Compiled by Barbara Bintliff

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The article provides a framework for further analysis into the “increasingly sophisticated writing competencies” of lawyers over the course of their careers. Id. at 363. The authors conducted focus group research to examine the role of expert performance in legal writing and compare their findings to current expertise theory. The authors then provide suggestions about altering current teaching and legal writing methods to better foster the development of writing expertise in law students.

E. Joan Blum, Massachusetts Legal Research, 2010 [Durham, NC: Carolina Academic Press, 217 p.].

The guide provides numerous examples of both Massachusetts and federal law to aid law students, practitioners, and paralegals throughout the entire legal research process, both for online and print media. The guide also includes information about locating and using a variety of primary sources and using citators to revise research, as well as how to effectively utilize secondary sources when beginning a research project. Appendices explain appropriate citation form and how to conduct text searches in online databases.

Randy Cauthen, Black Letters: An Ethnography of a Beginning Legal Writing Course, 2010 [Cresskill, NJ: Hampton Press, 278 p.].

“This detailed ethnographic study of the issues of power, interpretation, and identity involved in becoming a lawyer follows six students through a year-long legal writing course.” Abstract. The study applies theoretical concepts developed by Mikhail Bakhtin for investigating relations between social and personal facets of human development and feminist theory concepts to analyze the relationships formed between the students themselves, the students and the legal texts, and the students and their future clients.


“This article focuses on the question of whether appellate judges are actually influenced by the stories of the litigants who appear before them.” Id. at 3. The author stresses the strength and persuasiveness of an emotional appeal created by couching logical arguments in the form of a story. Research and analysis support the effectiveness of story-form argumentation with appellate judges, and the author concludes that stories are considered more persuasive by judges and more experienced lawyers than by recent law school graduates. The author then explores the implications of that discrepancy for law professors teaching persuasive techniques.

The book provides law students and other practitioners of law a foundation for conducting legal research specific to North Carolina. The author details basic legal research skills as well as an overview of researching North Carolina administrative law, case law, statutes, and other secondary sources.


The author discusses the methods employed by legal scholars in conducting legal research and addresses the “gaps between models of legal research and actual research practices” to provide librarians with a better understanding of current legal research practices. Abstract.


The article suggests exploring the multicultural aspects of today’s legal practice in the legal writing classroom. “By examining eight different law schools, the Author discusses current efforts in each law school that impact the educational experience, the shortfalls in these efforts, the need for first-year integration of multicultural topics, and how an educator in the legal academy can ensure that her students receive a well-rounded multicultural educational experience.” Id. at 614.


The article examines the role of the Official Bulletin as a forerunner of the Federal Register. The article explores the Official Bulletin’s unique combination of news accounts, official agency reports, and war propaganda materials.

Engendering Hope in the Legal Writing Classroom: Pedagogy, Curriculum, and Attitude (Proceedings of the First “Colonial Frontier” Legal Writing Conference), 48 Duq. L. Rev. 199–558 (2010). Articles include:


The article describes how a first-year writing course client simulation, which involved various skills components such as complaint drafting and negotiation, created hope in law students. The simulation wove a fact pattern through the first-year fall curriculum and utilized integrated teaching methods to achieve desired objectives. The article outlines the methodology for the particular curricular innovation and encourages proactive pedagogical technique in the classroom.


The article contrasts the decreasingly rigorous law school experience with the increasingly competitive and rigorous practice of law. As a result of the discrepancy, the article contends that many young associates lack the requisite skills required for practice. To bridge the gap, the authors suggest implementing hope theory in legal research and writing curriculum. They provide “five ‘best practices’ for LRW courses: 1) teaching the importance of feedback as constructive criticism; 2) creating comfort with ambiguity and malleability; 3) determining where to start a project; 4) determining where and when to stop; and 5) coping successfully with timelines.” Id. at 372.

The author intends to complement the many existing teaching practices with a different approach to bringing relevance to research and writing instruction, focusing on “connections” between legal tools and physical tools with which the students are familiar.


The author suggests a variety of activities—from reading legal novels and visiting a law library to watching legal dramas on television—for newly admitted law students to pursue during the summer before their 1L year. The author “hope[s] that the most self-confident and most substantively prepared incoming 1Ls will find challenging activities on this list that will increase their hope for engaging in law studies in a way that will prove truly enjoyable for them, and that the less self-confident and less substantively prepared students will also find things on this list that will allow them to increase their skills in a way that will, very early in their first semester, show them that their hope of succeeding in law school was also well justified.” *Id.* at 493.


Starting with the assumption of a dehumanizing and disheartening nature of legal education, the article suggests the “systematic use of a comprehensive non-legal example during the crucial first weeks of a legal writing course” to promote confidence and hopefulness within first-year law students. *Id.* at 275. The article provides a history of the use of nonlegal examples as pedagogical educational tools and discusses recent developments in adult learning theory and positive psychology. The article also describes an in-class exercise “developed to introduce fundamental legal concepts … in an easily accessible, non-legal context.” *Id.* at 276.


“This paper focuses on the role of hope in the legal writing classroom, and provides an in-class critiquing exercise that can have a positive impact on the students’ sense of hope during that difficult first experience as a legal writer.” *Id.* at 404. The author outlines an activity designed to help students better understand appropriate goal-setting and assessment while also developing a trusting relationship between the students and the legal writing professor.


“[T]here has been widely-held belief that when students evaluate legal writing teachers, the result is poorer or lower scores on evaluations than those received by the teachers of doctrinal or casebook courses.” *Id.* at 234. In response to this perception, the authors explain negative factors resulting in low evaluations and suggest curricular elements and teaching methods to improve evaluation ratings, based on Martin and Rand’s five principles of engendering hope among students.
Sherri Lee Keene, *It Was the Best of Practice, It Was the Worst of Practice: Moving Successfully from the Courtroom to the Classroom*, 48 Duq. L. Rev. 533–558 (2010).

The author argues that “[e]xperienced practitioners bring to the classroom a wealth of knowledge and insight about the practice of law,” but that making the transition from practicing law to teaching law elicits its own set of challenges. *Id.* at 533. One of the main dilemmas faced by those making the transition is being able to connect and communicate with students and to accurately assess student abilities. The author provides recommendations to enhance student engagement and to facilitate better communication between students and the professor, focused on when the professor is transitioning from practice to teaching.


“[T]his article offers suggestions on how legal educators can create a hopeful learning environment and concludes that instilling hope in law students should be an aim of every legal educator.” *Id.* at 204. It includes sections that explain why hope is important and discusses the five principles of engendering hope.


The author advises teachers to incorporate a variety of communication techniques in their teaching style to encourage student involvement and to address the needs of today’s students. The techniques range from simply saying please to not lumping all students together into a generalized statement for fear of demoralizing those who did not exhibit the behavior being critiqued.


Looping “requires a teacher to ‘loop’ with a class through more than one grade level” to provide continuity, to facilitate better teacher-student relationships, and to provide an incentive to resolving conflicts. *Id.* at 455. The author “explores the history and benefits of looping and discusses [the] idea that it could have a place in legal skills education.” *Id.*


This is a brief, unannotated list of articles, books, briefs, opinions (including concurrences and dissents), and other writing types considered “exemplary” by the editors of the *Green Bag*.

Miriam E. Felsenburg & Laura P. Graham, *Beginning Legal Writers in Their Own Words: Why the First Weeks of Legal Writing Are So Tough and What We Can Do About It*, 16 Legal Writing 223–311 (2010).

By administering a set of three surveys to first-year law students over the first eight weeks of legal writing instruction, the authors examine the disparities found between the law students’ perceived level of readiness and their actual writing ability and chronicle the frustrations experienced by the students in the legal writing classroom. The authors detail their four main findings and suggest teaching methods “to recognize and embrace the [students’] role as novices in the legal writing discourse community and to actively move themselves forward in their learning.” *Id.* at 227.

Carolyn Grose, *Storytelling Across the Curriculum: From Margin to Center, from Clinic to the Classroom*, 7 J. Ass’n Legal Writing Directors 37–61 (2010).

The article examines the role and effectiveness of stories and storytelling in legal practice. The author describes her own experience teaching narrative theory and practice, and encourages its widespread use in law school

“Access to justice includes access to information.” Id. at 475. The article explains the imperative role that “competent and cost-effective legal research” instruction fulfills in ensuring that law students are able to represent all types of clients and to perform all types of legal work, including pro bono and public service work. Id. at 474. The author stresses the “importance of the continued development of free and low-cost resources that will support law students, lawyers, and the general public in performing cost-effective legal research.” Id. at 475.


The author addresses the growing discourse about Applied Legal Storytelling and the feelings of unease and ethical concerns that it provokes. By examining three stories, the author highlights three ethical principles for storytelling: don’t lie; remember your other ethical duties; and the story may enhance, but not replace, legal analysis.


The article discusses the creation of a student workshop specializing in online and electronic resource research skills, and the inherent differences that may exist between electronic research training and traditional print legal research training. The author then describes an electronic workshop he is currently developing, the student reactions he has received about it, and the changes he plans to make to it based upon those student reactions.

Derek H. Kiernan-Johnson, Telling Through Type: Typography and Narrative in Legal Briefs, 7 J. Ass’n Legal Writing Directors 87–122 (2010).

“This article explores one content-driven, context-specific way that typography might be used in legal briefs: to reinforce, complement, and independently create narrative meanings.” Id. at 89. The article describes how letter shapes, fonts, line spacing, and other typographical choices can positively or negatively impact the reader experience.


The author argues that the current legal fiction scholarship is of an entirely new discourse and does not build upon the existing work of fictions that satisfy Lon Fuller’s classic definition of legal fiction. The author then analyzes empirical legal errors, discredited legal regimes, and complex statutory schemes to illustrate the differences between old and new legal fiction scholarship as well as evaluate the constitutive power of legal fictions.


Clinics by their nature require students to use advanced legal writing skills. Yet, typically, students are ill-equipped to create usable, professional work, much to the frustration of clinicians. The author addresses the phenomenon of “transfer of learning,” wherein students are unable to recognize situations calling for the use of their legal writing skills, and “propose[s] a comprehensive pedagogy for teaching and supervising legal writing in clinic.” Abstract.
The authors discuss the nature of the “third generation” of legal writing scholarship, a scholarship that better integrates and engages professional lives and communities, with rhetoric as the discipline’s core concept. Emphasizing the interaction between readers and writers in legal writing through rhetorically effective texts can create meaning, form professional communities, and encourage stimulating and often provocative scholarship between disciplines. However, the authors indicate a variety of concerns in this approach that may accompany the implementation of rhetoric in legal scholarship, such as the risk of fragmenting the discipline, subjecting scholarship to criticism that is too theoretical (especially for those who are not sufficiently grounded in rhetorical theory), and possibly stifling community-building efforts through criticism.

Carol McCrehan Parker, The Signature Pedagogy of Legal Writing, 16 Legal Writing 463–474 (2010).

The author describes the hallmarks of the signature pedagogy of legal writing as “authentic tasks of an appropriate level of difficulty, undertaken within a collaborative setting guided by a more advanced learner, by way of an iterative process that includes frequent feedback and revision.” Id. at 466. She explores the theoretical underpinnings of the pedagogy of legal writing and asserts that it contains features from composition theory and cognitivist and constructivist learning theories, and supports her argument with research in the acquisition of expertise.


The author suggests using peer review to better integrate the experiences of reading the work of good writers and receiving feedback in the classroom. She focuses initially on helping students learn to edit and become good colleagues, and provides a list of broad questions for the professor to pose to help guide students in their peer review.

The article provides some of the many valuable insights that those teaching legal writing have acquired from years of teaching in the trenches, most notably the problems created by blindly following tradition without any critical inquiry into its purpose (explained in the context of a “ham butt problem”). Id. The author addresses the concerns presented and provides materials and suggestions to encourage better student engagement in the classroom.


The authors argue to include a discoursal identity, i.e., an identity originating from and shaped by legal contexts, within a social view of legal writing. Building a discoursal identity is fraught with conflict and resistance for many students. The authors advise legal writing professors to be aware
and be prepared to aid students in overcoming the challenges they face when creating their new lawyerly writing identity.


This book provides a comprehensive overview on how to conduct legal research in Colorado. It provides explanations of primary sources and secondary sources, as well as practice materials. It also evaluates a wide variety of print and online legal resources with visuals of each medium to assist the researcher.


The article explains the purpose and practice of footnoting in academic legal writing, and suggests that current footnoting in legal writing may be superfluous and may only contribute to visual clutter on the page. The author then puts forth a series of stylistic rules that would enhance an article’s readability rather than restrict it.


The United Nations websites and databases contain vast amounts of relevant information, and the author states that it is essential that legal research education instruct students to effectively navigate these online resources. The article includes information on important electronic sources, including major research tools, the U.N. reference library, and the United Nations Treaty Series collection.


The author posits that law schools are “failing to expose students to the tribal justice systems” and are not “adequately preparing students to practice in today’s legal arena.” Id. at 269. Ignoring tribal justice systems not only shortchanges a law student’s educational experience, but it also “marginalizes an entire culture.” Id.

The author suggests using the legal writing classroom to introduce students to tribal courts and the issues unique to them.


The guide provides thorough annotations and explanations of the intricacies of major provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) statute and other related laws, such as the Health Information Technology for Economic and Clinical Health (HITECH) Act and the Genetic Information Nondiscrimination Act of 2008 (GINA). It also includes information about other related sources, such as applicable regulations, case law, and online sources.


“This [a]rticle … explores, theorizes, and explains how to write more persuasively by incorporating rhythm, flow, and tone into text.” Id. at 67. The author provides an overview of the psychology and scientific bases underpinning the relevance of rhythm, flow, and tone in attracting readers; examines the writings of famous authors for their “musilanguage” components; and advises legal writing professors to supplement IRAC instruction with musilanguage components to make legal writing more persuasive.

J. Christopher Rideout, Penumbral Thinking Revisited: Metaphor in Legal Argumentation, 7 J. Ass’n Legal Writing Directors 155–191 (2010).

The article provides guidance for mastering the use of metaphors and the penumbra metaphor in legal arguments. The article begins by explaining the classical forms of metaphor before moving toward a discussion about the penumbra metaphor and how it can strengthen legal argumentation.

This research guide of selected resources represents “current research and thinking about the physical, psychological and legal implications of isolation as punishment, and the policy issues behind continuing this practice in the light of national and international standards and human rights declarations.” Introduction.


Former reporter Susan L. Turley explains that conducting oral interviews is a powerful, yet vastly underused, legal research tool. Using the “Three P’s of Preparation,” id. at 299, (prepare professionally, physically, and psychologically), Turley provides suggestions for perfecting the interview, from conducting it to concluding it. Additionally, she discusses why the legal practice seems to favor print sources over actual people for research purposes.


“This article addresses the recommendation for the development of plans for assessing student learning outcomes and specifically focuses on introductory LRW courses.” Id. at 317. The author provides information on using assessments in formal assessment planning, including in the creation of assessment plans. She concludes that the use of assessment plans in first-year legal research and writing courses will improve both teaching and learning in the first-year curriculum.

Amy Vorenberg & Margaret Sova McCabe, Practice Writing: Responding to the Needs of the Bench and Bar in First-Year Writing Programs, 2 Phoenix L. Rev. 1–38 (2009).

The authors argue that first-year legal writing courses do not adequately prepare students for legal practice, and that most programs would benefit from a restructured curriculum designed to emulate modern practice. “Although legal-writing programs have increasingly gained recognition as an essential part of a first-year program, those gains have also led the field to turn inward, developing writing programs from an academic perspective instead of from a practice perspective. This article presses for change in that trend.” Id. at 3–4.


“[T]his article considers the distinction between scholarly and practical approaches to the ethics of narrative.” Id. at 231. The article provides an overview of different instruction methods for teaching narrative skills and legal ethics in a variety of global contexts, and explores “ways in which programs of legal education can uncover the lost narrative.” Id.


The author “discusses the wide range of topics that can be covered by local law, and encourages law librarians to think about it both when researching and when teaching the process of legal research.” Abstract. The author includes examples of the importance of local legislation to illustrate the significance of local law.
Caroline Young, Medico-Legal Research Using Evidence-Based Medicine, 102 Law Libr. J. 449–477 (2010).

The article provides guidance in finding and evaluating medical information within the framework of evidence-based medicine, i.e., “the use of the current best evidence when making decisions about the care of individual patients.” Id. at 450. The author defines evidence-based medicine, provides a guide for how to locate and select a variety of different bibliographic databases, explains how to apply evidence-based methods to the medical research process, and describes reliable electronic and print sources for evidence-based medicine research.

New Editions


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