

PERSPECTIVES

Teaching Legal Research and Writing

YES, YOU WILL REALLY USE ALGEBRA WHEN YOU GROW UP: PROVIDING LAW STUDENTS WITH PROOF THAT LEGAL RESEARCH AND WRITING IS ESSENTIAL IN THE REAL WORLD

BY KELLY M. FEELEY
AND STEPHANIE A. VAUGHAN

Kelly M. Feeley is a Visiting Instructor of Legal Research and Writing, and Stephanie A. Vaughan is the Associate Director of Legal Research and Writing at Stetson University College of Law in St. Petersburg, Fla.

Every teacher is faced with that daunting question from the student with the very skeptical look: "Will we really use this stuff in the real world?" And every teacher responds with emphatic conviction, "Of course you will." However, saying it is so and getting the students to believe you are two very different things. This is especially true during first-year legal research and writing courses. Students question why we bother to teach them "paper" or "book" research when computer research is available. Students wonder if they will ever write an inter-office memo or a demand letter in "real life," or if we just enjoy torturing them with additional assignments. Although we assure the students that this is more than a hazing ritual, they seem to require more proof; they need to hear it from the proverbial "horse's mouth." That is why the Stetson University College of Law Research and Writing II program includes three "real world" class sessions.

To provide students with the incentive to work hard and reap the benefits of solid legal research and writing skills, we invite practicing attorneys,

judges, and upper-level law students who have clerked for law firms, government agencies, or courts to speak to our students. These participants help solve or demystify the equation of why honing research and writing skills early on will help students land clerking jobs sooner and shape better attorneys. The demystification begins during the first weeks of the Research and Writing II semester, which is the semester in which we focus on persuasive writing. We present a real-world panel consisting of attorneys, judges,

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Ann Laughlin

West Group

Product and Client Communications
D5-5238

610 Opperman Drive
Eagan, MN 55123
(651) 687-5349

and upper-level law students. We continue to solve the equation during the final two days of the semester, after students turn in their final appellate brief. One day we focus on “finding the dirt” — conducting factual research; the second day we simulate a clerking assignment with practicing attorneys.

Research and Writing in the Real World

In math class, it helped to have a problem put into context instead of being given an equation in a vacuum. The solution was the dreaded word problem. But those word problems applied to real-life situations. Students realized it was important to know how much gas their car would use on a 2,300-mile trip if they traveled 65 miles per hour, and their car got 19 miles per gallon.

To give law students that same perspective, focus, and interest about legal research and writing, we use a panel of practicing lawyers, judges, and law students to relay real-life situations in which research and writing skills are invaluable. It is not enough that students listen to the research and writing faculty day in and day out. We like to give them a taste of what practitioners and judges think about, see, and like or dislike about research and written products in the real world. This panel is called “Research and Writing in the Real World” and is held during the first or second week of Research and Writing II.

The panel usually consists of at least one judge, a longtime practicing attorney, a recent graduate, and an upper-level law student who has clerked for a law firm, agency, or court.¹ The panelists address the following topics:

- computer versus book research (cost, availability, preferences)
- research tools (most/least used, most/least helpful, most/least misunderstood)
- judges' expectations (work product, performance, professionalism)

¹ Through experience, we have found that the best panelists include judges who review a significant number of written motions, memoranda, and briefs; civil litigation attorneys who prepare motions, memoranda, and briefs and who review documents prepared by associates and law clerks; an upper-level law student who clerked for a small law firm; and an upper-level law student who clerked for a larger firm or judge. This diversity avoids giving a one-sided view of what is expected and required of law clerks and lawyers.

- attorneys' expectations (skills on arrival versus on-the-job training, time management, work product)
- application of research and writing skills (the similarity between class assignments and real-world projects, the frequency of brief and memo writing, the reality of updating and refining research)

An entire class is devoted to this panel. The professor moderates the panel and asks specific questions on the above topics, and the students are encouraged to interject questions.² The class concludes with the panelists giving advice and sharing personal experiences.

We find that this panel, used early on in the persuasive-writing semester, encourages most students to put a great deal of effort into their writing.³ They really see what research and writing means to the legal community. They realize that even though the research and writing curriculum is stringent and time-consuming, it will be worth the effort in the long run.⁴ It is a good idea to show them this up front. And the panelists enjoy coming to speak to new, idealistic students. It is a great networking tool because the panelists will usually stay after class to talk to any student who makes the effort. This real-world experience lends perspective to the dreaded word problem known as research and writing.

² We share the topics with the panelists a week before the presentation to avoid a renegade panelist from veering from the direction of the class.

³ The success of this program is evidenced by students' feedback. For example, one student commented, “R&W in general is the *most important* class in law school. I think hearing people [who] were practicing talk about the skills R&W taught, or at least introduced us to, made me pay a little more attention.” While another student told us, “Hearing the attorney talk about the importance of ‘learning’ R&WII concepts made me want to work harder so I would have the necessary building blocks when I started working.”

⁴ To complete the real-life equation, we conduct a research consultants program to keep up-to-date with trends. Lawrence D. Rosenthal, *Are We Teaching Our Students What They Need to Survive in the Real World? Results of a Survey*, 9 Perspectives: Teaching Legal Res. & Writing 103 (Spring 2001). The program is designed to determine whether the Research and Writing department is adequately preparing the students for their summer clerkships. *Id.* at 103. The results were positive, and the students felt as though they were intricately involved in the process. *Id.* at 108. In the summer of 2001, Stetson's Research and Writing faculty also organized a roundtable discussion with local attorneys and librarians to keep current on research trends in law firms and courthouses.

“Finding the Dirt”— Conducting Factual Research

Equations contain several variables. Students must not only identify those variables, but also gather information about them. In the legal context, those variables include the players and facts involved in any given case. Although most research and writing courses focus on legal research—such as finding statutory or case law—they often omit an important part of the equation—researching factual information.⁵

Legal research and writing courses typically provide students with all of the factual information they need to complete the assignment. However, we know that in the real world, factual research can be crucial to success. Stetson’s “Finding the Dirt” class demonstrates how to find important factual information. It emphasizes finding the good, the bad, and the ugly about clients, opponents, witnesses, experts, and other parties, to give the case perspective and meaning.

Since students are already familiar with computer-assisted legal research, this class takes that skill one step further. Westlaw®, LexisNexis, and the Internet are great tools for doing research on individuals and corporations. To illustrate that point, the professor conducts the class by using the classroom computer, projector, and screen so that all students can view the demonstration. Additionally, students are required to bring their own laptop computers to class that day.⁶ A student volunteers his or her name, or a random name is chosen, to conduct searches regarding newsworthy events, property owned, corporate involvement, vital records, ancestry, or criminal activity. For example, in both Westlaw and LexisNexis, searches can be run in the following types of databases: public information, records, and filings or newspapers, magazines, and news. Finally, on the Internet, students can run searches in <www.ancestry.com> for family histories, <www.anybirthday.com> for birth dates, or <www.infospace.com> for addresses and phone

⁵ Attorneys also can use fact investigation to organize a case file, to develop a theory, and to ensure that each element of a claim is met. Paul J. Zwier & Anthony J. Bocchino, *Fact Investigation: A Practical Guide to Interviewing, Counseling, and Case Theory Development* (NITA 2000).

⁶ Stetson requires each entering student to have a laptop computer.

numbers. Also, most states have a Web site that allows access to criminal records, court calendars, corporation status, and much more (e.g., in Florida, the Web site is <www.myflorida.com>). The students learn that these searches can produce detailed information such as someone’s next scheduled court appearance or property taxes paid for the previous year.

Although some students are familiar with private investigators who can search court and other public records and perform surveillance, this class teaches them to conduct preliminary and even in-depth searches themselves very inexpensively. Students pay particular attention in this class because they discover more ways to participate in the fact-finding process as opposed to working with only facts generated by the professor.⁷ This class also emphasizes how thorough preparation and investigation are the best ways to represent a client. Not knowing all of the factors in the equation can result in surprise, poor representation, and even malpractice. To avoid these results, students learn how to investigate themselves.

Simulated Clerking Experience

No math class would be complete without a test. Therefore, the last factor in the real-world equation is for students to try their hands at a mock clerking assignment. This completes the cycle from being told how important research and writing skills are to actually applying those skills to a project.

In this last class of the semester, we secure an attorney—who often heads the summer associate program at a local law firm—to conduct a mock research assignment with the class. The attorney brings one or more assignments and either hands out the assignments on a sheet of paper or discusses them orally. We ask that the assignment be similar, in terms of length and complexity, to one that would be given to a summer associate. For approximately 20–25 minutes, students work individually or in small groups to construct

⁷ Stetson has started writing memo and brief problems that require students to conduct both factual and legal research. For example, in one memo problem regarding bribing Florida Gov. Jeb Bush, it was important for students to discover that the defendant, a 1949 graduate of Yale University, had attended that school at the same time as Bush’s father, former president George H.W. Bush.

“This class also emphasizes how thorough preparation and investigation are the best ways to represent a client.”

“The students feel the real-world impact of knowing how to evaluate a problem and how to solve it—they literally solve the equation.”

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a research plan. The students must spot issues, choose the best research tools, and evaluate the time and costs involved to complete the assignment. The attorney then calls on an individual or group to present its plan. The class discusses the pros and cons of each approach, and the attorney gives feedback about the correctness, ingenuity, and feasibility of each plan. Additionally, the attorney addresses what firms expect from summer associates regarding complexity of assignments, number of assignments, and time management. The class also provides the attorneys the opportunity to meet and interact with students who might apply for summer clerkships with the attorneys' firms.

The students feel the real-world impact of knowing how to evaluate a problem and how to solve it—they literally solve the equation. The class also allows the students to brainstorm, be creative, and receive feedback from a “real” attorney rather than “just” a professor. This class also reinforces the importance of organization and research skills.

Conclusion

The truth is, algebra is part of our everyday lives. It took years for most students to accept that truth. At Stetson University College of Law, we do not want our students to take years to understand and accept the importance of research and writing. We employ these real-world classes to make that reality clearer and more believable early in law school.⁸ The more real-world exposure the students get, the more appreciative they are of the skills taught in law school. The sooner we can answer why algebra is really important, the better attorneys we will produce.

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⁸ The success of these real-world classes caused us to add a new real-world class for the fall 2001 semester. This new class focuses on the importance of billing, the ethics involved in billing, and the relationship between the time billed, the amount charged, and the attorney's productivity rating. This supplements a timekeeping/billing exercise assigned to the students early in the semester. In that assignment, the students keep track of and record “billable” time, which includes studying and attending classes, preparing outlines for classes, and preparing research and writing assignments.

KEEPING IT REAL: USING CONTEMPORARY EVENTS TO ENGAGE STUDENTS IN WRITTEN AND ORAL ADVOCACY¹

BY EMILY ZIMMERMAN

Emily Zimmerman is a Legal Writing Instructor at Villanova University School of Law in Villanova, Penn.

Introduction

Writing and oral argument are not passive pursuits, and learning to write and argue orally cannot be either. While it is clear that we must engage our students in the process of learning written and oral advocacy, the question remains how to do so. Some students enter law school with a passion for the law or, at least, some aspect of it. This passion can focus a student's attention and invest a student in his or her legal education. Many students, however, do not feel a connection to the law or its study. For these students to invest themselves in learning written and oral advocacy, we must bridge the gap between their preparation to be advocates and their role as advocates once they become practicing attorneys. In other words, we must make clear that advocacy is not an abstract pursuit but an activity that involves real issues that are of pressing concern to real people.

This article discusses two methods that I have used to bring reality into the classroom to facilitate my students' engagement in legal advocacy: (1) using a factual scenario from a local newspaper for a series of exercises to introduce my students to advocacy and brief writing, and (2) assigning my students to observe and critique an actual oral argument to learn about not only the mechanics of appellate advocacy but also the very real-world context in which it occurs. Both of these exercises enabled students to take an active role in learning

advocacy skills by engaging in real-world legal scenarios.

Using a Real Scenario Reported in a Local Newspaper

In the first semester of their legal writing course, my students learned how to write a legal memorandum: an objective, nonargumentative legal document. In their second semester, my students would learn how to write an appellate brief and would present an oral argument on that brief. So that my students would understand the advocacy role, I assigned them to that role. While I could have assigned my students to play advocates in the context of a hypothetical scenario, I thought that this might impede their assumption of their roles. In my experience, some individuals can have a hard time wholeheartedly adopting assigned roles in the context of fabricated scenarios. To avoid any such resistance and facilitate my students' engagement with their roles, I had them become advocates in the context of an actual criminal case. I hoped that using this case would impart a sense of reality and immediacy to the role-play that a fictitious scenario would not.

Therefore, after laying the groundwork with an introduction to the role of a legal advocate and the appellate brief, I assigned a series of exercises arising out of a homicide case described in a recent edition of a Philadelphia daily newspaper. This short article contained a description of a homicide-by-vehicle case in which the defendant had run into and killed a woman with his motorcycle, fled the city for five years, and then returned and pleaded guilty to his crimes.²

I selected this article as the basis for the exercises for three reasons. First, the article contained facts that could be used to support arguments on behalf of both the prosecution and the defense. Second, the article straightforwardly described a compelling human drama, which would keep my students' attention and leave them free to focus their energies on their advocacy projects. Third, the article was short enough that the students could work with it in class without

“[W]e must make clear that advocacy is not an abstract pursuit but an activity that involves real issues that are of pressing concern to real people.”

¹ The author is grateful to Professor Louis Sirico for his valuable feedback in the preparation of this article.

² Dave Racher, *Conscience Drives Him to Admit to Fatal Hit-Run*, Phila. Daily News 24 (January 10, 2001). I would be happy to provide the full text of the article to anyone who is interested.

“I instructed each group to draft a statement of facts that reflected its particular perspective, using only those details provided in the article.”

exhausting the whole class period just reading and digesting the article.

I had the article copied onto two different colors of paper: blue and yellow. During the second class of the semester, I distributed the article to the class, giving half of the students the article on blue paper and half of the students the article on yellow paper. The students who received the blue copies of the article were assigned to be prosecutors; the students who received the yellow copies of the article were assigned to be defense attorneys. I then divided the class into groups of three students, with each group composed exclusively of either prosecutors or defense attorneys.

I instructed each group to draft a statement of facts that reflected its particular perspective, using only those details provided in the article. The students readily undertook this assignment, carefully examining the article to determine how to present the facts in a manner that was consistent with their positions as either prosecutors or defense attorneys.

After the students had time to draft their factual statements, we reconvened as a class. The students then shared some of their drafts with the class, and we discussed how the statements of fact varied depending upon the positions of the drafters. The students' factual statements provided a basis to discuss how the same fact could be used differently depending on one's perspective. For example, the article's opening statement that the defendant's "conscience bothered him," could be used by the defense to show the defendant's remorse or by the prosecution to show the defendant's consciousness of guilt. The students' factual statements also illustrated how different facts might be emphasized by the prosecution or defense. For example, the prosecution might focus on the running down and killing of the victim, and the defendant's flight and ensuing five-year absence, while the defense might focus on the defendant's turning himself in and his psychological and physical condition following the incident.

I had two goals for this exercise. Primarily, I wanted my students to actively participate in the process of constructing a statement of facts as advocates, taking the assignment seriously and becoming absorbed in the process. Second,

I wanted the assignment to be manageable, nonintimidating, and—dare I say it?—fun.

Choosing a scenario based on a current criminal case reported in the paper enabled me to accomplish these goals. Because the students were presented with a real, active criminal case, they had no apparent difficulty immersing themselves in their assigned roles. The students knew that the case was an actual scenario faced by a prosecutor and defense attorney. The exercise was, thus, explicitly connected to the work of real attorneys, motivating students to participate.

Moreover, writing a statement of facts using a real case validated the legitimacy of what the students were reading in their textbooks and hearing from me. Both the textbook and I explained that an advocate's position influences the presentation of the facts of a case and provided examples of this lesson. By writing their own statement of facts, using the actual facts of a real case, the students experienced the process of presenting facts as advocates and thereby demonstrated for themselves the connection between their class lessons, their class exercises, and the practice of law. Knowing the practical significance of this particular lesson would, hopefully, facilitate the students' receptiveness to future lessons as well.

My use of the article did not stop with the statement of facts exercise. Rather, I built upon my students' familiarity with the factual scenario presented in the article and identification with their assigned roles to introduce them to argument itself. Specifically, I assigned each student to write a sentencing argument for the court for the case described in the article.³

To maintain continuity between the assignments, the students retained their roles as prosecutor or defense attorney: those students who wrote statements of facts as prosecutors made sentencing arguments as prosecutors; those students who wrote statements of facts as defense attorneys made sentencing arguments as defense attorneys. By retaining roles, the students could focus on their arguments and not have to worry about switching from one side to the other. I also

³ I gave the students this assignment at the end of the class period during which they had written their statements of fact. The students were to complete the assignment for our next class meeting.

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hoped that this continuity would enable the students to feel more invested in their arguments and, thus, approach the assignment more enthusiastically.

Although the students' ultimate goal for the semester was to write and argue an appellate brief, I thought that writing a sentencing argument would be a more approachable introduction to advocacy. Most students have no familiarity with appellate brief writing when they enter law school; however, many students have been exposed to some semblance of trial arguments through fictional television programs and broadcasts of actual courtroom proceedings. Through the sentencing argument assignment, I hoped to introduce my students to legal advocacy in a marginally familiar and less intimidating context. In this way, my students could focus on making substantive arguments without worrying about their unfamiliarity with appellate brief writing.

In fact, the sentencing argument was an effective introduction to advocacy, helping the students become accustomed to taking a position and expressing their arguments in writing. Moreover, the students' sentencing arguments possessed traits of successful appellate arguments: the arguments were sincere, were supported by references to the underlying facts, and incorporated equity and policy arguments.

With a factual statement and sentencing argument under their belts, I assigned my students one final project using the article. Specifically, as my students began working on their graded appellate briefs, I instructed them to draft a Question Presented for a hypothetical appeal of the defendant's sentence. By using the article for this assignment, my students could undertake a foreign task—drafting a Question Presented—in a familiar context. In this way, the students could focus on the task at hand, continuing their representation of a real client in a real case, while practicing a new skill.

In order to learn to be effective brief writers, students must be engaged in the written advocacy process. As legal writing professors, we must facilitate our students' absorption in this process. One way to do this is to enable our students to assume an advocacy role that is realistic and compelling. By assigning students to assume an

advocacy role in a case that they know to be real and current, we can promote our students' identification with this role and enthusiasm for their assignments. Students know that they are being asked to assume roles in scenarios faced by real attorneys and immediately see the applicability of the lessons they learn in the classroom to their future lives as lawyers. Students are, therefore, even more motivated to learn in the classroom and participate meaningfully in their assignments.

Could I have constructed a realistic hypothetical to use for the progression of exercises I assigned to my students? Of course. Would this hypothetical have caught my students' attention and enabled my students to identify with their roles as easily? I don't think so. Rather, I believe that knowing that they were being asked to assume roles in connection with a real case facilitated my students' identification with these roles and serious attention to the assignments. My students knew from the start that they were dealing with a scenario that actual attorneys had faced, not a contrived factual scenario. I, therefore, did not have to overcome any resistance to the validity of the scenario, and my students could devote their full attention to the assignments.⁴

Observing and Critiquing Actual Appellate Arguments

In addition to importing actual events into the classroom as the basis for assignments, we can send our students into the world beyond the academy to experience real legal advocacy. By seeing attorneys engaging in the skills that we are teaching, our students can better understand the significance of our classroom instruction. Students will, presumably, be more focused and engaged in their studies if they appreciate how meaningful their studies are to their future careers. To introduce my students to appellate advocacy and provide a context for their classroom learning, I instructed them to observe and critique an actual appellate argument.

⁴ Obviously, there are times when we must create hypothetical scenarios to advance our students' education. However, even when we cannot use actual cases for our exercises, we can construct scenarios that are as realistic and engaging as possible.

“My students knew from the start that they were dealing with a scenario that actual attorneys had faced, not a contrived factual scenario.”

“Since my students were generally unfamiliar with oral argument, I prepared an assignment sheet to guide their observation and critique.”

During the third week of the semester, they were to observe and critique an appellate argument of their choosing. Because of my law school's proximity to Philadelphia, my students could choose to watch an argument in either state or federal court.⁵ My students also had the option of watching an appellate argument elsewhere in the country. One of my students, in fact, observed an argument in the United States Supreme Court.

Since observation alone can be a passive undertaking, particularly when what is being observed is legal argument, I told my students to write a short critique of the argument that they observed. I instructed them to prepare the critique in order to focus their observations and require them to be active observers, engaged in and attentive to the arguments.⁶

Since my students were generally unfamiliar with oral argument, I prepared an assignment sheet to guide their observation and critique. The instructions told the students to focus their critique on the attorneys' presentation of their arguments and described particular aspects of the attorneys' presentation that the students should examine (for example, whether the attorneys' arguments were logical and coherent, whether the attorneys were in control of their arguments, whether the attorneys spoke clearly and audibly, and whether the attorneys were respectful of the court). I also asked the students to discuss how the arguments met their expectations and how the arguments differed from what they had expected.

I had four goals in assigning this introduction to appellate advocacy to my students. First, I

⁵ Obviously, not all law students have the luxury of such easy access to appellate courts. However, students can access videotapes of actual appellate arguments and, if nothing else, transcripts of actual arguments. In addition, moot court arguments are a valuable resource for first-year students, even if they do not replicate the experience of an actual argument. Moreover, even with relatively easy access to appellate courts, it can be very difficult for first-year law students to make the time to observe such arguments. In fact, because of the many demands on their time, I subsequently amended the assignment to allow students, if necessary, to observe and critique a moot court argument.

⁶ The students' critiques were due by the Friday of the first week that we were going to focus on oral argument in class. I set this deadline to ensure that the observation experience would provide context for our classes and the students' own arguments to follow.

wanted my students to see in practice the different aspects of oral argument that we would be talking about in class (e.g., preparation, organization, comportment) and to experience themselves the practical impact of these different aspects of attorney behavior (e.g., an attorney who speaks too softly and/or too quickly will not be understood). I hoped that my students would become more conscious of the factors that make an effective presentation and would internalize their critiques of the arguments when preparing for and presenting their own arguments.

Second, I wanted my students to observe that oral argument styles are individualistic: that there is not one right way to present an oral argument. Students who are unfamiliar with appellate advocacy and courtroom presentation in general may believe that there is a particular "courtroom persona" that they must adopt in order to be successful advocates. Seeing practicing attorneys with different personal styles can prove to students that there is not one right way to present an argument. Students can also judge for themselves what styles they find to be particularly effective or counterproductive.

Third, I hoped that the observation and critique assignment would demystify oral argument. Oral argument is foreign to most students and intimidating to many. Students may feel that successful advocates are perfect at what they do: always calm, smooth, dynamic, and articulate. Obviously, this is not the case. By watching actual oral arguments, students get a realistic and more approachable view of appellate advocacy. Students see that even the most effective advocate will fumble for words at times or misunderstand a judge's question. Especially as they prepare for their first oral argument, it can be reassuring for students to see that effective advocates do not have to be flawless advocates and that there is a range of attorney competence in the courtroom.

Fourth, I wanted my students to experience the context in which oral advocacy occurs: an experience that can only be obtained by physically sitting in an actual courtroom during argument. My students observed that oral argument does not

occur within a hermetically sealed environment. Rather, arguments occur in courtrooms where multiple arguments are scheduled on any given day, where attorneys and other observers are coming and going, and where judges may converse with each other and engage in other distracting (and distracted) behavior while an attorney is presenting argument.

In this regard, the experience of watching an oral argument in context cannot be replicated. Moot court arguments, the only other live arguments that students can observe, provide exposure to argument in a vacuum: away from the context in which argument actually occurs and in an optimal environment (attentive and prepared judges, attentive and prepared advocates, attentive audience). Moot court arguments are an invaluable resource for our students (both as observers and as participants), but they do not give our students a complete picture of legal advocacy.

Understanding the context in which argument occurs can focus students' attention on the skills that must be mastered to present an effective oral argument. For example, students who appreciate that their arguments will be among the many heard on any given day and that their arguments will take place in courtrooms where there may be many distractions will commit themselves to preparing clear, direct, and concise arguments to ensure that they communicate their main points to the court.

Observing actual oral arguments and understanding the real-world context in which arguments occur provide a foundation for students to develop their own argument abilities. Students experience for themselves the impact of skillful, and less skillful, presentations and can apply those experiences to their own arguments. Moreover, observing and critiquing actual oral arguments puts the students' classroom instruction into a real-world context, thereby validating what the students learn in class and further motivating the students to immerse themselves in their own argument preparations.

Conclusion

As law professors, we have a responsibility to prepare our students to be competent and dedicated advocates. As legal writing and advocacy professors, we require our students to be active participants in this process (e.g., by writing memoranda and briefs and presenting oral argument). The more engaged our students are in learning how to be effective written and oral advocates, the more successful they will be as both students and attorneys. We can engage our students by using contemporary events to create meaningful and absorbing assignments. Moreover, by learning legal writing and advocacy in the context of actual events, our students will better appreciate the connection between what they are learning in the classroom and their future professional lives and will, accordingly, be more motivated to learn inside the classroom. As a result, our students will be better served by us and better prepared to serve their clients.

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“We can engage our students by using contemporary events to create meaningful and absorbing assignments.”

RESEARCHING UNIFORM AND MODEL LAWS

BY KRISTIN FORD

Kristin Ford is the Legislative Librarian at the Legislative Services Office of the Idaho Legislature in Boise.

Teachable Moments for Students ... is designed to provide information that can be used for quick and accessible answers to the basic questions that are frequently asked of librarians and those involved in teaching legal research and writing. These questions present a "teachable moment," a brief window of opportunity when—because he or she has a specific need to know right now—the student or lawyer asking the question may actually remember the answer you provide. The material presented in this column is not meant to be an in-depth review of the topic, but rather a summary of the main points that everyone should know. It is a companion to the Teachable Moments for Teachers column that gives teachers an opportunity to describe a special moment of epiphany that changed their approach to presenting a particular topic to their students. Readers are invited to submit their own "teachable moments for students" to the editor of the column: Barbara Bintliff, University of Colorado Law Library, Campus Box 402, Boulder, CO 80309, phone: (303) 492-1233, fax: (303) 492-2707.

When researching judicial interpretations of a statute or looking for legislative intent, a helpful research angle that is sometimes overlooked is to check to see whether the pertinent statute is a uniform, model, or "borrowed" law. What are these laws? Where do they come from? How are they useful?

Model or Uniform Law?

The line differentiating model laws from uniform laws is often blurred. Generally model codes emerge from the work product of any of several scholarly entities such as the American Bar Association (e.g., Model Code of Professional Responsibility), the American Law Institute (ALI) (e.g., Model Penal Code), the Council of State Governments,¹ or the National Conference of Commissioners on Uniform State Laws, to name

¹ See its annual publication *Suggested State Legislation*, Council of State Governments, Lexington, Ky. (1946–present). The model acts in these volumes are usually taken from an actual state statute already in effect. Each act is accompanied by a short explanatory statement; no extensive commentary is provided.

just a few. If the act or statute you are researching describes itself as "uniform" (e.g., Uniform Probate Code, Uniform Child Custody Jurisdiction Act, Uniform Electronic Transactions Act), it is likely² to be the product of the National Conference of Commissioners on Uniform State Laws (NCCUSL). Sometimes a uniform act is the result of a collaboration between entities, as in the case of the Uniform Commercial Code, which is an ongoing joint effort of the American Law Institute and the NCCUSL.

In theory, a uniform law would read exactly the same in each state that has adopted it. The rationale is that uniformity of state laws in some areas is important for reciprocity reasons (e.g., Uniform Child Custody Jurisdiction Act) or to promote ease of conducting commerce in multiple states (e.g., Uniform Commercial Code). Widespread adoption of uniform laws has probably been most successful in the business environment. By contrast, model laws are offered up as a recommended example, but strict adherence to every word is not deemed essential. Model laws can be edited and modified to suit an individual state's needs. NCCUSL also considers the interstate implications and how likely an act is to be widely adopted, when categorizing an act as "uniform" or "model." If it is seen as less important or less likely that a particular act will be adopted widely, it will be labeled a "model" act. The reality is that state legislatures often modify uniform as well as model acts, so that in the end, the difference between the two, if it exists at all, becomes a matter of degree.

The National Conference of Commissioners on Uniform State Laws

The American Law Institute, while best known for its well-respected Restatements of the common law, also studies and drafts model laws, as does the American Bar Association. The organization, however, whose primary purpose for more than 100 years has been to draft and promote uniform laws, is the NCCUSL. A uniform or model law proffered by the NCCUSL has been through an arduous process of being scrutinized and voted

² Of course, there are exceptions to this rule! The Uniform Building Code, for example, is authored by the International Conference of Building Officials.

upon by lawyer members in all 50 states. The NCCUSL is the result of a movement begun in the late 1800s to “promote uniformity in the law among the several states on subjects as to which uniformity is desirable and practicable.”³ The goal is to simplify “the legal life of businesses and individuals by providing rules and procedures that are consistent from state to state.”⁴

Each state has a delegation of uniform law commissioners who participate in the NCCUSL. It is up to each state to choose its representatives in the NCCUSL, and even to choose how many delegates to send. NCCUSL’s only requirement is that each state delegate be a member of a bar. Most states provide by statute the manner of choosing their uniform law commissioners; often the appointment may be made by the governor. However, these positions are not seen as partisan, and many commissioners continue to serve while governors come and go. Uniform law commissioners in some states may be legislators, but often they are not. They come from the private sector, academic sector, and government offices. NCCUSL accomplishes much of its work with the use of working committees, whose responsibility it is to research and draft uniform/model acts in areas that another committee has previously determined would be most useful. Once a year, commissioners from every state meet and, acting as a giant committee of the whole, they review, section by section, each draft uniform/model act. An act must withstand this scrutiny for two annual conferences before it can be approved by vote of the members and adopted as an NCCUSL uniform/model act. It must be no small feat for more than 300 lawyer delegates to agree on statutory language! In the end, an act must be approved by a majority of the states present (each state has one vote), and in no event can this majority be fewer than 20 states. Of course, adoption of an act by the NCCUSL still does not give it the force and effect of law anywhere. An act that has passed all of these hurdles must still be presented to each state legislature by its uniform law commissioners.

³NCCUSL Constitution, Art. I, Section 1.2.

⁴From the Web site of the National Conference of Commissioners on Uniform State Laws: “About Us: Procedures,” <www.nccusl.org/nccusl/aboutus.asp> (August 30, 2001).

Becoming a Real Law

The exact method by which a uniform act is presented to a state legislature varies by state. In states such as Nevada, whose uniform law commissioners are by statute either legislators or legislative staff, the commissioners naturally may introduce the proposed legislation themselves. In other states, nonlegislator uniform law commissioners must seek an introduction of the act by individual legislators. It is the duty of the uniform law commissioners to seek *consideration* of NCCUSL uniform laws by their legislatures, but they are not required to sponsor or lobby for the bill. After introduction of the bill, in many cases, it is the House or Senate judiciary committees that first consider a uniform law, and then the bill may be referred to the legislative committee that usually has charge of bills concerning the relevant subject. The committees will usually hold hearings and take testimony regarding the proposed legislation and then make recommendations to the House or Senate about whether the bill should pass. A uniform law is subject to editing and revisions by legislators just as any other bill is, and it is not uncommon for a uniform law to be modified during the legislative process, despite NCCUSL’s goal of uniformity. If the legislation passes, it will be codified along with the rest of the state laws.

Given that sometimes the changes a state legislature makes to a uniform law may include a change to the original title, how does one find out that the law is a uniform law? One method is to check the legislative history records of the bill. If the bill is the result of a proposal from the NCCUSL, that fact will likely be mentioned in the records. Another option is to start from the other side: check NCCUSL uniform acts by the appropriate subject of your law.

Resources

There are several good sources to consult to help you research uniform laws. NCCUSL publishes an annual *Handbook of the National Conference of Commissioners on Uniform State Laws and Proceedings of the Annual Conference Meeting*. This book provides information on the uniform law commissioners from every state and provides reports of committees and

resolutions by which it adopted uniform laws that year, as well as the full text and commentary accompanying each of those uniform laws. It is a wonderful source of information, but unfortunately, in the 1980s, NCCUSL fell behind in its publication of these handbooks and is still trying to catch up. Currently there is about a seven-year time lag, the proceedings of the 1994 conference being the most recent publication in 2001. Fortunately, much of the information contained in the handbooks is available on NCCUSL's Web site, <www.nccusl.org>, and on a Web site hosted for NCCUSL by the University of Pennsylvania Law School: <www.law.upenn.edu/bll/ulc/ulc_frame.htm>. On these Web sites, researchers not only can find current information on uniform and model laws, but also can review drafts of uniform and model laws that are currently under discussion. One can look up a particular act and see which states have adopted it; one can also look up his or her own state and see which uniform acts have been introduced this year in the state legislature, and whether or not they have been enacted.

West Group has also put together an extremely useful research tool for studying uniform laws: the *Uniform Laws Annotated*[®], Master Edition, or the ULA[®]. It does not include all of the laws that NCCUSL has adopted, because it publishes a uniform law only if it has been enacted in at least one state. It does include some uniform laws promulgated by other entities (e.g., ALI's Model Penal Code). The ULA provides comprehensive coverage for the laws it publishes. Information provided includes the full text of the law itself and accompanying history, amendments, and commentary; information on which states have adopted which acts (listed both by state and alphabetically); the statutory citations and effective date for each adopting state; and the full text and information about any additions or modifications each state may have made; cross-references to law review articles and other relevant sources; and, happily, West Group provides case annotations from the various states, so that if an act is too new in your jurisdiction to have been the subject of case law, you may find persuasive authority from other jurisdictions that have enacted the uniform act. As per West Group's usual style, this multi-

volume publication has convenient subject indexing, tables, and regular pocket part or stand-alone softbound supplements to each volume. The subject index is especially useful if you are not sure of the title of the uniform act.

An additional source for uniform laws is less comprehensive but may be more likely to be found in your own law office: Martindale-Hubbell publishes some uniform laws in the U.S. Law Digest volumes of the *Martindale-Hubbell Law Directory*.

Borrowed Laws

Finally, if you are short of case law or legislative intent on a statute in your own jurisdiction, don't be discouraged if you don't find your statute to be part of an official uniform or model law. Check other states for similar statutes anyway. In reality, states borrow the language of statutes from each other all the time. As the librarian for the Idaho State Legislature, I am frequently asked by my own legislators to obtain copies of other state statutes on such-and-such a topic, and I am also asked by legislators from other states for copies of particular Idaho statutes. This is so common that it is one of the main reasons an organization like the National Conference of State Legislatures exists: to act as a resource-sharing center for state legislatures. There is no point in reinventing the wheel, as they say. When a state sees an act working well in another state, it is helpful to borrow that language from the other state, both from a drafting standpoint, and also to add strength to the sponsor's argument that this act or statute has already been working well in X state and would likely also work well in Y state. Therefore, if you have no mandatory case authority in your own jurisdiction, you may be able to find helpful legislative intent or judicial interpretations from a state with an identical or similar statute, be it a uniform or model act or not. If, however, your statute is a uniform or model act, especially from the NCCUSL, be happy in the knowledge that much of the research compilation has already been done and awaits you in the resources mentioned. Happy researching!

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WHY LAW REVIEW STUDENTS WRITE POORLY

BY LOUIS J. SIRICO JR.

Professor Louis Sirico is Director of Legal Writing at Villanova University School of Law in Villanova, Penn. He is co-author of Legal Writing and Other Lawyering Skills (3d ed. LexisNexis 1998); Persuasive Writing for Lawyers and Other Legal Professionals (2d ed. LexisNexis 2001); and Legal Research (2d ed. Casenotes 2001). He is a member of the Perspectives Editorial Board.

Teachable Moments for Teachers ... is a regular feature of Perspectives designed to give teachers an opportunity to describe a special moment of epiphany that changed their approach to presenting a particular topic to their students. It is a companion to the **Teachable Moments for Students** column that provides quick and accessible answers to questions frequently asked by students and other researchers. Readers are invited to submit their own "teachable moments for teachers" to the editor of the column: Louis J. Sirico Jr., Villanova University School of Law, 299 N. Spring Mill Road, Villanova, PA 19085-1682, phone: (610) 519-7071, fax: (610) 519-6282, e-mail: sirico@law.vill.edu.

Last fall, at the request of our law review, I conducted a three-hour program on legal writing. In these presentations, I always discuss misunderstood and abused punctuation marks, like semicolons. As I explained when a writer might consider using a semicolon, a student raised his hand and asked this question: "Because we have to put a footnote at the end of every sentence, should we use lots of semicolons so that we have longer sentences and need fewer footnotes?"

It took me a second to gain my composure. Although the question gave me the opportunity to rail against the way law reviews footnote to excess, it also gave me an insight into why writing in law reviews is often so poor. Student editors must perform their work within the constraints of curious rules that compel them to write badly.

As teachers, we may criticize the written product. However, unless we recognize the source of the problem, we cannot hope to deal with bad writing successfully. For example, if we advise a student to write shorter sentences, the student may

politely acknowledge our advice with a nod. However, the student may be thinking, "Yes, but with shorter sentences, I will have to spend additional time writing lengthy footnotes that I don't want to write, and, I suspect, no one wants to read." Thus, despite our sound advice, the student most likely will continue to write sentences that could be shorter, crisper, and more comprehensible.

With a little thought, I identified three other traditional rules of law review writing that contribute to poor prose.

Overly Concise Writing. Law review editors commonly advise their novice members that the law review can afford to publish only a certain number of pages per volume. Therefore, the advice goes, keep your piece as short as possible by writing as tersely as possible. The advice leads to sentences that are too compact for the reader to understand easily. Although we normally encourage students to keep their sentences short, brevity is not a virtue when it reduces comprehensibility. For example, consider this sentence dealing with whether courts should invalidate an ordinance that makes it illegal for gang members to loiter:

This criminal/noncriminal distinction is important in formulating an analytic model by which to analyze the gang-member status question.

In this sentence, the motivation for conciseness may have led the writer to use two phrases that are awkward and difficult for the reader: "criminal/noncriminal distinction" and "gang-member status question." A writer less concerned with conciseness might have drafted a longer, more readable sentence:

In formulating an analytic model for determining whether to invalidate an ordinance that criminalizes loitering by a gang member, the court would find it helpful to distinguish between status that is criminal in nature and status that is not.

Alternatively, the writer might opt for a longer version that employs more than one sentence:

In ruling on an ordinance that criminalizes loitering by gang members, a court must consider whether loitering is a status crime

“Although we normally encourage students to keep their sentences short, brevity is not a virtue when it reduces comprehensibility.”

“The rule on limiting opinions turns students into drones and teaches them that their judgments are not particularly valuable.”

that is unconstitutional. An initial consideration is whether the status here is criminal or noncriminal in nature.

Not Using the First Person. Many law reviews still resist or refuse to permit the author to write in the first person. This excessive formalism can lead to stilted and awkward sentences.

Here is an example from my own experience. I once wrote an article arguing that a study of the Shaker religion and its imagery could contribute to an understanding of religion that, in turn, could move legal analysis away from viewing religious issues from a heavily male perspective. For example, one paragraph in my manuscript read as follows:

I employ the Shaker experience to critique American legal analysis. After presenting a brief history of the religion, I discuss two cases whose results seem to stem from male dominated thinking. I then present alternative approaches that reflect an inclusive analysis. Rather than engaging in abstract theological or legal argument, I indicate possible inclusive alternatives through a discussion of Shaker religious practices.

Unfortunately, the law review with which I published had a policy of maintaining complete control over editorial decisions on style. To my disappointment, the editors eliminated my use of the first person. The published version of my paragraph reads this way:

The Shaker experience is here employed to critique American legal analysis. After a brief history of the religion, two cases whose results seem to stem from male dominated thinking are discussed. Then alternative approaches are presented that reflect an inclusive analysis. Rather than engaging in abstract theological or legal argument, possible inclusive alternatives are indicated through a discussion of Shaker religious practices.¹

The revised version is grammatically correct, except for the dangling participle in the last

sentence. However, because it uses the passive voice in every sentence and often places the passive verb at the very end of the sentence, the paragraph is lifeless. I do not plan on publishing in that journal again.

Limiting Students in Expressing Opinions.

Law reviews frequently instruct their staffers to limit their opinions to the concluding few pages of a student note or comment. As a result, the bulk of a student piece is a compilation of uninspired information. Student work often reminds me of the observation of folklorist J. Frank Dobie: “The average Ph.D. thesis is nothing but a transfer of bones from one graveyard to another.”²

The rule on limiting opinions turns students into drones and teaches them that their judgments are not particularly valuable. Although humility is a virtue, too much humility is not necessarily a good trait for lawyers. From the reader’s viewpoint, a thesis at the beginning of a piece gives the reader a guide for understanding what follows. It also energizes enervated prose.

In one of G. K. Chesterton’s stories, a character proclaims, “It isn’t that they can’t see the solution. It is that they can’t see the problem.”³ As teachers, we sometimes see the superficial solutions, but do not acknowledge the underlying problems that discourage our students from following our advice. With respect to law review students, to improve their writing, we need to address the defects that infect the law review culture.

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² <www.brainyquote.com>.

³ *The Oxford Dictionary of 20th Century Quotations* (Elizabeth Knowles ed. 1999) (quoting *The Scandal of Father Brown* (1935)).

¹ Louis J. Sirico Jr., *Inclusive Law, Inclusive Religion, and the Shakers*, 34 J. Church & State 563, 564 (1992).

COMMON STUDENT CITATION ERRORS

BY WAYNE SCHIESS

Wayne Schiess is a Legal Writing Instructor at the University of Texas School of Law in Austin.

Introduction

This piece discusses the most common citation errors law students (primarily first-year students) make, particularly when using case citations in practitioner documents. I offer explanations for the mistakes and possible solutions.

Why should students and their teachers care about common citation errors? Three reasons: journals, seminar papers, and jobs. Journal work is an opportunity students have during the second and third years, and they'll need to be proficient at legal citation. Plus, they'll save themselves a lot of time and headaches if they learn correct citation form during the first year. Students will also write seminar papers during the second and third years. The professors will no doubt require correct citation form in the papers, so getting the basics down now will help. And jobs. Most employers will require new lawyers to cite sources correctly. Certainly, judges and their clerks will expect correct citations. Lawyers cannot afford to hurt their clients' cases because the citations are sloppy.

But poor citation form is a much more common mistake than I, as a legal writing instructor, would like to believe. In fact, in a survey of Texas appellate judges and their clerks conducted in 1994, many complained that too many briefs use "citation form so wrong as to be distracting."¹

In this piece I take a stab at solving citation problems by identifying the most common ones. One note: I have based this piece on my experience as a legal writing instructor—10 years of teaching legal research and writing at the University of Texas School of Law. Because my

students use *The Bluebook*,² my comments are based primarily on it. But I am familiar with the *ALWD Citation Manual*,³ and I happen to think that some of these errors would be reduced if we all adopted it, so I have included comments on it as well.

These are the most common mistakes I see:

Error one: Abbreviations.

This is the most common error. *The Bluebook* requires you to abbreviate certain words in certain situations. But students often do not. Here are some reasons:

Failure to understand the rules. I think it is hard for students to understand the rules that govern abbreviations. Following are the two main rules briefly:

Rule	Topic	Effect
10.2.1(c)	Case names in textual sentences.	A few "always" abbreviations.
10.2.2	Case names in citations.	The "always" abbreviations plus those in table T.6.

(The *ALWD Citation Manual* rules on abbreviations—2.1(a) and 12.2(e), along with Appendixes 3, 4, and 5—are quite similar.)

One problem with these *Bluebook* abbreviation rules is terminology. Many students find the phrases "case names in textual sentences" and "case names in citations" confusing or unclear. To help, I use these phrases:

Rule	Topic	Effect
10.2.1	Case names in textual sentences.	Inserted citations.
10.2.2	Case names in citations.	End-of-sentence citations.

Inserted citations do not require the Table T.6 abbreviations, just the always-abbreviated *&*, *Ass'n*, *Bros.*, *Co.*, *Corp.*, *Inc.*, *Ltd.*, and *No.* End-of-

¹ Pamela Stanton Baron & Douglas W. Alexander, *Briefing to the Texas Courts of Appeals and the Texas Supreme Court—Avoiding Common Mistakes*, 4th Annual Conf. on Techniques for Handling Civil Appeals in State and Federal Court (University of Texas School of Law 1994).

² *The Bluebook: A Uniform System of Citation* 57, 62 (Columbia Law Review Ass'n et al. eds., 17th ed., 2000).

³ Assn. of Leg. Writing Dirs. & Darby Dickerson, *ALWD Citation Manual: A Professional System of Citation* (Aspen L. & Bus. 2000).

“Why should students and their teachers care about common citation errors? Three reasons: journals, seminar papers, and jobs.”

“Pinpoints are valuable to anyone who reads and checks on a piece of legal analysis.”

sentence citations require all the abbreviations in Table T.6.

I also encourage my students to use end-of-sentence citations. Inserted citations can be distracting.⁴ So most of my students avoid inserted citations and thus avoid remembering two abbreviation rules. They just remember to always abbreviate.

Difficulty in finding the list of abbreviations.

Often, when students work on a document, they do not have *The Bluebook* or the *ALWD Citation Manual* at hand. “I’ll fix the citations later,” many think. And even when the citation manual is handy, it is often inconvenient to look up a word in the tables or appendixes to see if it should be abbreviated.

I recommend that students make a copy of *Bluebook* table T.6 or *ALWD Citation Manual* Appendix 3 and keep it next to their computers. I do that. Even now, when nearly all the abbreviations are second nature to me, it is more convenient to glance at the copy instead of opening my citation manual and locating the table.

Error two: Not providing pinpoint citations.

When you pinpoint, you show the exact page from which your statement, information, or proposition was taken, like this:

No pinpoint:	Pinpoint (highlighted):
<i>Nolan v. Graves Corp.</i> , 10 S.W.3d 216 (Tex. 1999).	<i>Nolan v. Graves Corp.</i> , 10 S.W.3d 216, 220 (Tex. 1999).
<i>Nolan</i> , 10 S.W.3d 216.	<i>Nolan</i> , 10 S.W.3d at 220 .

Probably 80–90 percent of citations should have pinpoints. In other words, eight or nine times out of 10 when you cite a case, you should refer the reader to a specific page. Yet probably only half the citations that need pinpoints have them.

The authors of the *ALWD Citation Manual* recognize that pinpoints are important:

The importance of including pinpoint references whenever possible cannot be overstated. If you do not refer readers to

specific pages or other subdivisions where the referenced material appears, readers will be frustrated. Moreover, if a judge or a judicial law clerk cannot locate support for your position, you may lose credibility with the court, or the court may discount your position. Accordingly, always spend the extra time it takes to insert the pinpoint reference.⁵

Pinpoints are valuable to anyone who reads and checks on a piece of legal analysis. Careful readers such as judges and their clerks—and legal writing instructors—appreciate pinpoint citations and can get highly annoyed when they are not used. Without pinpoints, the reader’s or checker’s job is much more difficult. In reality, students who do not provide pinpoints are shifting work from themselves to the reader.

Judges agree. Here is Justice Channell, writing for the California Court of Appeals, criticizing a lawyer for failing to use pinpoints: “We were not aided in our resolution of this appeal by the appellants’ opening brief, which was riddled with inaccurate and incomplete case citations and which frequently referred to cases without reference to the pages on which the cited holdings appear.”⁶

Error three: Incorrect short forms.

The mistake is usually this:

Not correct	Correct
Example 1: <i>Calandra</i> , at 343.	Example 2: <i>Calandra</i> , 414 U.S. at 343. ⁷

Those who know *The Bluebook* know that you must give the volume and reporter (414 U.S.) in this type of short form.

As a former practitioner, I know that many practicing lawyers use Example 1, which omits the volume number and reporter name. I did. So do many students. Example 1 seems so logical and so easy. But do not be confused by what seems easy. Usually, a citation rule is aimed at accuracy, thoroughness, and consistency—not at ease. So

⁵ *ALWD Citation Manual*, at 27.

⁶ Howard v. Oakland Tribune, 245 Cal. Rptr. 449, 451 n.6 (Cal. App. 4th Dist. 1988).

⁷ *The Bluebook*, at 15.

Example 1 is not correct under *The Bluebook* or the *ALWD Citation Manual*. Students should start now to get in the habit of providing the volume and reporter in short forms. (You can omit the volume and reporter in *id.* forms—with a few exceptions.)

Error four: Failure to cite where needed.

Bluebook and *ALWD Citation Manual* rules, as well as the conventions for attribution in legal analysis, require writers to provide a citation after every sentence—or sometimes even after every idea in a sentence.

This rule causes repetition, and students probably resist it for that reason. Perhaps it seems unnecessary to students—when they are discussing one case at a time—because the rule requires *id.*, *id.*, *id.* But careful writers and experienced lawyers know that the correct rule is to cite for all information, all propositions, and all statements drawn from the source.

For example, here are two typical paragraphs from a student-written memo. In these examples, I put the citations in boldface type:

Correct

Two important Texas cases have provided scenarios in which the server did not fulfill his obligation to inform the recipient of the nature of the process and that service was being attempted. In one, a language barrier frustrated the server. *Dosamantes v. Dosamantes*, 500 S.W.2d 233, 237 (Tex. Civ. App.—Texarkana 1973, writ **dism'd w.o.j.**). There, the English-speaking process server attempted to deliver papers to the defendant, a Spanish speaker, at his home. *Id.* at 235. When the defendant refused the papers, the server gave them to a maid, who handed them back. *Id.* The server then pushed them under the door and left. *Id.* Because delivery was attempted in English, the court held that service was invalid; the case did not come within the exception that applies when the recipient evades or refuses service. *Id.* at 237. The defendant, the court implied, was not informed of the nature of the process and that service was being attempted. *Id.*

Not Correct

Two important Texas cases have provided scenarios in which the server did not fulfill his obligation to inform the recipient of the nature of the process and that service was being attempted. In one, a language barrier frustrated the server. *Dosamantes v. Dosamantes*, 500 S.W.2d 233, 237 (Tex. Civ. App.—Texarkana 1973, writ **dism'd w.o.j.**). There, the English-speaking process server attempted to deliver papers to the defendant, a Spanish speaker, at his home. When the defendant refused the papers, the server gave them to a maid, who handed them back. The server then pushed them under the door and left. Because delivery was attempted in English, the court held that service was invalid; the case did not come within the exception that applies when the recipient evades or refuses service. The defendant, the court implied, was not informed of the nature of the process and that service was being attempted. *Id.* at 235, 237.

Correct

In the second important case, a person was aware that papers might be served in the near future, but the server did not inform the person at the time of the attempt. *Tex. Indus., Inc. v. Sanchez*, 521 S.W.2d 133, 135 (Tex. Civ. App.—Dallas 1975, writ **ref'd n.r.e.**). In *Texas Industries*, a sheriff's deputy attempted to serve Henry Sanchez, a member of the Texas Legislature. *Id.* at 135. The deputy had served Sanchez before, and he called Sanchez and told him he "had some more papers" for him; Sanchez told him to take them to his office. *Id.* The deputy did not find Sanchez there, but later that day saw him at the courthouse, and said to Sanchez, "I'm glad I saw you. You saved me a trip." *Id.* The deputy then got the papers and brought them to the courthouse, where he found Sanchez in a press room, talking on the phone; two reporters were with him. *Id.* at 136. The deputy placed the papers, in an

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“[L]earning correct citation form is like learning anything tedious; once it becomes important, you are motivated to learn it.”

unmarked envelope, on a desk where Sanchez was sitting, and left the room without saying anything. *Id.*

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Legal readers have become accustomed to seeing citations for every statement or proposition; the reader gets used to a series of *id.* short forms. Of course, journals and seminar papers will require this meticulous citing. So the conscientious student writer should learn to provide all the citations.

Error five. Mimicking or shortcutting.

This is not so much a citation mistake as it is the cause of many citation mistakes. Too many law students try to get through their assignments without digging into *The Bluebook*. They use the Quick Reference inside the front and back covers, they ask a friend or a *Bluebook* hotshot, or they copy citations out of opinions they are reading. (Yet the first rule of learning citations is that you should not rely on citation form in judicial opinions.)

Those approaches will not take students very far. Why the hesitance to actually use the book and look up the rules and apply them? Three reasons, I think:

Haste. A law student facing a huge task, such as writing a brief—in the middle of a busy semester—will usually look for a shortcut. It can be time-consuming and boring to look things up in *The Bluebook*. So some students try shortcuts, hoping to get their citations close enough.

Apathy. Many students do not care much about case citations. For some of my students, all my explanations and warnings will not sink in until they are on their first job. For some, citations are too ponderous, too dull to be interested in. And for many, “close enough” is good enough. That is too often the case outside the law school, too.

But learning correct citation form is like learning anything tedious; once it becomes important, you are motivated to learn it. So I start with the expectation that students will learn citation correctly, and I stress its importance. I have found that if I treat it as important and teach it as important, most students will treat it as important.

Difficulty using *The Bluebook*. *The Bluebook* is not a plain-language masterpiece. Its rules can be hard to understand and apply. Its sheer length is daunting; the coverage and depth are a bit overwhelming at first. And one huge frustration for first-year law students is that the examples in the text use law review typeface conventions, yet first-year students are writing practitioner documents.

There is not much the teacher of citation can do about these problems with *The Bluebook*. I already spend a lot of class time explaining that students should not copy the typefaces from the examples in the main text of *The Bluebook*.

But the *ALWD Citation Manual* offers great relief here. It has

- a more logical organization,
- more and clearer examples, and
- better explanations.

What's even better, the *ALWD Citation Manual* has abandoned different typefaces for practitioner documents and scholarly documents. That is wonderful.

.....

A final note of warning.

An easy-to-use citation manual such as the *ALWD Citation Manual* can be a great help because poor citation can get you in trouble.

For example, the authors of a 95-page brief were sanctioned \$750 for various citation problems in *Hurlbert v. Gordon*, handed down by the Washington Court of Appeals in 1992. The problems included citation to clerks' papers that were nonexistent, typographical errors in citations, reference to 20–100 pages of material for a single point (no pinpoints), lack of citation to the record, and case citations with numerous form errors.⁸

So students should dig into their citation manuals. They should begin preparing now for journal work, seminar papers, and jobs. Mastering citation may never be rewarding in itself, but mastery will lead to success in law school and on the job.

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⁸ *Hurlbert v. Gordon*, 824 P.2d 1238, 1245 (Wash. App. 1992).

“Mastering citation may never be rewarding in itself, but mastery will lead to success in law school and on the job.”

“I ask students to use a structure for their writing. Issue, rule, application, conclusion.”

ORDER WHAT ARE YOUR WORDS IN? HOW FOREIGN LANGUAGES CAN HELP YOU TEACH THE STRUCTURE OF LEGAL WRITING

BY SHEILA SIMON

Sheila Simon is a Clinical Assistant Professor of Law at the Southern Illinois University School of Law in Carbondale.

“Why do they say *Fanta naranja* instead of *naranja Fanta*?” My 11-year-old daughter, Reilly, had learned to order orange soda while we were on a vacation in Spain, but she was puzzled by why she should call it *Fanta orange* instead of *orange Fanta*. I explained to her that different languages build sentences in different orders.

“But wouldn’t they understand it if we said *naranja Fanta*?” I told her that they would, but it would sound odd, just like it would sound odd to us if someone asked us for “soda orange” and “fries french.” The answer wasn’t very satisfying to Reilly, but I tried to assure her that once she got used to it, putting adjectives after nouns would sound just fine, and it would be the best way to make sure people understand her.

Our conversation took place at the end of our vacation. Maybe because we were on a plane pointed back toward the United States, the connection to teaching seemed to be right there before me like the Fasten Seat Belt light—complete with the *bing!*

Bing!

I ask students to use a structure for their writing. Issue, rule, application, conclusion. Despite what the students think, this structure doesn’t come from another planet, but maybe it’s from a different country. And just like my daughter, I ask my students to give it a try and hang on until it feels natural. Even if it seems odd at first, it’s the best way to be understood.

OK, now I made the connection in my head. Would it be useful in other heads as well? I decided to give it a try. The more ways I can explain the importance of structure the better. So I devised an in-class exercise that would show everyone the importance of structure.

I Love My Wonderful Writing Teacher

At the beginning of our first class session on structure, I asked each student to tell the class what language or languages other than English he or she can use. A handful of students in each class were fluent in another language. But most significant, everyone had at least studied another language. So everyone was familiar with the possibilities of different word orders to communicate the same idea.

I asked one student who had some facility in each different language to go to the board. In my two classes we had speakers of at least five different languages. Expertise in the language wasn’t important, just a general idea of how to communicate. I asked the students to write on the board in the language that they knew the following sentence: “I love my wonderful writing teacher.” Any sentence with assorted parts of speech would work, but why miss an opportunity? I told the class they were just lucky I didn’t make them all write it on the board 50 times. Once each sentence was complete, I asked the students to write a literal, word-for-word translation of their sentences, with the translated English words appearing just on top of the words in the different language. The results looked like this:

Spanish

I love to my marvelous teacher of writing.
Yo amo a mi maravillosa maestra de escritura.

German

I have like my wonderful professor (female) of writing.
Ich habe gern meine wunderbare Professorin den Schreiben.

Hebrew

!wonderful she. Of-mine to-writing the-teacher love I

אני אוהבת את המורה לכתובה שלי. היא נפלאה!

.....

With all of the sentences on the board I asked for reassurance that the sentences made sense in the languages in which they were written. I then asked each student to read the sentence in the language they used. Then I read the literal translations. The results were good silly fun. Hebrew was the best at making the point about what the audience expects since it is read from right to left.

I explained to my students what they already knew about languages—word order is significant. And using the literal translations, I showed how a word order that is not what we expect can make it difficult, if not impossible, to understand the message.

Bing, Bing, Bing!

Then I told them that the structure of their legal writing was significant to the legal reader in the same way that word order is significant in a language. The legal reader expects a certain structure. If the structure isn't there the reader might be able to figure out the message, but it will take longer, and there is a risk that the message will be missed entirely.

In my experience there is no one single tool I can give on the importance of structure that works for everyone. That's why I give students several different tools. This foreign-language exercise seems to be a vivid way of showing how structure adds to ease of understanding. And it's a tool that I can use again later with students who are struggling with their structure.

Give it a try. You too for work it may ...
I mean, it may work for you too.

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“I explained
to my students
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word order
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THE DANGERS OF DEFAULTS

BY STEPHEN V. ARMSTRONG
AND TIMOTHY P. TERRELL

Stephen V. Armstrong is Director of Career Development at Wilmer, Cutler & Pickering, a law firm based in Washington, D.C. He is a former English professor and journalist. Timothy P. Terrell is Professor of Law at Emory University in Atlanta, Ga., and former Director of Professional Development at the law firm of King & Spalding. Together, Armstrong and Terrell are the authors of Thinking Like a Writer: A Lawyer's Guide to Effective Writing and Editing (1992; second edition forthcoming in 2002 from the Practising Law Institute) and are regular contributors to the Writing Tips column.

The most difficult editing that any writer faces takes place deep within a document's structure, down at a level to which many lawyers and most law students never descend.

Ordinarily, when editors tackle a document's organization, they address one of two common problems—or, most often, they focus on both, one after the other. First, the organization may not be fully logical, and it has to be rearranged into a more rigorous sequence. Second, the organization may be logical, but it is not yet truly coherent from the readers' perspective: they have to work too hard to follow the logic and to grasp the document's point and overall structure. To cure the second problem, an editor usually has to add better introductions, "road maps," sub-headings, transitions, and other kinds of meta-information.

Sometimes, however, when editors focus on a document's organization, they should begin by tackling another problem, one that is harder to spot and to cure. This problem involves what we will call "default" organizations. By the end of law school, everyone has used some organizing patterns so often that they have become deeply internalized and, as a result, can be deployed on the page with almost no effort—by default, as it were. These organizations are perfectly logical: there is a clear order to the information. And, because they are so familiar to legal readers, they are usually easy to follow. But their "logic" may be inconsistent with—or, at least, a distraction from—the legal or factual "story" the writer is

trying to tell. As a result, the strength of that story, and the clarity of themes from which it arises, are lost behind the façade of a plausible "logic." The editor's difficult task, then, is to spot the underlying story or theme and bring it into the open, by reorganizing the document (or section) to reflect it. Not that default organizations are always wrong. But they are so easy to use, and so comforting to novices, that they fall onto the page far more often than they should—and, once on the page, to the casual editor they can look just fine.

Although this problem arises in organizing both law and facts, our topic here is writing about facts. As we noted in a previous column on storytelling (Winter 2001), facts are subject to one great "automatic pilot" structure: chronology. In that column, we dealt with one danger of the chronological default: it lets us avoid the hard organizational work we should undertake to tell a story effectively. In this column, we deal with the default's two other dangers. It tempts a writer to include too much detail and—as the previous paragraph forewarned—it can blur the clarity of key facts (or factual issues) that do not have chronology at their root. The first problem is relatively easy to diagnose and cure. The second is trickier on both counts, and therefore deserves more attention.

1. The Magnet Effect

Left to its own devices, as it often is when writers are lazy, chronology functions with the same lack of discrimination as one of those giant junkyard magnets: it picks up every fact that comes into range, important or trivial, relevant or distracting. Once the first date or time falls onto the page, every step in the sequence tumbles after. We won't inflict an example on you: you will have seen far too many already. Students and novice lawyers find this default particularly difficult to resist because it feels both conscientious and safe. Surely no one can blame them for being so careful to tell the whole story, so attentive to the whole record.

As a cure, it's not always enough just to slash away the irrelevant facts. When writers begin to slash, they often discover that so much irrelevance ended up on the page because they hadn't yet come to a conclusion about what would be

relevant—and, as a result, they don't know what to cut. The more fundamental cure, therefore, may be to write a better introduction, one that forces the writer to focus on the themes or issues that determine which facts are relevant and which can be discarded.

2. The Who-Did-What Syndrome

When we write about facts, we generally have two tasks: to create a context for what happened and to focus on the key facts relevant to the issues. In each task, at the substantive core of the facts, there may be a sequence—who did what when? If so, chronology will be the best match for that underlying substance. Sometimes, though, if you step back from the welter of facts and search for their core, you find something other than a sequence. If you are creating a context, for example, the most important information might be a conglomerate's corporate structure, or the ecology of a marsh that was polluted by an oil spill. In the key facts, what matters most could be just as varied: sometimes a sequence of actions but sometimes, for example, a description of a place or the facts that establish a person's character or credibility. When sequence is not what matters most, chronology obscures the story and theme the facts should convey.

Besides chronology (“when”), the patterns into which facts most often fall are the standard categories of journalism: who, what, where, and why.

- Who: The main character (the plaintiff, the defendant, the police, the corporation's board of directors, etc.) and other key characters, important witnesses, or sources of information (the examining doctors, other experts, fact witnesses, etc.).
- What: The materials, documents, things, or issues (a company's stock or assets or records, the key documents in a transaction, the defective product or manufacturing process, the mental state of the defendant, etc.).
- Where: The location or other geographical context of an incident (the nature of a highway intersection, the neighborhood next to which the airport will be built, a deserted country road, etc.).
- Why: The explanation or motive for events (wet roads, alcohol consumption, racial animus, greed, gravity, etc.).

This list is not meant to be exhaustive or precise but, rather, suggestive. The goal is not to seize quickly on one pattern from the list, but to identify the central theme (or themes) in your facts that tie them most directly to your legal analysis or argument. The next step, of course, is to choose an organization that best reflects that theme. In many cases, you may have to use more than one organization, in sequence, to capture all the relevant aspects of your facts.

Here is a simple example of the danger of the chronological default when chronology is not your thematic “substance.”

Before:

On August 4, 1983, Jessica Hall was involved in a motor vehicle accident at the intersection of routes 6 and 25 and the spur from exit 9 of I-84 in Newtown. Jessica was a passenger in a pickup truck driven by her mother, Wendy Hall. Wendy Hall left exit 9 of I-84 and proceeded eastbound on the exit spur to routes 6 and 25. At this point, routes 6 and 25 overlap into one road. When she approached the intersection of the spur and routes 6 and 25, she attempted to turn left to go north on routes 6 and 25. She testified that because her vision was obstructed by brush, she could not see traffic traveling south on routes 6 and 25, so she inched her way onto the highway to obtain a view. At that point, a tractor trailer driven by John Jones was driving southbound on routes 6 and 25. Wendy Hall did not see the tractor trailer until it was suddenly upon her vehicle. Jones attempted to avoid a collision by braking and swerving to the left but was

unable to do so and struck Wendy Hall's truck, severely injuring Jessica Hall.

These facts are chronologically organized from start to finish. But the key factual issue is not who-did-what-when. It is a geographical question about the sight lines at the intersection. Because the writer is locked into this chronological default, however, he or she has no choice but to insert the key geographical facts wherever the chronology permits, blurring the emphasis they deserve.

The revision escapes this trap, while still using chronology to capture the who-did-what:

After:

[FIRST, THE CONTEXTUAL FACTS]

On August 4, 1983, Jessica Hall was severely injured when a tractor trailer driven by John Jones collided with a pickup truck driven by her mother, in which she was a passenger.

[NEXT, THE GEOGRAPHY] The accident took place at an intersection where, for drivers pulling onto the main road, vision is obscured until they are already in the road. At that intersection, exit 9 of I-84 meets routes 6 and 25 as they merge into one road. According to the testimony of Wendy Hall, Jessica's mother, the view from the exit spur is partially obstructed by brush, so that drivers leaving the exit cannot see traffic traveling south on Route 6.

[FINALLY, THE NARRATIVE] Wendy Hall left I-84 at exit 9. When she approached the intersection, she attempted to turn left to go north on routes 6 and 25. She testified that, because she could not see traffic traveling south on Route 6, she inched her way onto the highway to obtain a view. She did not see Jones' tractor trailer until it was suddenly upon her vehicle. Jones attempted to avoid a collision by braking and swerving to the left, but was unable to do so and struck Wendy Hall's truck.

With facts this simple, the default was not particularly destructive. With longer, more

complex facts, the default can cause much more damage, as the next example shows.

This example comes from the fact section of an appellate judicial opinion. The appellant, Hann, was convicted of criminal trespass after taxiing his airplane from a hangar to an airport runway. To get to the runway, he crossed part of the airport that the complaining witness, Hyde, leased and had posted with "no trespassing" signs. Pieces of the airport had changed hands over the years in a complicated sequence. What turns out to be at issue, however, is not the history of who owned what when, but the language in a couple of deeds. The first version of the facts, as you can see just by glancing at the beginning of each paragraph, is relentlessly chronological. As a result, it obscures the real issue so successfully that, as the writer realized when he tried a revision, it even omitted a key provision in a controlling agreement.

Before:

The Aero-Valley Airport was constructed around 1970 by Edna Gardner Whyte on thirty-four acres of her land. She later bought more land northeast of the original tract and made additional improvements, including extensions to the runway and taxiways.

In 1980, Whyte sold to Gene Varner the runway and taxiways together with a portion of the land, including the portion where the transient area is located. Part of the purchase price was carried by a note from Varner to Whyte and secured by a vendor's lien and deed of trust. In the deed to Varner, Whyte reserved certain easements and rights for access to the runway from her property located in the northeast corner of the airport. In 1982, Hyde-Way, Inc., owned by Hyde, acquired all of Varner's interest and assumed the note owed by Varner to Whyte.

Sometime prior to October 19, 1983, Hyde's corporation purchased 119 acres located west of the runway and referred to as the Northwest Development Addition. Misunderstandings and disputes arose

between Whyte and Hyde concerning obligations, rights, and other matters pertaining to the airport. On October 19, 1983, a settlement agreement was entered into between Whyte and Hyde-Way, Inc. and Glen Hyde, individually, and by which Hyde agreed to convey to Whyte certain real property located on the Northwest Development Addition. This conveyance was apparently in payment of the balance owed to Whyte under the 1980 note from Varner. This conveyance also included ten hangars located on the land, one of which was being used by appellant as a tenant of Whyte at the time of his arrest. Whyte was then still the owner of the hangar and told the appellant that he had access to the runway across the transient area under the terms of the settlement agreement between Whyte and Hyde.

Under that agreement, Whyte agreed to quit claim to Hyde all rights and reservations saved and excepted in her deed to Varner:

[E]xcept that Whyte shall have the right to convey easements to persons who are tenants or heirs or assigns of land she presently owns or will own in the future within the confines of the Aero-Valley Airport as it now exists, including the residential lots in the Northeast corner of said airport. Whyte agrees, however, that on the sale of any of the hangars granted to her in this agreement or purchased by her in the Northwest Development Addition she or her buyers will execute the Runway License Agreement now required by Hyde from purchasers in the Northwest Development Addition.

On February 5, 1987, Hyde sold whatever property he owned, including the transient area, to a Nevada mining corporation. At the time appellant was arrested for trespassing, on April 20, 1987, Hyde owned only a month-to-month tenancy under a verbal lease from the mining company.

The testimony shows that there has been a long history of disputes between Whyte and Hyde over their airport transactions, and that they had been in civil litigation for over two years before appellant was convicted in this case. This litigation apparently did not involve the interpretation of the above quoted language from the settlement agreement insofar as it was determinative of appellant's right to cross the transient area on April 20, 1987. Appellant urges that as Whyte's tenant he had access across the transient area on that date by virtue of the easement rights which Whyte retained in her agreement with Varner and which she was authorized to convey under the settlement agreement with Hyde.

In the revision, many of the irrelevant details have been discarded. But the more important change is structural: the chronology has been separated out from the "what" of the key documents, with each given its own section. This separate focus on separate topics not only highlights the second one, but ties it more directly to the legal discussion that follows. After reading the revised facts, we now expect the analysis to hinge on those documents, not on the chronology of ownership.

After:

The Aero-Valley Airport was constructed around 1970 by Edna Gardner Whyte on her land. Over the years, parts of it changed hands several times. Throughout these changes, Whyte retained part of the property, some of which she leased to tenants such as Hann.

History of the Airport's Ownership

In 1980, Whyte sold to Gene Varner the runway and taxiways together with a portion of the land, including the portion on which appellant allegedly trespassed. Part of the purchase price was carried by a note from Varner to Whyte.

In 1982, all of Varner's interest was acquired by Hyde-Way, Inc., owned by Hyde.

Hyde-Way also assumed the note. Sometime thereafter, it purchased more land located west of the runway and referred to as the Northwest Development Addition.

On October 19, 1983, Hyde-Way, Inc., and Hyde individually entered into an agreement with Whyte in which, among other matters, Hyde agreed to convey to Whyte certain real property in the Northwest Development Addition, in payment of the balance owed under the 1980 note. This conveyance included ten hangars, one of which was the hangar appellant was renting at the time of his arrest.

On February 5, 1987, several weeks before the arrest, Hyde sold his airport property to a Nevada mining corporation. On the day of the arrest, he owned only a month-to-month tenancy under an oral lease from the mining company.

The testimony shows that there has been a long history of disputes between Whyte and Hyde. The 1983 agreement between them was intended to settle these disputes, but they had been in civil litigation for over two years before appellant was convicted in this case. The litigation, however, did not address the issues raised by this appeal.

The Key Agreements

Appellant relies on the terms of Whyte's 1980 sale of the airport to Varner, Hyde's predecessor, and of Whyte's 1983 agreement with Hyde. Based on those agreements, appellant argues, there is sufficient reason to believe that he had effective consent to enter Hyde's property so that the trial court could not have found him guilty beyond a reasonable doubt.

In 1980, when Whyte sold part of her land to Varner, the deed reserved to Whyte certain easements and rights for access to the runway from her property. In relevant part, the deed states:

[NOTE: In this form of organization, it becomes clearer that a crucial item—the relevant language from the 1980 deed—is missing.]

Under Whyte's 1983 agreement with Hyde, Whyte agreed to quit claim to Hyde all rights and reservations saved and excepted in her deed to Varner, with the following exceptions:

... Whyte shall have the right to convey easements to persons who are tenants or heirs or assigns of land she presently owns or will own in the future within the confines of the Aero-Valley Airport as it now exists, including the residential lots in the Northeast corner of said airport.

As both examples demonstrate, and as we mentioned earlier, the trick to organizing facts successfully is often to rely on more than one organizing pattern. (And, of course, to provide adequate introductions before the details.) Most of the time, you have a story to tell, and therefore need to use some chronology. Some of the time, however, you will also want to make the facts do other work, for which another form of organization may be best. In situations that call for two or more forms of organization, their sequence can be important. In the facts about the accident, for example, if you represent the Halls you probably want the geography before the chronology, because readers will respond to the story more sympathetically if they have first focused on the messy state of the intersection. If you represent the other side, you might make the opposite choice, because Hall's description of the intersection may then sound more like an excuse for bad driving.

Here is an example of a similar choice being made by Justice Robert Jackson, in a famous case about mens rea. Where most writers would have started with a chronological narrative, he instead describes a place, and then things in that place. When he turns to the who-did-what-when chronology, he minimizes its chronological aspect by emphasizing "who" and "why"—character and motive—not "when." The only date is buried in the third paragraph, and facts that paint an upright

character and blameless motives receive far more emphasis.

These choices are artful. Once we have read through the facts, by the time Jackson gets to the defendant's arrest we are primed to agree with the legal conclusion: There was no *mens rea*, and hence no crime.

On a large tract of uninhabited and untilled land in a wooded and sparsely populated area of Michigan, the Government established a practice bombing range over which the Air Force dropped simulated bombs at ground targets. These bombs consisted of a metal cylinder about forty inches long and eight inches across, filled with sand and enough black powder to cause a smoke puff by which the strike could be located. At various places about the range signs read "Danger—Keep Out—Bombing Range." Nevertheless, the range was known as good deer country and was extensively hunted.

Spent bomb casings were cleared from the targets and thrown into piles "so that they will be out of the way." They were not stacked or piled in any order but were dumped in heaps, some of which had been accumulating for four years or upwards, were exposed to the weather and rusting away.

Morissette, in December of 1948, went hunting in this area but did not get a deer. He thought to meet expenses of the trip by salvaging some of these casings. He loaded three tons of them on his truck and took them to a nearby farm, where they were flattened by driving a tractor over them. After expending this labor and trucking them to market in Flint, he realized \$84.

Morissette, by occupation, is a fruit stand operator in summer and a trucker and scrap iron collector in winter. An honorably discharged veteran of World War II, he enjoys a good name among his neighbors and has had no blemish on his record more

disreputable than a conviction for reckless driving.

The loading, crushing and transporting of these casings were all in broad daylight, in full view of passers-by, without the slightest effort at concealment. When an investigation was started, Morissette voluntarily, promptly and candidly told the whole story to the authorities, saying that he had no intention of stealing but thought the property was abandoned, unwanted and considered of no value to the Government. He was indicted, however, on the charge that he "did unlawfully, willfully and knowingly steal and convert" property of the United States of the value of \$84, in violation of 18 U.S.C. § 641, which provides that "whoever embezzles, steals, purloins, or knowingly converts" government property is punishable by fine and imprisonment. Morissette was convicted and sentenced to imprisonment for two months or to pay a fine of \$200. The Court of Appeals affirmed, one judge dissenting.

As impressive as this example of how to marshal is, we suspected that its effectiveness might have had less to do with Justice Jackson's skill than with the efforts of Morissette's lawyer in his brief to the Supreme Court. So we went to the records to read it. What we found is worth discovering on your own. The brief begins with a section labeled, with wonderful irony, "Summary Statement of the Facts." In our programs on persuasive writing, we include in the materials the first six, single-spaced pages of this remarkable section, which contains almost no paragraph breaks. Justice Jackson's skill as a legal writer—distilling from this disastrous mush the clean, compelling story he tells by escaping from the chronological default—is even more remarkable than we had thought.

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“The strength of PowerPoint lies in its ability to visually convey information, in both text and images, and reach students with a variety of learning styles.”

FOUR POINTERS TO EFFECTIVE USE OF POWERPOINT IN TEACHING

BY ANGELA CAPUTO

Angela Caputo is a Legal Practice Skills Instructor at Suffolk University Law School in Boston, Mass.

Technology for Teaching ... is a regular feature of Perspectives, designed to introduce and describe the ways in which teachers of legal research and writing are using technology to enhance their teaching. Through Volume 9, this column was edited by Christopher Simoni, Associate Dean for Library & Information Services and Professor of Law, Northwestern University School of Law. Readers are invited to submit their own “technological solutions” to Mary A. Hotchkiss, Perspectives Editor, University of Washington School of Law, 1100 N.E. Campus Parkway, Seattle, WA 98105-6617, phone: (206) 616-9333; fax: (206) 616-3480, e-mail: hotchma@u.washington.edu.

Introduction

This article concerns the effective use of PowerPoint¹ as a technological enhancement to teaching in the modern law school classroom. I have taught in the Legal Practice Skills Program (LPS)² at Suffolk University Law School since the opening of our new high-tech facility in 1999. During that time I have used PowerPoint extensively and I have learned several ways to effectively use this technology in legal pedagogy.

When used effectively, PowerPoint offers benefits to both students and faculty. As modern law teachers, we are faced with the challenge of reaching a group of individuals who are accustomed to getting their information from multiple sources, such as a combination of television, newspapers, radio, and the Internet. Moreover, although law students tend to be a focused and committed group, they are also a captive audience required to take certain courses regardless of interest. The strength of PowerPoint lies in its ability to visually convey information,

in both text and images, and reach students with a variety of learning styles. Also, the use of PowerPoint requires a teacher to consider materials in a different way, to take a fresh new approach to the material, and to better organize and condense materials.

This article is not a technical “how to” guide to creating PowerPoint presentations. PowerPoint is user-friendly and easy to learn through basic instruction and experimentation.³ The purpose of this article is to offer some guidance, beyond the technical composition of a presentation, for the effective use of presentation technology in legal pedagogy. This guidance is offered in four main “pointers.” First, PowerPoint should only be used with a specific purpose. Second, teachers should focus on keeping the atmosphere in the classroom conducive to learning because the use of technology can change the learning environment. Third, teachers should meaningfully limit the content of a PowerPoint presentation. And, fourth, teachers should carefully maintain context when using PowerPoint to enhance teaching.

1. Have a Specific Purpose

PowerPoint should be used only for a specific purpose. A teacher should consider the content of each class to determine whether there is a reason to use PowerPoint for that session. The following are examples of four good reasons to use PowerPoint as a technological teaching aid.

a. Incorporate images

PowerPoint is useful when images will aid student understanding. For example, to address the difficulty of teaching legal research outside of the library setting, at Suffolk we “bring the library into the classroom” using PowerPoint. We use

³ Many technologies can be used in most law school classrooms by bringing in the necessary equipment. Suffolk University Law School’s high-tech facilities ease the use of technological enhancements such as PowerPoint. All of the classrooms have identical capabilities, including Pentium-based PCs, projectors, screens, digital document cameras, and state-of-the-art audio systems. By using a color LCD (liquid crystal display) touch-control panel based at the front of each classroom, teachers can control the classroom environment by doing such things as lowering the shades and the lighting, as well as control the classroom equipment, by operating the projectors and the cameras, for example.

¹ This article focuses on PowerPoint because it is the presentation technology with which I am most familiar, but the suggestions made in this article apply to other comparable presentation software.

² LPS is Suffolk’s legal writing, reasoning, and research course.

digital images of library resources,⁴ in conjunction with corresponding handouts, to take students on a step-by-step trip through the research process.

For example, we use PowerPoint to teach students how to Shepardize®. Shepardizing™ is a hard process to explain without using multiple books as illustration, and students have difficulty understanding the concept without visualizing the steps. A PowerPoint presentation with digital images of the resource,⁵ accompanied by a handout that details the steps to Shepardizing, helps students to better grasp the process.

PowerPoint eases the transmission of the visual information as it offers a convenient way to incorporate images into a lecture.



This technology-enhanced method of teaching legal research has some advantages. Teaching research to students in the library, for example, is complicated by the logistics of managing large numbers of students and the disruption to other library patrons. Carrying library resources into the classroom is cumbersome at best, and there are not enough copies of specific resources to teach the large number of first-year students. Photocopied images cannot show the entire resource. PowerPoint images can allow students to see the resource in its full context.

b. Use tools to focus attention

Any image, document, or text included in a presentation can be annotated to focus all students on the same thing at the same time. For example, in our sessions in which we talk about the research

⁴ With help from Suffolk's library staff and their digital camera, we obtained digital images of specific resources and saved them on Suffolk's server for access by the LPS department.

⁵ Images incorporated into our PowerPoint slides include images of the full set of the relevant Shepard's® volumes and of the relevant books being pulled off the shelves.

process, we include digital images of maps of the library in PowerPoint presentations so that the students understand the layout of the library while still sitting in the classroom. PowerPoint offers tools to annotate the images to focus attention on a particular area in the image. For example, a teacher can "draw" a circle around a point in a digitized document or he or she can draw an arrow or a line to an area of a diagram.



This annotation of images is not limited to pictures or diagrams. Any document can be scanned into digital form, included in a PowerPoint slide, and annotated by drawing shapes around important information.

Another teaching tool made easier by PowerPoint is the use of color, which can communicate both ideas and meanings. The use of color visuals often increases comprehension and retention. To emphasize certain points, a teacher should use colored text to diagram parts of sentences or paragraphs or to identify parts of a paradigm used to convey legal analysis. While creating meaningful PowerPoint slides requires significant preparation time before class, it can save valuable in-class time by reducing the amount of writing on the board during class.

c. Facilitate use of multimedia

PowerPoint can facilitate the use of multimedia, such as the Internet, video clips, and sound files. A hyperlink to a relevant Web site within a PowerPoint slide permits a teacher to jump online and explore the relevant source without disrupting the flow of the class. For classes on research methods, I have included hyperlinks to Web-based research guides created by the Suffolk law librarians.⁶ The value of these guides is

⁶ The Web address of these research guides is <www.law.suffolk.edu/library/pubs/pubs.html>.

“The use of color visuals often increases comprehension and retention.”

“Do not lose the message in the technology.”

reinforced by their exploration during the classroom lecture. Video clips and sound files can similarly be included in a PowerPoint presentation for easy access.

d. Outline complex lectures

PowerPoint is a helpful tool for outlining complex lectures. Students can more easily follow along when a visual aid conveying the organization of the lecture accompanies the discussion. This “roadmap” helps students maintain context and take notes more easily.

2. Consider Atmosphere

When using PowerPoint, a teacher should keep the atmosphere in the classroom conducive to learning by taking steps to avoid discouraging interactivity.

a. Lighting

The goal is to keep the room as bright as possible while still allowing the students to clearly see the screen on which the presentation is projected. The most obvious reason for bright lighting is that students need to take notes. A less obvious, but perhaps more important, reason to keep the room brightly lit is that brighter lighting will stimulate interaction and keep the students engaged. A dimly lit room encourages passive observation, similar to watching a movie in a theater where the learned response is to merely observe. To keep students engaged, a teacher should maintain eye contact with them. Dim lighting discourages eye contact and prevents the teacher from getting valuable feedback from observing facial expressions and gauging the comprehension of the class.

Teachers should take advantage of all lighting in the classroom. One tip is to use natural lighting along with artificial lighting, taking care not to compromise slide clarity.⁷ Be sure to take advantage of ambient light by choosing a PowerPoint background color scheme or a background template that is light in color. Many templates that come as preset backgrounds for presentations are composed of darker colors that restrict ambient light.⁸ Dark backgrounds darken

⁷ This works well when the teacher has a dimmer option in the classroom.

⁸ Darker templates also tend to contain designs that distract students and limit the usable area of the slide.

the front of the room and can disconnect the teacher from the class—this removal is perceived by the students. Ambient light stimulates both the teacher’s connection with the students and the students’ involvement in the class by keeping the front of the room brightly lit without interfering with slide clarity.

Consider toggling between full class lighting and presentation lighting. During times when the students do not need to see the slide, a teacher can “blank out”⁹ the presentation and bring the class to full lighting, and then switch back to presentation lighting to show a slide that may help prompt discussion or thought.

b. Consider color psychology

Teachers should consider the effect of color psychology¹⁰ on the atmosphere in the classroom when using PowerPoint. As certain colors are known to suggest certain moods, a teacher should consciously choose color. Red connotes danger or warning. Blue is calming. Green is known to stimulate interaction and suggests encouragement. Color can be introduced in a PowerPoint presentation in the background of slides, in text, in charts, and in accents.

c. Avoid glitz

When using PowerPoint, a teacher should have students focus on what is being said and not on how it is being said. Do not lose the message in the technology. PowerPoint has many special effects, such as a variety of creative ways to transition between slides and between each point on an individual slide, and a myriad of sounds, including chimes, bells, and whistles, to accompany the transitions. A teacher can cause his or her words to come spiraling from the center of the slide, and make the students dizzy in the process. Each point can literally “shoot” onto the screen with the sound of a laser. These effects can be distracting. Moreover, PowerPoint effects when overused will be perceived by students as flash or

⁹ Pressing the “B” key on the keyboard during a PowerPoint presentation will “blank out” the screen and pressing the “B” key again will “bring it back.”

¹⁰ Many books have been written on the effect of color psychology in general. For an article addressing the impact of color in the use of PowerPoint, see Gary Guthrie and Ian T. Ramsey, *Pushing PowerPoint Above Idle: Speech Is Abstract; Pictures Are Real*, 16 No. 10 Legal Tech News. 1 (1999).

gimmicks. Like the use of PowerPoint itself, the effects should be used only if they serve a purpose. When using these effects, consider how viewers process information. For instance, the English language is read from left to right, so opt for transitions that cause a point to “fly” from left to right, or to simply “appear,” as these movements are easier to follow than a spiral or a flash.

3. Limit Content

Teachers should meaningfully limit the content of their presentations. When considering content, first-time users of PowerPoint often fall into the trap of including as much detail as possible. Giving too much detail, however, may be counterproductive. My first use of PowerPoint was to digitize and project my lecture notes to my students. Instead of teaching, I found myself reading aloud from the slides, and my students would feverishly write down every piece of displayed text. I quickly noticed that during those classes my students were too focused on note taking. My solution was to distribute a printed version of the slides to supplement the class session. I then found that students did not take many notes, presumably because they had the information in writing before them. I perceived that this lack of note taking caused them to process less in class. The goal is to hit the happy medium that will best help the student and the teacher. Each slide should contain only one key point. Think of the slides as a talking outline that helps students follow along, take good notes, think about what is being said, and participate. The following are suggestions to accomplish meaningful limitation of content:

a. Less is more

A few well-chosen words can speak volumes. Experts suggest limiting slides to 40 words. When there is an overabundance of information, students will be unable to see the primary points. They will be unable to distinguish which words are important, since text-heavy slides lack the signals, visual or otherwise, to distinguish the key points. Students will attempt to write down everything that they see because they fear that they may otherwise miss something. As a result, they do not listen and they miss the points made in the

narrative. Use only key words to avoid this outcome.

Also, including too much detail on one slide will result in a small text font. Fonts should be kept large for ease of reading. Sit in the back of the classroom and run the presentation: are the words hard to read? If so, perhaps some detail should be omitted from the slide, or perhaps the slide should be reorganized into two slides, as there may be multiple points on the one slide.

b. Be concise

Each point should be kept as concise as possible. Choose short words over long words. Use words, not phrases or sentences. Omit pronouns, articles, and repetitive words. A good rule of thumb to follow is the 6 x 6 rule.¹¹ Use no more than six words per line and six lines per slide. This rule forces a teacher to organize and condense the information.

c. Use notes pages for teaching notes

PowerPoint has a feature that allows a teacher to annotate the presentation in a “notes section” of each slide. These annotations, which are not viewed by the students, permit the teacher to preserve lecture notes alongside the slide text and print them for use during the presentation.

d. Make it interactive

Slides are a good place to include written questions. Seeing the questions in text may help some students to process information more easily. Questions on the slides also reinforce past lectures and make students think about the context of the topic of that class in relationship to past sessions. This reinforcement builds students’ confidence in their acquired knowledge and creates an environment that encourages them to consider and absorb new concepts.

4. Maintain Context

A teacher should maintain context when using PowerPoint as a teaching enhancement. Law students are notorious for not seeing the forest for the trees—if not used with care, each PowerPoint slide can be like one tree. The key is to keep

“Think of the slides as a talking outline that helps students follow along, take good notes, think about what is being said, and participate.”

¹¹ The name of the rule was coined by a faculty member at Mount Mercy College in Cedar Rapids, Iowa, in an Internet article titled “Top 10 PowerPoint Tips” <www.mtmercy.edu/comp/toptenp.htm>.

“The successful integration of technology in teaching always places purpose and content above the bells and whistles.”

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students aware of where the particular concept being discussed fits into the larger context.

a. Outline

To maintain context, a teacher should outline the class discussion. Use an introduction slide to outline the large points and break those points down in a way that is obvious to the students. Refresh that outline format as the class progresses. Outlining with numbers works particularly well in helping students remember where the individual point fits into the bigger picture.

b. Transition between ideas

To maintain context, carefully develop the transitions between ideas and not slides. The slide technology can lead to compartmentalization of ideas. Keep good notes of the next topic and how it fits into the big picture,¹² and introduce the next idea, and its placement in the overall topic, while moving to the next slide. Although each slide should cover one point, that point should clearly fit into a bigger picture; the ideas presented on each slide should be clearly connected to one another.

Conclusion

As a teaching tool, PowerPoint technology can be phenomenal to help teachers illustrate points in a compelling way. Visual aids can improve classroom interest levels and retention of information. Effective use of PowerPoint and related technologies, however, requires teachers to carefully analyze the material to be presented and the various techniques for delivering that material. The successful integration of technology in teaching always places purpose and content above the bells and whistles.

¹² A good suggestion is to make note of what is “next” in the notes section of the previous slide.

OUR QUESTION—YOUR ANSWERS

This is a column of reader-prepared answers offered in response to a specific question posed by Perspectives. Readers are invited not only to submit “answers” but also to submit “questions” they would like to see addressed in future issues.

OUR QUESTION

We asked law librarians and legal research teachers to identify difficult subject areas of the law and difficult research tools to teach. Administrative law, and more specifically the combination of the *Federal Register* and *Code of Federal Regulations*, was the overwhelming winner. Recalling the recent “mini teach-in” one of us did for two junior staffers on this very subject, we agreed. As a follow-up, we asked readers to submit tips or lesson plans for training lawyers, law students, and clerks in regulatory research.

YOUR ANSWERS

Federal and State Regulatory Research

Administrative law is the body of law created by administrative agencies in the form of rules, regulations, procedures, orders, and decisions. Researchers are challenged by the contrast in features that are available in regulatory publications. Official government publications such as the *Federal Register* and *Code of Federal Regulations* (CFR) provide minimal indexing and limited readers aids. Leah Chanin, librarian at the Allen Mercer McDaniel Law Library at Howard University in Washington, D.C., notes that “the indexes or lack thereof in CFR and *Federal Register* cause many problems” whether in locating or updating federal regulations. Librarians in academic, firm, county, state, and court settings have developed a variety of checklists and research guides to teach researchers how to update the CFR. Ruth Balkin, of Balkin Library & Information Services in Rochester, N.Y., responded to her clients’ needs by creating “a pathfinder, describing and illustrating every step to take in updating the CFR via the *Federal Register*.” A recent *Perspectives* “Teachable Moment” column focused on updating in print and online; see *How Do You Update the Code of Federal Regulations?* by Lydia Potthoff, 5 *Perspectives: Teaching Legal Res. and Writing* 28–29 (1996).

Commercial publications such as subject-specific looseleaf services provide extensive indexing and a multitude of research aids. These services tend to cover highly regulated areas of law such as tax, labor, securities, and bankruptcy and integrate by topic or code section the relevant statutes, regulations, court cases, administrative adjudications, proposed legislation, and pending regulations. While the complexity of these services may initially overwhelm the novice researcher, the depth and breadth of this “one-stop shopping” approach is ultimately favored for regulatory research.

Michael Chiorazzi, director of the University of Arizona College of Law Library in Tucson, has a novel strategy for teaching regulatory research. “I start the administrative law section of my advanced legal research class with a showing of a 50-minute video, ‘The Regulators,’ hosted by E.G. Marshall. While somewhat dated, it gives a great look at the importance of federal regulations and how they are created. The video focuses on EPA [Environmental Protection Agency] efforts to create clean-air regulations to limit pollution in the national parks. I’ve used it for years; student reaction remains positive; and it is a nice break from lecture or hands-on research classes.”

Mitch Fontenot, of the University of Colorado Law Library in Boulder, provided a research protocol for state administrative research. When Mitch is helping a patron with a regulatory question, he prefaces his assistance with the adage that “state regulations run the gamut of average to worse.” He notes that state regulatory research has some unique challenges—particularly in the area of researching the development of specific regulations. Mitch recommends a multipronged approach:

1. Examine the table of contents and subject index of the regulations themselves.
2. Check your respective state government Web site to see if the regulations and state registers are included. Check for accuracy and currentness, noting relevant disclaimers.
3. Call the agency involved directly and hope for a competent person on the other end. If not, call back again and try someone else.
4. Check LexisNexis or Westlaw® with the same proviso as in #2 above.

5. Check BNA's *Directory of State Administrative Codes and Registers*. Although this title is out of print, the directory layout provides a useful framework.
6. Check William H. Manz's *Guide to State Legislative and Administrative Materials*, 2000 ed. This is an excellent resource that gives useful context to state-specific research.
7. Consult a subject-oriented looseleaf, CD-ROM, or Web site that reproduces the regulations on a particular topic such as BNA's Environment & Safety Library for state environment regulations.

Other Difficult Areas to Teach—Runners-Up

1. How Laws Are Passed

Dave Rogers, of Sidley Austin Brown & Wood in Chicago, Ill., told us that his overall concern is lawyers who don't know how laws are passed. He thinks that *U.S. Code Congressional and Administrative News*[®] (USCCAN) is a great initial tool and that its editorial enhancements help a lot. Unfortunately, in an era in which younger attorneys expect to be able to type 20 characters and have instant answers, their kind of online research does not translate well when trying to discern a provision of the law passed in 1968 with the Civil Rights Act. Schoolhouse Rock's "I'm Just a Bill" goes a long distance, but attempts are not successful to get a person to understand that when the House bill is passed in lieu of the Senate bill, the place to start is the House and Conference reports. Results are glazed-over eyes, not comprehension. When there is impending panic because a client will be calling within the hour [for an answer], this just isn't a teachable moment for the law librarian.

2. BNA's *Labor Relations Reporter*

Cindy Beck Weller, of Cooper, White & Cooper LLP in San Francisco, Calif., told us that she has the hardest time teaching new labor associates all the nuances to this title. "BNA has a video, which is old [and] does an OK job, but it takes quite a bit of time to get folks comfortable with the print version." Shannon Wilson, of Ogletree, Deakins, Nash, Smoak and Stewart, P.C., in Greenville, S.C., said, "I have the most

difficulty teaching the BNA *Labor Relations Reporter* because there are so many components and so many places to check to be thorough. Our hardbounds are shelved close—but not right next to the looseleaf part of the set. Many researchers do not even realize they are related and only get to the hardbound through a cite from a case or law review. Associates rarely have the time and patience for training when the question comes up. They just want a quick answer so they can get back to the partner/client."

3. *Miller's Standard Insurance Policies Annotated*

Nanna K. Frye, librarian at the California Court of Appeal in San Diego, told us that this is a difficult resource to teach attorneys how to use. She finds the physical setup to be difficult, as it is housed in binders that don't stay open to a particular page. The print is also extremely small. As most of us are occasional users, it is not easy to figure out how to find the appropriate policy and how to Shepardize[®] a policy's clause.

Our thanks to everyone who responded to the questions we posed.

Judy Meadows

State Law Librarian of Montana
Justice Building
215 N. Sanders
Helena, MT 59620-3004
Phone: (406) 444-3660
E-mail: jmeadows@state.mt.us

Kay Todd

Senior Legal Researcher
Paul Hastings Janofsky & Walker LLP
600 Peachtree St., N.E., Suite 2400
Atlanta, GA 30308
Phone: (404) 815-2141
E-mail: kmtodd@phjw.com

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COMPILED BY DONALD J. DUNN

Donald J. Dunn is a Law Librarian and Professor of Law at Western New England College in Springfield, Mass. He is a member of the Perspectives Editorial Board. This bibliography includes references to books, articles, bibliographies, and research guides that could potentially prove useful to both instructors and students and includes sources noted since the previous issue of Perspectives.

George Anastaplo, *George Anastaplo: An Autobiographical Bibliography (1947–2001)*, 20 N. Ill. U. L. Rev. 581 (2000).

A bibliography, compiled by the author, listing his public papers, books, other publications, talks and papers, and selected letters to editors.

Ken Bresler, *Kissing Legalese Goodbye/Legal Practitioner's Abecedarian Manual of Legalese, Jargon, and Multisyllabic Words to Make Aforesaid Lawyers, Attorneys, and Counselors-at-Law Feel and Sound the Same*, 2001 [Littleton, CO: Fred B. Rothman Pubs., 1 vol.]

Two titles in one volume, the first stressing the importance of writing succinctly and concisely, and the second describing the legalese, jargon, and multisyllabic words that lawyers frequently use to make their writing seem important.

Teresa Brostoff et al., *English for Lawyers: A Preparatory Course for International Lawyers*, 7 Legal Writing 137 (2001).

Discusses an LL.M. preparatory course for international law students offered at the University of Pittsburgh School of Law.

Charles R. Calleros, *Using Classroom Demonstrations in Familiar Nonlegal Contexts to Introduce New Students to Unfamiliar Concepts of Legal Method and Analysis*, 7 Legal Writing 37 (2001).

Discusses two classroom demonstrations used to introduce first-semester law students to uncertainty in the law and prepare them for case synthesis.

Morris L. Cohen, *Training Law Librarians in the Use of Rare Legal Materials*, Legal Reference Services Q., Nos. 1/2, 2001, at 29.

Includes a model curriculum (with bibliographic references) for law librarians in the use of rare materials.

Lucia Diamond, *Roman and Canon Law Research*, Legal Reference Services Q., Nos. 1/2, 2001, at 99.

"[D]escribes the types of researchers who consult Roman and canon law sources, discusses the research needs of these researchers, and explains the varying citation formats that have been used for these works." *Id.*

Joseph F.C. DiMento et al., *Corporate Criminal Liability: A Bibliography*, 28 W. St. U. L. Rev. 1 (2000–01).

An extensive bibliography of books and articles covering more than 100 years that is intended "to point scholars, lawmakers, and policymakers to the extensive English language literature on corporate criminal liability." *Id.* at 3.

Jo Anne Durako, *2000 Survey Results, Association of Legal Writing Directors/Legal Writing Institute*, 7 Legal Writing 155 (2001).

A summary of the ALWD/LWI responses from 137 law schools.

Pamela Edwards & Sheilah Vance, *Teaching Social Justice Through Legal Writing*, 7 Legal Writing 63 (2001).

An examination of "the parameters of social justice and the goals advanced by incorporating social justice issues into legal writing curricula," followed by "suggestions for fact patterns that contain social justice issues either as the background to the assignment or as the body of substantive law." *Id.*

Melissa S. Fry, *Dormant Statutes and the Legal Concept of Desuetude*, Legal Reference Services Q., No. 4, 2001, at 67.

An annotated bibliography of sources that consider dormant or desuetudinal statutes (those that outlive their use and their original purpose).

Bryan A. Garner, *Clearing the Cobwebs from Judicial Opinions*, Ct. Rev., Summer 2001, at 4.

A strong argument is made that judges should put citations in footnotes (not in the text of the opinion) and generally not use substantive footnotes. *But see* Posner entry *infra*.

Jules Gleicher, *The Bard at the Bar: Some Citations of Shakespeare by the United States Supreme Court*, 50 Okla. City U. L. Rev. 327 (2001).

A discussion of 36 cases in which the Supreme Court of the United States has referred to Shakespeare in its opinions.

Joseph Kimble, *First Things First: The Lost Art of Summarizing*, Ct. Rev., Summer 2001, at 30.

Discusses the importance of summarizing and the value of putting these summary statements at the front of any piece of legal writing.

Sheryl Summers Kramer, *A Research Guide to Medical Malpractice and the Law: Revisited*, Legal Reference Services Q., No. 4, 2001, at 111.

An update of an article published in 16 LRSQ., No. 1, 1995, at 31, with the purpose of assisting personal injury attorneys litigating medical malpractice claims.

Mark W. Lambert & Michael Widener, *Bibliography on Rare and Archival Law Materials*, Legal Reference Services Q., Nos. 1/2, 2001, at 79.

A bibliography of all the existing literature on the administration and use of rare law book collections and legal archives, in institutional settings. *Id.*

Jan M. Levine & Kathryn M. Stanchi, *Women, Writing & Wages: Breaking the Last Taboo*, 7 Wm. & Mary J. Women & L. 551 (2001).

An article that has as its goals “(1) to expose just how shamefully low some legal writing salaries are, (2) to demonstrate the links between the existence of the field of legal writing, the low salaries paid and the predominant gender of writing teachers and (3) to empower legal writing professors to negotiate for (and receive) salaries that more closely reflect their work and merit.” *Id.* at 552.

James B. Levy, *Better Research Instruction Through “Point of Need” Library Exercises*, 7 Legal Writing 87 (2001).

The author describes how a library map, flowchart, and research log can be used in connection with an “open memo” assignment to teach legal research in a way that closes the gap between classroom lectures and in-library exercises.

James B. Levy, *The Cobbler Wears No Shoes: A Lesson for Research Instruction*, 51 J. Legal Educ. 39 (2001).

“[D]iscusses the important relationship between a teacher’s passion for the material being taught and the student’s ability to learn.” *Id.* at 40.

Laurel Currie Oates, *I Know That I Taught Them How to Do That*, 7 Legal Writing 1 (2001).

Discusses the role that “transfer,” i.e., realizing that something learned in one class can be used in another class, can play in the research and writing processes.

Rosemarie Ostler, *The Joys of Plain English*, Student Law., Sept. 2001, at 32.

Provides a discussion of the basics of using plain language rather than legal jargon.

Richard A. Posner, *Against Footnotes*, Ct. Rev., Summer 2001, at 24.

A response to the Garner article *supra*, arguing that while there is some merit to putting citations in footnotes (rather than in the texts of opinions) there is not enough to offset the negatives.

Carole Prietto, *Rare and Archival Law Materials on the World Wide Web: An Evaluation of Selected Sites*, Legal Reference Services Q., Nos. 1/2, 2001, at 67.

"[O]utlines some of the author's criteria for good web sites ... and discusses selected legal studies web sites in terms of their usefulness as public service tools." *Id.*

Kimberly Pruet, *Sexual Harassment in the Workplace: A Legal Research Guide*, 2001 [Buffalo: William S. Hein & Co., Inc., 28 p.]

Discusses federal statutes, federal regulations, case law, texts and treatises, legal encyclopedias, practice guides, and government publications that are concerned with sexual harassment in the workplace.

Eugene R. Quinn Jr. & Kathleen A. Portuan Miller, *Understanding Patents: A Legal Overview and Research Bibliography*, Legal Reference Services Q., No. 4, 2001, at 85.

"[P]rovides an overview of patents, with background information on the U.S. Patent and Trademark Office and includes what can be patented, the requirements of utility, novelty, and nonobviousness, who may apply for a patent, what the patent application must include, and prior art searches." *Id.*

Mary Rumsey, *Electronic Media Discovery (EMD): Issues in Electronic Records, Discovery and Evidence*, Legal Reference Services Q., No. 4, 2001, at 19.

A bibliography of materials on electronic media discovery (EMD), including articles on "discoverability, evidencing issues, data management costs and sanctions, as well as citations to sample documents," with a focus on "civil litigation and corporate data management." *Id.*

Michael Schau, *Animal Law Research Guide*, 2 Barry L. Rev. 147 (2001).

An annotated bibliographic guide to books, articles, cases, and Web sites related to animal law.

Craig T. Smith, *Synergy and Synthesis: Teaming "Socratic Method" with Computers and Data Projectors to Teach Synthesis to Beginning Law Students*, 7 Legal Writing 113 (2001).

Discusses how the Socratic method of instruction can be enhanced by simultaneous use of a computer and a LCD (liquid crystal display) data projector.

Nishan Swais, *Putting It in Writing: Drafting Faust's Contract with the Devil*, 14 Can. J. L. & Juris. 227 (2001).

Faust's pact with the devil is reduced to writing in the form of a humorous, legally binding agreement for purchase and sale.

David Warrington, *Helping Historians Write Legal History "From Below": Collecting New Sources, Teaching New Strategies*, Legal Reference Services Q., Nos. 1/2, 2001, at 17.

"[O]utlines the information sources that a librarian may use to become familiar with the literature in legal historiography and ... suggests ways that a library can form collections in non-traditional genres of research materials that support these new approaches to legal history." *Id.*

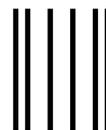
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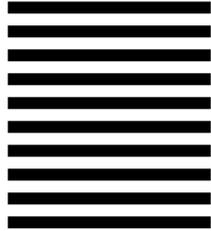


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Teaching Legal Research and Writing

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