learn because they like the topic, find it interesting, and feel better about themselves learning it. I primarily teach clinical courses, but I also teach Legal Ethics—a course that is famous for being unloved by students. I have no special formula, but several practices that have helped me create a classroom atmosphere where student participation is high.

One thing I do is keep class sizes to approximately 40. For larger classes, I divide the class in half and teach it twice. Students know I do this for their benefit, without extra compensation. A smaller group allows me to use a smaller room with tables, not a lecture hall. I teach both sections back-to-back with an hour break.

Second, I make extra efforts to know and call on students by name. I suffer from a mild neurological condition that makes it difficult for me to remember faces (“prosopagnosia”—Greek for “face not knowing”). So I video the first class and review the tape before every class. Students know about my disability and, I think, give me credit for working around it to be able to treat them respectfully.

Third, I give students credit for challenging anything I say—even when they are clearly “wrong.” They can give me their challenges in writing; their contributions marginally, but positively, affect their grades. I read the most useful ones aloud. I also give extra credit for finding any errors in the materials. When I use a fact pattern, students who find major errors become names in the fact pattern later. Some return as alumni years later to see whether they are still the named plaintiff or some other character.

Fourth, I never criticize; I always praise. I think of my job in this sense as an umpire rather than a coach: I call balls and strikes, but I don’t berate the players. Students can lose points or get a low grade, but without criticism.

Fifth, I use a slight modified grading curve. I meet the standards the school requires, but I do not give lower than a 75 as long as a student has worked diligently all semester. At the other end, I only rarely give 90s.

Sixth, I always thank students for any contribution. By the third year, many of them have “learned” not to talk, not to volunteer, and not to respond to internal motivations. I tell them up front that I will thank them because I do, in fact, appreciate their participation. Although I call on

students regularly, they may always call on co-counsel if they are stuck. Co-counsel who come to the rescue on their own may earn a round of applause.

Seventh, I give lots of very short in-class and take-home quizzes during the semester, so that pressure is taken off the final exam. I encourage students to do the take-home quizzes together, and I have a work study student read and grade them. For in-class quizzes, I collect and distribute them randomly and have them graded by other students. This leads them to trust each other, because I trust them. I also credit students for writing journals. In a class of 80, I will typically read about 300 journal entries. They come in and are answered by e-mail; I try to spread them out so that I read about five a day, and sometimes make only a comment or two. Their entries average approximately 250 words. Some are very personal.

Eighth, I do a lot of small group discussion, where I give students a question and let them meet in groups of four or five to discuss and respond to the question.

Internal motivation has to be, and can be, encouraged, rewarded and cultivated. My experience has been that these practices lead to positive feedback from the students, as well as an increase in the students’ self-motivation over the course of the semester. Still, some students seem wired to respond only to external motivation. I respect their source of motivation equally.

My classes are a source of data for a study I am conducting on moral development. My hypothesis is that some of the depression and anxiety we find in law students can be traced to the stifling of student moral growth by traditional law school teaching practices. I would be happy to respond to any comments or to send a copy of the study/paper to anyone who is interested. Please contact me at [hartwell@sandiego.edu](mailto:hartwell@sandiego.edu).

*[Ed. Note: this column is adapted from a post on the Humanizing Legal Education list; we felt it offered some good food for thought. The list was created to provide a forum for discussing the choices law teachers make in conducting legal education, the impact those choices may have on the attitudes, values, and well-being of law students, and the possible relationship between those matters and reputed “crises” in the profession—for example, substance abuse, depression, dissatisfaction, and eroding professionalism. Its subscribers include members of LWI as well as others who teach in different disciplines. To subscribe to the list, simply send an empty e-mail to [legaled-subscribe@mail.law.fsu.edu](mailto:legaled-subscribe@mail.law.fsu.edu); no subject or text is required. The system will reply to your email with a welcome message and request for confirmation.]*

## Publications, Promotions and Other Achievements

**Jean Boylan** (Loyola-Los Angeles) has just published an article titled *Crossing the Divide: Why Improving Success for Non-Traditional Law Students Requires Summer Programs at Every Law School*, in the March issue of the St. Mary's Journal on Minority Issues. The article concludes that Legal Writing practice and feedback is the single most important factor in helping non-traditional students to succeed.

**Ralph Brill** (Chicago-Kent) was voted Teacher of the Year.

**Patricia A. Broussard, Gregory Berry, and Gwendolyn Roberts Majette** (Howard University) filed an amicus brief with the United States Supreme Court on behalf of Howard University Law students in support of the University of Michigan in *Grutter v. Bollinger*, \_\_\_ U.S. \_\_\_, 71 U.S.L.W. 4498 (U.S. June 23, 2003). The primary issue before the Court was whether the Court of Appeals for the Sixth Circuit properly found that the University of Michigan's consideration of race in an effort to obtain diversity in the classroom is constitutional under the Equal Protection Clause of the Fourteenth Amendment. The filing of the amicus brief, the product of four students and the professors named above, continues Howard's tradition of advancing the cause of civil rights, equality, and social justice by training and inspiring law students to use the law to make a real difference in real cases affecting the lives of real people. It also demonstrates to the world the absolute importance of legal writing. [Ed. note: In *Grutter*, the Supreme Court approved the admissions process at the University of Michigan School of Law because the process involved a flexible, individualized assessment which included factors such as the applicant's essay, letters of recommendation, GPA, and standardized test scores as well as the applicant's minority status. The policy was sufficiently narrow to serve the state interest of education benefiting from a diverse student body without violating the Equal Protection Clause. The admissions policy for undergraduates at Michigan

*failed, however, because twenty points out of the possible 100 were automatically awarded to minority applicants based on their minority status. Briefs are available online on Westlaw; the amicus brief is also available at [www.law.howard.edu/faculty/pages/pbroussard/supctamicusbrief\\_huslgrutteramicusbrief.pdf](http://www.law.howard.edu/faculty/pages/pbroussard/supctamicusbrief_huslgrutteramicusbrief.pdf).]*

**Patricia A. Broussard**, Acting Director of the Legal Writing Program (Howard), also received the 2003 Rosmarin Award at Howard's Commencement for teaching excellence and exceptional service. Professor Broussard's selection marks the second time in the last five years that this prestigious award has gone to a member of the legal writing faculty at Howard (Gregory Berry won the award in 1998).

**David ButleRitchie** (Appalachian) and **Susan Hanley Kosse** (University of Louisville-Brandeis) have written an article which has been accepted by the Journal of Legal Education. The title is: *Assessing the Writing Skills of New Law Graduates: A Comparison of the Attitudes of Judges, Practitioners and Legal Writing Professors*.

**Kenneth Chestek** (Michigan) has an article coming out in the next issue of the Gonzaga Law Review (vol. 38, issue 1) titled *Reality Programming Meets LRW: The Moot Case Method of Teaching in the First Year*. The article focuses on a method he developed for teaching the first year LRW course which takes a hypothetical case from client interview through pleadings, discovery, and oral argument on a motion for summary judgment.

**Bradley G. Clary** (University of Minnesota Law School) and **Pamela Lysaght** (University of Detroit-Mercy School of Law) co-authored *Successful Legal Analysis and Writing: The Fundamentals*, along with an accompanying Teacher's Manual, which were published by West in March 2003.

The faculty at Missouri School of Law voted to

## Publications and Promotions

*Continued from page 19*

promote **Melody Daily**, director of the legal research and writing program, to full Clinical Professor in recognition of her teaching, scholarship, and service to the school.

**Darby Dickerson** (Stetson) was named interim dean of the law school. Also, the second edition of her book, *ALWD Citation Manual: A Professional System of Citation*, was published this spring.

**Linda Edwards** (Mercer) published a new book, *Legal Writing and Analysis*, designed for first-year legal writing programs that emphasize legal method information.

**Anne Enquist** and **Laurel Oates** (Seattle University) just published two new books with Aspen Publishers: *Just Briefs* and *Just Memos*.

After seven years teaching legal writing and four years teaching family law at Villanova, **Michael Flannery** has accepted a tenure-track legal writing position at the University of Arkansas at Little Rock. Michael will teach legal writing and may teach additional courses in the areas of health and family law.

**Susan Hanley Kosse's** (University of Louisville-Brandeis) article, *How Buffalo Creek Can Keep Your Legal Writing Class From Becoming A Disaster*, has been accepted for the Spring 2003 issue of *The Law Teacher*. Susan will also serve as the 2003 CLE chair for the Louisville Bar Association. She spent two weeks this spring teaching in Leeds, England as part of an exchange program.

**Debra Hecht** (Touro-Writing Resource Center) was awarded the Dean's Grant for Summer Research (Summer 2002). She discussed her research paper, *Representing Lawyers at the Turn of the (Last) Century*, at a Faculty Colloquium on March 13, 2003. Empire State College in Westbury, New York, invited Debra to speak at its faculty lecture series in April where she presented a talk called "Process, Completed Paper, and Publication."

**Kay Holloway** (Texas Tech) was granted contract extension beyond her fifth year of teaching and promoted from Associate to full Professor of Legal Practice. The contract extension is equivalent

to job security for those demonstrating excellence in teaching in the Legal Practice Program.

**Steve Johansen** (Lewis & Clark) was granted tenure by the law faculty of Northwestern School of Law of Lewis & Clark College.

**Angela Laughlin** (Texas Tech), who served as a visiting professor in the Legal Practice Program at Texas Tech University School of Law during the 2002-03 school year, has accepted a permanent position as Assistant Professor of Legal Practice for the coming school year.

**Jim Levy** (Colorado) and **Anthony Niedwiecki** (Temple) will be joining the lawyering skills faculty at Nova Southeastern University Shepard Broad Law Center.

**Pamela Lysaght** (University of Detroit-Mercy School of Law) was awarded tenure-track status in a unanimous vote by the law school faculty.

**Adam Milani** and **Michael Smith** (Mercer) were just voted tenure by the law school faculty.

**Jane Muller-Peterson** (Penn State) has written an article, *Expanding the Definition of Parenthood: Why Equitable Estoppel As Used To Impose A Child Support Obligation On A Lesbian Domestic Partner Isn't Equitable: A Case Study*, that will be published in the next volume of *The Georgetown Journal of Gender and the Law* due out in the late summer.

**Michael D. Murray** (Visiting Assistant Professor of Law at the University of Illinois College of Law) published *Missouri Products Liability* (2d ed. West 2002), in December. Murray recently was invited to co-author *The Deskbook of Art Law* (Oceana), a leading treatise on the intersection of law and the arts.

**Gwendolyn Roberts Majette** (Howard University) has published an article, *Access to Health Care: What a Difference Shades of Color Make*, 12 *Annals Health L.* 121 (2003). The article examines an age-old problem: the effect of race and ethnicity on a patient's receipt of health care. The article analyzes this issue from a legal and public policy perspective urging resolution of the problem using an interdisciplinary approach. Last summer Majette also made a presentation to health care providers at the U.S. Department of

Health and Human Service conference, “National Health Service Corps from Training to Service: Meeting the Needs of the Underserved.” The presentation was titled, *Why Understanding the Contract is Important*.

**Sarah E. Ricks** (Rutgers-Camden) recently filed an amicus brief to the Third Circuit Court of Appeals on an open issue in which the federal circuits have split: whether a biological father has a substantive due process right to companionship with his independent adult son when the father had no custody or control of his son, and the governmental conduct at issue, a police shooting of the son, was not focused on the parent/child relationship. The brief was filed on behalf of the cities of Newark and Camden in New Jersey, and Pittsburgh and Harrisburg in Pennsylvania. It will soon appear in the *Journal of Law and Urban Policy*, a new online publication.

**Amy E. Sloan** (Baltimore) has recently published the second edition of her book, *Basic Legal Research: Tools & Strategies* (2d ed. Aspen L. & Bus. 2003). The accompanying workbook written with **Steven D. Schwinn**, *Basic Legal Research Workbook* (Aspen L. & Bus. 2002), was printed last August.

**Nancy Soonpaa** (Texas Tech), Associate Professor of Law and Director of the Legal Practice Program, was nominated for the Hemphill-Wells New Professor Excellence in Teaching Award. This is a campus-wide teaching award for those in their first four years of teaching at Texas Tech.

**Bonny L. Tavares** (Howard University) has published an article, *The Expedited Appeals Process for the District of Columbia Court of Appeals*, 4 J. App. Prac. and Process 201 (2002).

**Nancy Wanderer** (Maine) contributed to a recently published book discussing appellate practice in Maine, written by Hon. Donald Alexander, Associate Justice of the Maine Supreme Judicial Court. Nancy wrote the chapter called *Writing Effective Law Court Briefs*.

**Melissa H. Weresh** (Drake), Assistant Professor and Assistant Director of Legal Writing, has an article forthcoming in the *Western New England Law Review* titled *Brownfields Redevelopment and Superfund Reform Under the Bush Administration: A Refreshing Bipartisan Accomplishment*.

## Program News

The faculty at **Louis D. Brandeis School of Law of the University Louisville** recently voted to change the school’s two contract legal writing positions to the tenure track. The positions are not yet funded, but when funding does become available the faculty plans to conduct a nationwide search to fill the spots.

The legal writing faculty at **Drake University Law School**, Des Moines, Iowa, are pleased to announce that the law school faculty unanimously voted to award academic titles and long-term contracts to members of the writing faculty. The standards for promotion and retention are in place and being utilized with regard to current retention decisions and promotion requests.

The legal writing faculty at the **University of Detroit-Mercy School of Law** were granted 405(c) status.

The faculty at **South Texas College of Law**, in Houston, voted to amend its regulations to allow LRW faculty members to gain “presumptively continued employment” status after six years of teaching. A committee will give all those who petition for this status a thorough review before granting the status, using procedures nearly identical to those used for tenure applications. However, once the status is gained, the LRW faculty member cannot be terminated without good cause or bona fide financial exigency.

The **Villanova** faculty voted to lift the seven-year cap on the employment terms of members of the law school’s Legal Writing Faculty. Acting on the proposal of an Ad Hoc Legal Writing Committee, the faculty voted to replace the cap with 3 one-year terms of employment, to be followed by renewable three-year contracts. Typically, teachers will be hired with the title of Assistant Professor of Legal Writing and promoted after the third year to Associate Professor of Legal Writing. The faculty will have no role in initial hiring, but will review and participate in retention and promotion decisions after the first year of employment. A Legal Writing Advisory Committee will assist in these decisions. In addition, the faculty granted the Assistant Dean for Legal Writing a vote on all decisions except for hiring, retention and promotion of tenure-track faculty.



CONTINUED ON PAGE 22

## Calls for Articles

The Journal of the Association of Legal Writing Directors (JALWD) invites submission of proposals and articles for its Fall 2004 Learning/Thinking/Writing issue. In this “best practices” issue, the Journal will publish articles relating learning theory and cognitive research to the teaching and practice of professional legal writing. The final deadline for submission of articles is September 15, 2003. Article selection will be completed by November 1, 2003. The Journal welcomes submissions from legal writing professionals, including law professors, lawyers, and judges, as well as from academics, researchers, and specialists from other disciplines. In addition to full-length articles, the Journal welcomes essays and practice notes.

JALWD is designed to generate landmark volumes within the field of professional legal writing by encouraging and publishing scholarship that uses theory, research, and experience to propose and develop “best practices” within a specific subject area. The Journal aims to be an active resource and a forum for conversation between the legal practitioner and the academic scholar. To accomplish these goals, the Journal is interested in two kinds of articles: (1) articles that develop the theory and research the practice of legal writing, and (2) articles that apply theoretical and research findings from law and other disciplines to the teaching and practice of legal writing. In addition, the Journal will publish selected “practice notes” designed to highlight a strategy or technique applied in the field, a current problem or obstacle, or a new issue encountered in the field that has not yet received much scholarly attention. For more information and submission guidelines, visit the ALWD website, [www.alwd.org](http://www.alwd.org), or contact Linda Berger, Thomas Jefferson School of Law, 2121 San Diego Ave., San Diego, CA 92110, (619) 297-9700.

Legal Writing: The Journal of the Legal Writing Institute is accepting submissions for Volumes 10 and 11 (Volume 10 is scheduled for publication in 2004). The following excerpt of the Journal’s guidelines for submissions describes the type of articles solicited. More information on the guidelines, including format requirements, is available at [www.lwionline.org](http://www.lwionline.org), or from Kathryn Mercer, Case Western Reserve University Law School, 11075 East Blvd., Cleveland, OH 44120; e-mail [klm7@cwru.edu](mailto:klm7@cwru.edu).

*News items relating to publications, promotions, program changes, or upcoming conferences and meetings can be sent throughout the year. Please e-mail news to [patrick@lclark.edu](mailto:patrick@lclark.edu).*

*“As a journal for Legal Writing professionals, we seek articles that contribute to the discipline of Legal Writing. Generally, the articles should aim to broaden the discipline’s theoretical foundations or pedagogy. These articles must break new ground, that is, offer original ideas. We expect authors to exhaust all research possibilities in the Legal Writing literature and in other relevant disciplines. They generally should synthesize, carefully explore, and cite closely related scholarship. But they also must move substantially beyond existing scholarship.*

*We define the discipline of legal writing broadly. It can encompass a broad range of skills, including legal analysis, research, interpretation, drafting, storytelling, and other lawyering skills. It can involve a broad range of related disciplines, including classical rhetoric, linguistics, composition, psychology, communications, and ethics. We welcome articles that extend the definitional boundaries of legal writing, as well as those that seek to improve pedagogy and scholarship in the field through interdisciplinary and empirical research.*

*We are interested in many types of articles. We would consider, for example, empirical studies. These studies must yield valid results and use sound methodology and carefully selected survey samples. We would also consider articles that describe and analyze a writing program or particular teaching techniques. However, these must present innovative ideas that would benefit others in our profession.”*



## AALS Workshop for New Teachers

Congratulations to the AALS Section on Legal Writing, Analysis and Research for an outstanding program for new LWR teachers. Over 80 new teachers attended the one-day workshop held in late June in conjunction with the Annual AALS Workshop for New Teachers. The new teachers attended terrific programs led by Joan Blum, Debra Green, Susan Kosse, and Robin Wellford. In addition, Dan Barnett reprised his Workshop on Critiquing Student Papers that was so successful at the last two LWI conferences. The success of the workshop, which was proposed by Professors Barnett, Blum, and Kosse, will likely result in AALS repeating the workshop in 2005.

**LWI Board Meetings**

2004 LWI Conference: Wednesday, July 21, 2004

**2004 LWI Conference**

2004 LWI Conference, Seattle University School of Law, Seattle, WA:  
Wednesday, July 21 through Saturday, July 24, 2004

**Board of Directors Elections**

Call for Nominations: January 2004  
Elections: March 2004

***Legal Writing: The Journal of the Legal Writing Institute***

Status of Volumes 8 & 9: Publication anticipated in 2003  
Status of Volumes 10 & 11: Currently accepting submissions  
For information, contact Kathryn Mercer, Editor-in-Chief, at 216-368-2173 or klm7@po.cwru.edu

***The Second Draft***

Deadline for submissions for Fall/Winter 2003 issue: October 15, 2003  
Deadline for submissions for Spring/Summer 2004 issue: March 15, 2004

*Special thanks to Professors Jennifer LaVia and JoLen Wolf (FSU) and to Jennifer Hisey (Oregon) for assistance with editing and proofreading, and to Mike Horgan (FSU Printing & Mailing Services) for production assistance.*



**The Second Draft: Bulletin of the Legal Writing Institute**

From: The Florida State University College of Law  
Tallahassee, Florida 32306-1601

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Name: \_\_\_\_\_

School: \_\_\_\_\_

Street Address: \_\_\_\_\_

City/State: \_\_\_\_\_

Zip: \_\_\_\_\_

Phone/Fax/E-mail: \_\_\_\_\_