Teaching Ethics in Legal Writing Programs
We have just come from an extraordinary conference in Palm Desert. The depth and breadth of presentations was remarkable. Our members are conducting empirical studies, engaging in interdisciplinary research, and producing quality legal scholarship. Predictably, we continue to focus keenly on pedagogical methods to enhance student learning. In that regard our last conference also represented a productive collaboration with professors in the academic support community.

We have also just engaged in an informative dialogue on our listserve about what we do in the legal writing classroom and if “legal writing” as a label for our course may mislead the broader academy. That discussion identified many layers of our rich and complex curriculum. It highlighted the attention we pay to the daunting task of teaching students how to engage in legal analysis and how to communicate that analysis in a variety of conventional frameworks.

As the new LWI President I just completed the 2012-2014 LWI Committee lists. I am thrilled to report that there is a tremendous spirit of volunteerism in the community, and that our committees are poised to do great work over the next two years. Many of the committees are continuing initiatives of the prior biennium, with committee work resulting in project-focused conference planning; committee-driven publications; and significant outreach to the bench, bar, and academic community. These initiatives provide committee members with accomplishments above and beyond mere committee service. Committee work is truly a professional development opportunity.

The LWI Board of Directors has also been busy on a number of initiatives. Members of the Board are working on financial planning for the Institute, a survey of our members to better meet their needs, and projects such as the One-Day Workshops and AALS Scholar’s Forum. And, if you can believe it, we also have Board members working on programming for our 2014 Biennial Conference, and on site selection for our 2016 Biennial Conference.

So yes, it is an interesting – and exciting – time to be a legal writing professor and a member of the legal writing community. I am proud, honored, and a little bit overwhelmed to step into the role of President of the Legal Writing Institute. Based on my observations of this community, I know that I have an exceptional group to draw upon for resources, support, and encouragement. I wish you all a very happy and productive fall.

In his last President’s Column, Ken Chestek noted that “It is an interesting time to be a legal writing professor.” Indeed, Fall 2012 is an interesting time to be a legal writing professor and, as importantly, to be a member of the legal writing community.

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Call for Articles

Call for Articles – Winter 2012 Edition

The Winter 2012-13 issue of The Second Draft will examine scholarship as it relates to legal research, writing, and lawyering skills faculty. For professors of LRW, does scholarship mean focusing only on issues uniquely related to legal writing instruction, such as teaching research skills or how to construct and draft legal memoranda; or, should it also mean developing an additional “disciplinary” area of expertise? For this edition, we welcome articles that address not only these questions, but those that explain where to publish articles; how to develop and choose ideas for scholarly articles; alternative forms of scholarship such as CLE presentations and books; advice on strategically developing a body of scholarship; and the benefits, both personal and professional, of engaging in scholarly writing. If you recently presented on this topic at the 15th Biennial LWI Conference or at another conference, the upcoming issue of The Second Draft offers a timely vehicle for turning that presentation into an article!

Submissions should be sent to theseconddraftlwi@gmail.com by December 15. Please see our web page on the LWI website for our submission guidelines.

Articles should be submitted as Word documents and emailed to theseconddraftlwi@gmail.com. In the subject line of the e-mail, write your name, submission, and issue. E.g. “John Doe Article Submission Winter Issue 2012.” Articles should adhere to professional writing norms, be no longer than 1,000 words, not including footnotes, and follow Bluebook citation requirements and format in footnotes.

Program News and Accomplishments is divided into three sections: news about legal writing programs, hiring and promotions of LRW faculty, and publications and presentations of LRW faculty. All news and announcements should be sent to theseconddraftlwi@gmail.com. In the subject line of the e-mail, write your name, Program News submission and issue. E.g. “John Doe Program News Submission Winter Issue 2012.”

All Program News and Announcements should be submitted using the following format:

- [Name], [School], [Brief description of news, publication, or accomplishment].

If a single person is announcing the publication of more then one article, those articles should be listed in a single announcement. If a single person has more then one announcement, e.g., for both promotion and publications, then those accomplishments should be submitted in two separate announcements – each following the format.

If a school or program is submitting multiple announcements, it must follow this format for each announcement. For instance, if a program is announcing that three faculty members have been promoted, a separate announcement should be submitted for each faculty member.

If a school is submitting a general program announcement (e.g., moving from director to directorless program, or hosted a conference), then the announcement should omit the name of the individual submitting and begin with the school name, followed by the announcement.

For announcements related to conferences, please submit a paragraph relating the information as you would like it printed.

If you have any questions, please contact us at theseconddraftlwi@gmail.com or one of the editors.
Negotiation and Ethics: A Balancing Act

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Let’s face it—law students are pretty competitive. I’ve seen it everywhere from competing over grades to competing on the softball field, but I’ve never seen my students more motivated to win than in a negotiation simulation. Each student wants to fight for his or her client. Students have a sense of pride in winning the most money or sparing their client a lawsuit and an expensive settlement.

In my experience, ethical issues rear their heads in negotiation simulation exercises more than other exercises conducted in the legal writing classroom. Students are tempted to stretch the truth about the facts—a clear violation of ethical rules—and the amount their client is willing to settle for—a much less certain issue under the current canons of ethics. Indeed, due to the ethical issues that arise during the exercise, and the fact that most 1Ls have had little to no exposure to ethical guidelines governing the behavior of practicing lawyers, I begin class discussion regarding how to conduct negotiations with a review of Model Rule of Professional Conduct 4.1.

I ask the class to address a few negotiation scenarios using Model Rule 4.1 and the Comments to Rule 4.1 as a guide. Model Rule 4.1 states, in relevant part: “In the course of representing a client a lawyer shall not knowingly (a) make a false statement of material fact or law to a third person.” The drafters of the Model Rules clarify in Comment 2, pertaining to statements of fact, that “[u]nder generally accepted conventions in negotiation, certain types of statements ordinarily are not taken as statements of material fact. Estimable prices or value placed on the subject of a transaction and a party’s intentions as to an acceptable settlement of a claim are ordinarily in this category.” Students correctly assume that they may equivocate a bit when offering a low settlement on behalf of a defendant, or attempting to raise an offered settlement amount on behalf of a plaintiff. However, many students are tempted to push the boundaries of “wiggle room” or “puffing” when making statements about the settlement numbers.

In order to provide some instruction regarding the limits of “wiggle room,” I provide students with an in-class exercise in advance of the actual negotiation simulation. The exercise generally contains a few factual scenarios and requires students to decide whether the ethical rules permit attorneys to make the provided assertions. I tend to organize the exercise using a think, pair, share technique where students first think alone about the questions presented, then discuss them in small groups of one-to-three students, and finally talk about the issues as a class.

First, the students are provided with an easy problem: whether an attorney can state, in the context of negotiating a business deal, that her client has accounts receivable in the amount of $500,000 when, in fact, those accounts only total $100,000. Clearly, the ethical rules prohibit this statement as it constitutes a “false statement of material fact.” Next, students are asked whether an attorney can ask for a settlement from a defendant of $200,000 even though the plaintiff would settle for anything above $50,000. Again, this answer is fairly easy: yes. This falls within the realm of puffing and is a perfectly reasonable request to make on behalf of your client.

However, the final question is more challenging. Students are provided with the following scenario: “Plaintiff has agreed to accept a settlement of $10,000, but would prefer more. Defense counsel asks whether the Plaintiff’s minimally acceptable settlement amount is $15,000 and, if so, will the client accept a $15,000 settlement offer immediately? Can you ethically state that your client is unwilling to accept anything below $20,000?” Under Model Rule 4.1 and the Comments that follow, this question falls within a grey area. The suggestion that the client will not accept any amount below $20,000 may constitute puffing on a settlement amount and could, therefore, be considered an appropriate statement under the rules. However, others could view it less as “puffing” and more as a factual misstatement due to the absolutist nature of the comment, which would put the lawyer in violation of the rules. Thus, the answer is much less clear than the preceding scenarios and challenges students to struggle with a problem that does not have a definite answer under Model Rule 4.1.

In addition to addressing Model Rule 4.1, this lesson also touches on Model Rule of Conduct 1.2(a). Under Model Rule 1.2(a), our job as lawyers is to obtain a settlement that will advance the goals and wishes of our client. It is unwise to ignore express conditions the client has provided to you when negotiating on his or her behalf. The opposing party could choose to walk away from the deal, leaving you to explain to your client why you let a $15,000 settlement offer—$5,000 more than the client’s minimum acceptable amount—slip away. If the opposing party indeed walks away from the negotiation table in response to your statement, you could be charged with a violation of Model Rule 1.2(a) directing a lawyer to “abide by a client’s decision whether to settle a matter” since the client expressed a desire to settle the lawsuit for an amount greater than $10,000.

Finally, this hypothetical presents students with a lesson in “professionalism” more generally. The question posed by defense counsel puts you at risk of violating at least two Model Rules of Professional Conduct. However, there is no need to stretch the truth in response and, instead, you should attempt to assure the situation. For instance, you could respond with a question, such as: “Do you really think I’m going to answer that question?“ or “Do you really think $15,000 is reasonable?“ In this manner, you can dismiss the question as unreasonable without being tempted to behave in an unprofessional manner in response. Regardless of how the students choose to respond to the question presented in the hypothetical, the exercise challenges students to wrestle with ethical challenges that they might otherwise have ignored. I consider that a win-win.
The Attorney Signature Block on a Brief: A Jumping-Off Point for Discussing Ethics with Students

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First-year law students often struggle with three aspects of ethics in advocacy: (1) understanding how thorough research can be an advocacy tool; (2) writing case facts persuasively but accurately; and (3) adopting the right language and tone in their written work to balance professionalism with client-centered representation. The seemingly innocuous blank line at the end of a brief—the attorneys’ signature block—offers an interesting jumping-off point for a classroom discussion about ethics and professionalism in brief-writing.

I love to see the looks on my students’ faces on the first day of the spring semester when we peruse a sample brief, and they turn to the last page and see the line where the attorney signs his or her name. The students’ eyes widen as they realize, “I’m going to have to sign my own name to what I write to the court? What if I’m wrong?” Eyes widen as they realize, “I’m going to have to sign my own name to what I write to the court? What if I’m wrong?”

Students about ethics and professionalism in brief-writing.

Federal Rules of Civil Procedure provides a nice concise

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Firstly, the attorney’s duty not to “harass” set forth in Rule 11(b)(1), I share with my students how I was convinced that, on many of my construction litigation cases, there was an associate on the opposing side specifically assigned to “harass” me weekly with claims of my team’s alleged nefarious discovery deficiencies, and subsequent meet-and-confer demands, prior to filing countless motions to compel which the court routinely denied. I also convey how ad hominem attacks on obnoxious (borderline “harassing”) opposing counsel might feel cathartic at the time, but have unpleasant results such as monetary or other embarrassing disciplinary sanctions (such as being censured in bar magazines), and loss of credibility with the judge and members of the bar. “Do you want to be that kind of lawyer?” I ask my students. As a follow up, I request students to identify their favorite and least favorite TV and movie lawyers. Inevitably, the students’ least favorite are the fist-pounding overly dramatic exaggerators who elicit nothing but eye-rolling. Their most favorite are the calm, reasoned, believable ones.

For ethical guidelines on all three issues, we look at fascinating “benchslaps”—those opinions from judges admonishing practicing lawyers for shoddy research, exaggeration of the facts, and inappropriate hyperbole. Students start to decipher what judges perceive as “going too far,” and the consequences for doing so.

Overall, starting a classroom ethics conversation with a concept as rote as the students’ own autographs—which they have probably scribbled thousands of times in their lifetime—is a nice catalyst for getting students thinking and talking about ethics in advocacy and the type of advocate, legal writer, and overall lawyer they want to become.
Developing Students’ Ethical Professional Identities through Role-Playing Exercises

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The Carnegie Foundation’s Educating Lawyers: Preparation for the Profession of Law encourages law schools to take an active role in the professional identity formation of their students.1 Acquiring a professional identity requires learning more than the doctrine and practical skills needed to perform the tasks of a lawyer, but also involves developing an understanding of the values, norms, and perspectives needed to interact with other lawyers and with clients, to make decisions impacting clients, and to determine what constitutes appropriate and ethical behavior.2 According to cognitive psychologists, students need intensely participatory, role-playing learning environments to progress through stages of moral development in order to develop an ethical professional identity.3 The primary goal of the role-playing exercises is to promote students’ advancement from the initial stages of moral development with a focus on self-interest to the higher stages of interpersonal conformity and community welfare.4 Therefore, to evolve their professional identities, students must understand what members of their peer group do, the group’s expectations and norms, how they interact with others, and what is considered acceptable behavior, regardless of whether it is a violation of the relevant professional code of conduct.

In my Contract Drafting and Negotiating course, I provide my students with the opportunity to develop their ethical professional identities through the use of two different role-playing exercises: a simulated client interview and a peer-reading exercise. These exercises and the corresponding classroom discussion focus on introducing my students to the roles of transactional lawyers in practice and helping them develop an understanding of the interactions, expectations, norms, and ethical obligations of lawyers in this field. While these exercises specifically target transactional lawyers, they can easily be adapted to the formation of ethical professional identities for different types of lawyers and in a variety of legal writing courses.

Simulated Client Interviews

While many legal writing professors use simulated client interviews as a means of having students gather information for their writing assignments, I use this role-playing exercise primarily to introduce the role of lawyer as counselor, to explore what constitutes effective interactions between lawyers and clients, and to examine the various facets of rendering competent and ethical legal representation. The exercise is conducted while my students are drafting an employment agreement, with half of the class representing the employer and the other half representing the employee. Before the interviews, we discuss the role of the transactional lawyer in conducting client interviews. I highlight the difference between interviewing clients for litigation-related matters and for transactional matters; in litigation, the interviews are retrospective in nature and aimed at obtaining the details of prior events, while transactional interviews are prospective and focus on events and conduct that has not yet occurred. Therefore, the lawyer in the transactional context takes on the role of planner, where she must predict what could happen during the employment relationship and protect her client by providing for those contingencies in the written contract.

The interviews are conducted in small groups of four students and last 30 minutes. I provide my students with all of the necessary factual information in a written memorandum, and instruct them to use the interviews to elicit additional information about their client’s needs, expectations, and objectives. Following the interviews, I probe my students to reflect on their own experience and their perception of the other students’ performance. We first examine client perceptions, and ask them to consider what perception their clients may have formed of them during the interviews: would the client likely think that her lawyer was friendly, serious, knowledgeable, or unapproachable? As most students acknowledge that they did not even consider client perception when preparing for their interviews, we explore the different types of perceptions that lawyers may seek to establish, and how that can be achieved through their demeanor and by developing rapport with their clients. Understanding how clients perceive their lawyers is a necessary component to professional identity formation because an important aspect of any lawyer’s role is to achieve a level of trust from their clients that facilitates open communication and thus permits effective legal representation.

I also explore the role of transactional lawyers as advisors and counselors by highlighting some of the students’ interview questions. The Preamble to the Model Rules of Professional Conduct states that “[a]s advisor, a lawyer provides a client with an informed understanding of the client’s legal rights and obligations and explains their practical implications.”5 However, in many of the students’ client interviews, they focus more on their own information gathering rather than on providing their clients with appropriate advice. For example, several students always ask their clients questions such as “do you want an arbitration clause in the contract?” In hindsight, my students immediately recognize that the client, who is not a lawyer, would probably not know how to answer this question. This emphasizes the need for lawyers to counsel clients on the legal ramifications of including or omitting certain contract terms. The lawyer should explain what each term means and how it may impact the contractual relationship.

Additionally, I pose questions asking my students to role-play situations where issues of ethics may arise during a client interview. We first discuss the shared roles of the lawyer and the client in decision-making. Under the Model Rules, clients generally decide the objectives of the representation, and lawyers and clients share responsibility for decisions about the means of achieving those objectives.6 One of the objectives of the employer in our fact pattern is to ensure that the employee will not unfairly compete with her employer once the employment relationship has ended. I ask my students to consider what they might do if the employer wanted to include an overly broad covenant-not-to-compete provision in the contract that was likely unenforceable. Clients often defer to the knowledge and skill of their lawyers on the means to be used to accomplish their objectives, especially with respect to legal and tactical matters.7 To that end, a client may express a desire to include a particular term in a contract, but will likely defer to the knowledge of the lawyer as to the enforceability and advisability of including such a term. Thus, the lawyer must counsel the client about the possible negative effects of including an unenforceable provision in the contract. In rendering such advice, a lawyer may refer not only to law, but also to other considerations, such as moral, economic, and social factors, that may be relevant to the client’s situation.8 This enables the lawyer to counsel the client on the non-legal implications of including an overly broad covenant-not-to-compete, such as the reaction of the employee and the reputation of the business in the local community.

I then ask my students to consider what they might do if the client insisted on including such an unenforceable term. In other words, what would happen if the lawyer and the client cannot agree on the inclusion of an overly broad covenant, or the means to achieve the client’s objective? While the Model Rules do not expressly prohibit a lawyer from including an unenforceable term in a contract, it may present a moral dilemma for the lawyer. We thus evaluate when it may be appropriate for the lawyer to terminate the relationship. In the event that “the lawyer has a fundamental disagreement with the client,” the Model Rules allow the lawyer to withdraw from the representation.9 Likewise, clients may resolve such a disagreement by discharging their lawyer.10 While neither scenario is the ideal outcome, it is important for

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4 Id.
5 Preamble to Model Rules of Prof’l Conduct (2010).
6 Model Rule 1.2 (a).
7 Model Rule 1.2, Cmt. 2.
8 Model Rule 2.1.
9 Model Rule 1.16(b)(4).
10 Model Rule 1.16(a)(3); Model Rule 1.2, Cmt. 2.
students developing their own professional identities to understand the potential consequences of their actions.

Peer Editing Exercise

I use this role-playing exercise to foster the development of my students’ ethical professional identities by teaching them how lawyers can most effectively interact with each other. They also learn the importance of their own professional reputations, and how to best handle situations where ethical considerations come into play during the finalization of a contract. The exercise requires each student to edit and revise another student’s contract; students playing the role of lawyers representing the employer edit the employment contract drafted by the students representing the employee and vice versa. Unlike typical peer editing exercises where the student’s goal is to provide constructive criticism on how the drafter can improve the work product, I instruct my students to revise and edit the contract only as necessary to enable them to recommend that their clients execute the contract. Before my students begin, we discuss the types of revisions that they should consider making to the contract.

My goal is to assist my students in developing an understanding of the values, norms, and perspectives needed to effectively interact with other lawyers – a necessary component of professional identity formation. I ask questions aimed at exploring how professional reputation can foster or impede a lawyer’s effectiveness in representing his clients. For example, I ask my students whether they would delete the word “whereas” that precedes each recital in the contract. Although I strongly discourage my students from using legalese like “whereas” in their own drafting, the answer is “probably not.” We discuss why making such a revision may affect the lawyer’s professional reputation: what would the other lawyer think if you made every non-legally significant revision? Deciding to make such revisions may even run afoul of the lawyer’s ethical responsibility to provide competent representation for the client under the Model Rules, by jeopardizing the ability of the lawyer to negotiate for legally significant changes to the contract, and by forcing their client to incur unnecessary legal fees.11 Lawyers should be prepared to articulate why their reputation matters to the client. For example, the lawyer should also consider telling her clients that part of the reason why the lawyer is able to do an effective and competent job is that they, in the representation of other clients, the lawyer has developed a favorable reputation.

We also discuss ethical considerations that may arise during the act of reviewing and revising a draft contract written by the other side’s lawyer. For example, is a lawyer ethically permitted to make a material alteration without highlighting or redlining it before sending it to the other counsel? The answer is uncertain under the Model Rules. Some ethics scholars believe that it is a “false statement of material fact” prohibited under Model Rule 4.1 for a lawyer not to disclose a material alteration to a third person, including counsel for the other party.12 Such scholars are interpreting the meaning of “statement” under Rule 4.1 to include the absence of redlining or highlighting.

Regardless of whether it is in fact an ethical violation, I end class by asking my students to ponder whether they want to become the kind of lawyer that would choose not to reveal their revisions to the other lawyer. Fostering students’ ethical professional identity formation involves more than teaching them what actions violate professional code of conduct; it also involves allowing them to develop an understanding of how lawyers can best interact with each other and their clients in a way that holds true to their inner moral compasses and their beliefs about right and wrong. And if these exercises simply serve to prompt my students to contemplate just this one question, I think they have been successful.

For example, overstatement of the facts is a common ethical pitfall. Thus, I inserted this pitfall into the draft facts section. I claimed that the defendant’s sole owner knew the nature of the relationship between our client and the direct victim before, the jump, the owner reviewed an emergency contact form identifying our client as the direct victim’s wife. As reflected in a deposition excerpt provided to the students, however, this claim misstated the owner’s testimony. In fact, the owner testified that while he usually reviewed the forms to ensure they were filled out, he did not recall reviewing this one and, in any event, did not usually read the information provided on the form.

Similarly, mischaracterization of the law is a common ethical pitfall. Thus, I injected this pitfall into the draft argument section. I asserted that the relevant court of last resort had acknowledged that

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11 Model Rule 1.1.
12 Model Rule 4.1(a).
couples who have established a home have shown the fundamental family relationship necessary to satisfy the closely related requirement of NIED. As set forth in the law summary provided in the update, however, this assertion took the case too far. While the cited case did acknowledge that such a couple had a fundamental family relationship, the case involved a different area of the law and made no reference to an NIED claim.

The In-Class Exercise. During class, I took on the role of the attorney responsible for finalizing the draft. Initially, I asked an open-ended question inviting students to point out any text that raised ethical concerns. As students identified specific text, I asked them to explain why the text caused concern and invited them to "defend" the text. For example, some students quickly identified the misstatement of the owner’s testimony described above as an ethical concern because it was misleading in light of the full testimony. Some students, however, asserted that the burden should be on the opponent to point out the additional testimony and argue that it made the inference of knowledge incorrect. This discussion allowed us to explore the duty of candor, as well as the importance of maintaining credibility.

I also invited students to propose revisions that would accomplish the intended goal without raising the ethical concerns. For example, after students expressed concern about the mischaracterization of the case described above, I asked them what we should do. Initially, the students responded that we should simply omit reference to the case. With just one or two additional questions, however, the students began to propose changes that would accurately describe the case and use it to bolster our preferred definition of closely related.

Finally, to the extent students did not raise a problematic portion of the draft, I directed their attention to the problematic text and guided a discussion of the ethical choice the author had made, whether it was the right choice, and how the text might be revised to avoid the concern. Surprisingly, the students did not independently raise the issue of omitting controlling authority. In the summary of the law, I advised students about two damaging cases that opposing counsel had not included in the motion for summary judgment. One of those cases was controlling; the other was not. Both of those cases were omitted from our draft response. I expected the students to quickly identify the omitted controlling case as an ethical violation, which would then lead to a discussion about the omitted non-controlling case and whether there were any strategic reasons we might want to include it. Based on our class discussion, it seemed the students focused on what was said to the exclusion of what was not. Once I directed the students to consider what was not said, they quickly turned to the omitted authorities. This discussion allowed us to examine the methods for minimizing negative authority and the strategic considerations behind discussing negative authority even if it could be ethically omitted.

Immediate Benefits. The in-class exercise produced a lively and productive class discussion. Because the students were already familiar with the legal and factual context for the excerpts, they understood the author’s likely purpose and understood the legal implications of the choices the author made. Thus, the discussion of why a particular drafting choice would or would not violate an attorney’s ethical duties was more probing than when I provided students with examples of ethical missteps from reported cases. Additionally, since the excerpts presented subtle ethical issues in addition to clear ethical violations, the students engaged in a healthy debate of the ethical considerations. The students were better able to understand both sides of the choice the author was presented with and how an author might go too far in the pursuit of zealous advocacy. Finally, because the students were already familiar with the facts and the law, we were able to discuss how the text could be revised to accomplish the goal while avoiding the ethical pitfall.

Continuing Benefits. Since the in-class exercise, my students have demonstrated a heightened awareness of ethical pitfalls. I have received more questions about ethical drafting than I have received in the past. Similarly, when I met with students to review complete drafts, students raised ethical concerns in response to questions about why they made a particular drafting choice. Moreover, I have seen fewer questionable choices in my students’ drafts.

As a general rule, our students want to behave ethically. When the pitfall is as obvious as choosing between lying or telling the truth, they will usually make the right choice. But the pitfalls are not always so obvious. Thus, we must help our students hone their ability to recognize when they are facing an ethical choice. Giving students an ethics exercise based on a familiar context and encouraging students to identify the points at which the author made an ethical choice is one step in increasing our students' sensitivity to ethical pitfalls. Once our students recognize that they are making an ethical choice, they will usually make the right choice.
Teaching Ethics
Through A Client Email Communication Assignment

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At Miami Law, students spend the spring semester litigating a simulated case file from the perspective of a practicing attorney. They follow the case from the time a complaint is filed, writing first a trial court motion and then an appellate court brief. We typically ask students to write an email to their client shortly after they have submitted their trial court motions, but professors could create an email assignment at any point during the semester. In our program, a judge rules on the motion1 briefly described by the parties. The student-attorneys must then tactfully relay this outcome, whether good news or bad, to their clients.

We split each class into two groups, one representing the plaintiff and one representing the defendant. The two groups must obviously write emails with very different tones, and the class as a whole can then discuss the tone each email should take: how does an attorney convey good news on what is only an intermediate step of a long litigation, and how does the opposing attorney convey bad news to a client who will not be happy to hear it?

While preparing the students to write this assignment, the professor can raise the duties of an attorney to be prompt in communicating information to the client,2 to be candid with the client,3 and to provide objective advice while still allowing the client to make the ultimate decisions for the case.4 This can afford students better insight into the litigation process, as the students must outline the possible options for the client, along with the advantages and disadvantages of each. Possibilities might include whether the client should appeal an unfavorable judgment, offer a settlement, etc. The student-attorney must explain the options in language that a lay client can understand, providing an additional educational benefit to the student, who may be a little shaky on the concepts herself. This also allows the student greater insight into the realities of litigation as she explains to the client the potential costs of the various options, both monetary and, in some cases, emotional.

By enlarging the scope of the assignment to go beyond merely reporting the outcome of an event to include advising the client on possible next steps, the student-attorney gains experience in the delicate handling of practice realities. For example, while pursuing an appeal would yield more fees to the attorney, perhaps the client’s accounts are tapped out, or the client is not emotionally equipped to handle further protracted litigation. The student-attorney can practice discussing these issues tactfully, as well as learn how to put the client’s interests above the interests of the attorney.

The status update format is only one of many potential ways to design an email assignment. For example, instead of an email to a client, the student could be asked to write an email to opposing counsel. This could involve discovery disputes, an offer of settlement, a request for a meeting, or anything else. The topic can be as simple or as complicated as the professor chooses. If the topic chosen is an incendiary one (for example, one party accuses another of not producing all documents in response to a discovery request), the professor can use this opportunity to teach about an attorney’s duty of candor.

We split each class into two groups, one representing the plaintiff and one representing the defendant. The two groups must obviously write emails with very different tones, and the class as a whole can then discuss the tone each email should take: how does an attorney convey good news on what is only an intermediate step of a long litigation, and how does the opposing attorney convey bad news to a client who will not be happy to hear it?

While preparing the students to write this assignment, the professor can raise the duties of an attorney to be prompt in communicating information to the client, to be candid with the client, and to provide objective advice while still allowing the client to make the ultimate decisions for the case. This can afford students better insight into the litigation process, as the students must outline the possible options for the client, along with the advantages and disadvantages of each. Possibilities might include whether the client should appeal an unfavorable judgment, offer a settlement, etc. The student-attorney must explain the options in language that a lay client can understand, providing an additional educational benefit to the student, who may be a little shaky on the concepts herself. This also allows the student greater insight into the realities of litigation as she explains to the client the potential costs of the various options, both monetary and, in some cases, emotional.

By enlarging the scope of the assignment to go beyond merely reporting the outcome of an event to include advising the client on possible next steps, the student-attorney gains experience in the delicate handling of practice realities. For example, while pursuing an appeal would yield more fees to the attorney, perhaps the client’s accounts are tapped out, or the client is not emotionally equipped to handle further protracted litigation. The student-attorney can practice discussing these issues tactfully, as well as learn how to put the client’s interests above the interests of the attorney.

The status update format is only one of many potential ways to design an email assignment. For example, instead of an email to a client, the student could be asked to write an email to opposing counsel. This could involve discovery disputes, an offer of settlement, a request for a meeting, or anything else. The topic can be as simple or as complicated as the professor chooses. If the topic chosen is an incendiary one (for example, one party accuses another of not producing all documents in response to a discovery request), the professor can use this opportunity to teach about an attorney’s duty of fairness, as well as the duty of candor, not only to the attorney’s own client but to the court and opposing parties as well. This also allows the professor to raise issues of civility. For example, how should an attorney respond to a rude or combative opponent?

Client communication assignments often provide students with their first introduction to confidentiality, and attorney-client privilege. This affords the professor an opportunity to discuss what privilege is, the purpose of making a document privileged (and how marking it as such does not automatically confer privilege), and other related practice tips. Depending on how much time the professor wishes to spend, the discussion might even include contemporary issues such as information security and removal of metadata prior to transmitting documents.

The professor then can lead the class in a discussion of which matters are not appropriate for email, such as “the jury found for the other side” or “you’re fired.” While there may be situations where the recipient is absolutely unreachable by any other means, the professor can emphasize to law students the importance of reserving textual communications for the appropriate subject matter. In an era where romantic relationships might be terminated via text messages, students can relate to this topic. The discussion can then segue into how electronic documents can “live” forever, even when the author believes that the documents have been deleted, and how discovery can lead to the production of embarrassing or intimate information. The student-attorney can practice discussing these issues tactfully, as well as learn how to put the client’s interests above the interests of the attorney.

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Similarly, the professor might guide the class in a discussion about hasty email replies that the sender regrets later, either in content, delivery, or both. Real life examples of these blunders abound, and contemporary examples liven the lecture. Above the law, for example, provides rich fodder for “what not to do” emails.

In addition, a short client communication assignment, such as the email status update described here, offers other pedagogical benefits. Virtually all legal writing professors wish there were more time in the semester to critique additional student work. By keeping the assignment very short, professors are able to provide feedback an extra time during the semester, and often fairly quickly. Similarly, students are unlikely to be overly burdened by the addition of this assignment to the course. In fact, most students find learning about client communications to be highly engaging and practical. Email assignments also acknowledge the realities of contemporary legal practice, as an attorney is much more likely to send an email than use other methods of communication.

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1. At Miami Law, we set a limit of 500 words for this assignment. Depending on the scope of the assignment, professors may wish to limit the message higher or lower.
2. The motion can be on any topic: a motion for summary judgment, a motion to dismiss, a motion to recuse a judge, or many other possibilities.
7. In September 2011, the Florida Supreme Court added a rule of civility to the oath of admission every new attorney admitted in the state of Florida must take in response to an increase in “acts of incivility” among the profession. “To opposing parties and their counsel, 1 pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications.” In re The Florida Bar, 73 So. 3d 149, 150 (2011)

Featured Articles
Wrestling with Ethical Issues from the First Day of Class

by Judith D. Fischer

In a legal document, a big mistake like misrepresenting the law can violate a lawyer’s duty of competent representation.1 So can a smaller mistake—even a punctuation error.2 As a result, ethical issues will often arise without prompting in the legal writing classroom. But a professor can introduce ethical issues intentionally, and the first day of class is not too soon to do so.

I like to assign Costanza v. Seinfeld3 in the first class. I assign it for two reasons: to introduce the students to reading cases and to prompt them to think about the profession’s ethical standards. Costanza engages the students because they are familiar with the characters George Costanza and Jerry Seinfeld through ongoing reruns of the Seinfeld television show. The plaintiff in Costanza wasJerry Seinfeld’s former classmate Michael Costanza, who alleged that the Seinfeld show had appropriated his name and likeness.4 A New York trial court held that all three of Costanza’s privacy-related claims were baseless.5 In class, we discuss how to read the case carefully, distinguishing among the three claims and identifying the court’s holding for each one.

The Costanza court ended its opinion by sanctioning the plaintiff’s lawyer for bringing the frivolous lawsuit.6 This prompts the class to consider the ethical problem a lawyer faces when a client wants to bring a baseless claim. We discuss that filing a frivolous claim is unprofessional,7 that it may result in sanctions,8 and that it violates a lawyer’s duty of competent representation.9 If any students have arrived at law school believing lawyers have free rein to bring far-fetched claims, Costanza introduces them to ethical and professional restraints on frivolous filings.10

A few weeks later, the students apply the holding of a single precedent case, Ammon v. Welby,11 to a hypothetical fact pattern. Ammon is an intentional infliction of emotional distress case in which the plaintiff’s pet dog was shot and killed.12 The court held that the shooter lacked the required intent because he did not know who owned the dog and thus could not have intended to cause that person emotional distress.13 The students’ fact pattern involves a client who wants to sue a neighboring farmer who shot the client’s dog. The neighbor thought the dog was a coyote about to attack his chickens, so he could not have intended the dog’s owner to suffer distress. This early exercise has a clear answer: the client has no claim because the element of intent is lacking.

After I return this written exercise with comments, the class considers whether a lawyer should file this client’s claim. We build on our earlier discussion of frivolous claims and cover some practical checks on them. A lawyer who takes this groundless case on a contingency basis will lose and therefore not be paid. And if payment is to be on an hourly basis, the client may refuse to pay after discovering that the claim is unfounded. We then discuss that, if the lawyer declines to take the case, he or she should state in writing that the client has a right to consult a different lawyer and that a statute of limitations applies.

Later, when we cover advocacy, the class confronts yet another baseless case. We listen to the U.S. v. Johnson14 argument presented before the Seventh Circuit on March 2, 2005. Johnson was convicted of drug possession after police dogs sniffed drugs in his car on a routine traffic stop. On appeal, the defendant’s lawyer argued that the dog sniff without the defendant’s consent was an illegal search. The problem with that argument, however, was that the United States Supreme Court had ruled two months previously in Illinois v. Caballes15 that a dog sniff at a lawful traffic stop does not violate the Fourth Amendment, even when the suspect does not consent to it. In the oral argument recording, the defendant’s lawyer hesitates and stumbles, finally admitting that he has no valid argument.

In class, after critiquing the lawyer’s lack of preparation and poor arguing style, we discuss what he could have done when he learned that Caballes had eliminated his primary argument. Students suggest that he should look for a way to distinguish his case. That could solve the problem, but the oral argument suggests that Johnson’s case could not be distinguished from Caballes. So to provide competent representation, the lawyer could look for other grounds for reversal and then file a supplemental brief or letter asking the court to consider them. Better yet, in hindsight, the lawyer ought to have known about the pending Supreme Court case and included fallback arguments in his original brief. If there is no colorable basis for the appeal, the lawyer could consider withdrawing his request for oral argument, withdrawing the appeal with the client’s permission, or withdrawing as counsel (through procedures that are beyond the scope of the first-year writing course).16

Professionals agree to maintain standards of competence and ethical conduct with the public good in mind.17 The above discussions begin introducing law students to the legal profession’s standards that a lawyer must provide competent representation while considering the good of the client, the legal system, and the public.


2. See Fischer, supra note 1, at 42-44 (citing cases in which punctuation errors determined outcomes or brought judicial rebukes).


4. Id. at 898.

5. Id. at 899-900.

6. Id. at 903.

7. See ABA Model Rule 3.1 (2007) (stating that bringing a baseless claim violates a lawyer’s ethical duties).

8. While the Costanza court did not cite specific authority for the sanctions it assessed, students might discuss that Federal Rule of Civil Procedure 11 allows sanctions for baseless claims.

9. See ABA Model Rule of Prof’l Conduct 1.1 (2007) (imposing on lawyers a duty to represent clients competently).

10. Costanza appealed his case, and although the Supreme Court’s Appellate Division agreed that his claims were baseless, it vacated the award of sanctions, concluding that his arguments were “reasonable invitations . . . to extend existing law.” 719 N.Y.S.2d at 31. This can prompt a discussion about when a lawyer might argue to extend the law and how to weigh that potential course against the competing ideals of representing the client competently and not burdening the court with baseless claims.

11. 113 S.W.3d 185 (Ky. App. 2002).

12. Id. at 186.

13. Id. at 188.


15. The audio of the argument, which is about four minutes long, is available at http://www.youtube.com/watch?v=c8ksvG_X4Z4.


Terms and Moves: A Two-part Taxonomy of Knowledge for Grammar Instruction and Beyond

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Many writing teachers, including legal writing teachers, tell law students that they are training to belong to a discourse community that has its own expectations regarding genres of documents, citation style, and even lingo or language or code; professional codes have connotations not only of professional behavior, but also of something that obscures and that must be broken or translated, like a secret code, and something that causes action, like computer and genetic codes. However, we should also tell students that a discourse grammar exists for that discourse community, that is, rules for putting the lingo or vocabulary together. Subject areas have their own language. A language consists of terms plus moves; moves are the rules for putting those terms to use. Thus when I teach grammar, advise students about research paper writing, or need to get up to speed myself on a topic, I use a two-part taxonomy of knowledge or rubric for learning: terms and moves. This two-part taxonomy is easier to remember and apply than others such as Bloom’s.1 Dividing the pie of language into two parts has a long tradition, including Frederick de Saussure’s langue/parole and Ludwig Wittgenstein’s analogy that words are like chess pieces and that the rules of grammar are like rules for playing chess.2

When teaching grammar

For law students, reviewing English grammar can be overwhelming. In workshops and when working with students one on one, I tell them that we will be focusing on just two things to start with: what grammar terms your professors are likely to use, and what moves your professors are going to make with these terms. During their 1L year, we cover terms such as passive voice, nominalization, comma splice, dangling modifier, and vague pronoun reference. Along with the many comments students will receive from their legal writing professors about legal analysis and organization, their professors sometimes will mark comments along the lines of "this what?" and "DM" or "CS" or "by whom?"; I tell the students that those are the "moves" their professors will make. When do I introduce definitions of the terms? Because I agree with the view that terms cannot be separated from the context in which they are imbedded, I try to get students as soon as possible to the moves their professors will be making. After a few examples of the moves or professor comments that the students can expect, then I stop, back up, and go over definitions. Ideally, I would rather immerse students in an entire session of moves without stopping for definitions of terms until the next class, but sometimes student learning preferences are so strong for the individual definitions that I can get students reminded of or exposed to only about five potential comments or moves at a time.

When teaching research papers

When I give workshops on research paper writing for 2L and 3L students, I again advise students to focus on terms (such as prewriting, research, drafting, and revising and editing) and moves (strategies for accomplishing those terms). I think the two-part approach can be applied when students read legal materials for class as well. Professors could ask students the following questions: What are the terms that come up in your reading? How do legal professionals use them—what moves do they make with those terms?

Moves in academic writing and student scholarship

Books, papers, and authorities, whether discussing how to write scholarly papers or examining others’ arguments, are beginning to use the term "moves" for written and/or logical strategies more frequently. My favorite research paper writing book, They Say, I Say: The Moves That Matter in Persuasive Writing, argues that students need explicit instruction in noticing sentences that accomplish "moves" in academic writing, such as distinguishing the student writer’s opinion from that of sources.3 However, are the writers and readers aware that they are employing a metaphor—moves—that implies that the moves take place according to a grammar? As I noted in a previous column, grammar is a powerful metaphor for powerful relationships.4 Every subject area, including law, can be seen as being organized by a grammar of its own, not just linguistically as far as professional preferences and expectations, but also metaphorically as far as rules for combining concepts or terms.

Rethinking the importance of grammar

Just as legal writing is about much more than grammar and editing, so, too, grammar itself is about more than what we usually think. Rather than denying grammar’s role altogether, a different approach should be taken; when we confute writing instruction and grammar instruction, we should recognize that grammar is not a small and distinct part of writing. Grammar is rhizomatic in the sense of repeating on a large scale its patterns on a small scale. Just as there are sentences with the main idea at the beginning (loose) or at the end (periodic), paragraphs and whole documents can be organized with their thesis at the beginning as a kind of mega-sentence. The student who catches a small problem with passive voice in a particular sentence may crack open a large conceptual problem within his or her argument. The grammar (terms and moves) that is in sentences is only a demonstration of the grammar (terms and moves) that is in all subject areas. Let grammar’s insights spill out when teaching other concepts, for they all conform to some sort of grammar.

Conclusion

My advice for anyone writing a project, including myself, is to take a deep breath and concentrate on identifying the terms of the subject area and the moves professionals employ in putting them together. My advice for teaching grammar is to bring it down to terms and moves. If you are up for it, you may even strike a pose or dance around the classroom a bit to provide a visual to go along with “moves.”

Notes

2 In 1956, Benjamin Bloom and David Krathwohl identified six levels of the cognitive domain. From least sophisticated to most, the levels are as follows: “Knowledge, comprehension, application, analysis, synthesis, and evaluation.” See D. G. Jerz, Writing That Demonstrates Thinking Ability, http://jerz.setonhill.edu/writing/style/taxonomy.htm. While Bloom’s Taxonomy continues to be important pedagogically, it has been revised, too. See Leslie Owen Wilson, Beyond Bloom—A New Version of the Cognitive Taxonomy, http://www4.uwsp.edu/education/wilson/curric/newtaxonomy.htm. L. Dar
4 After I submitted my LWI draft here but before publication, Carol Tyler Fox did indeed publish an article arguing for the two-part nature of teaching Bloom’s Taxonomy to law students. I agree with Scott Fruehwald that Tyler Fox’s article is great. However, my sense is that many law students will not welcome more terms to learn, even if the terms will improve their metacognition. This reluctance will be increased because Bloom’s Taxonomy comprises non-legal terms. On the other hand, Tyler Fox’s article and Bloom’s Taxonomy will be highly beneficial to teachers. See Carol Tyler Fox, Introducing Law Students to Bloom’s Taxonomy, The Law Teacher (Spring 2012), and Scott Fruehwald, Introducing Bloom’s Taxonomy. LEGAL SKILLS PERS PERS BLOC (May 9, 2012) http://lawprofessors.typepad.com/legal_skills/.
Using Sea Sponges, Boomerangs, and Sewing Kits to Teach Ethics and Professionalism in the Legal Writing Classroom

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I teach my students about the ethical and professionalism dimensions arising in legal communication with unusual tools: sea sponges, boomerangs, and sewing kits. The sea sponges provide a valuable lesson in the fall semester, while the boomerangs and sewing kits are teaching tools for the spring semester.

The sea sponge makes its appearance in a group exercise titled “Cautionary Tales.” The students are divided into groups; each group receives a copy of an article or judicial opinion that addresses a mistake in ethics or professionalism made by an attorney in writing or filing a document.1 Students read the article or opinion in class and then have a chance to tell the other students about what they read, including the antithetical behavior and lack of civility always come back around.

These are valuable lessons—indeed, students can never be reminded too much of the importance of being on time and respecting others. However, some of the best learning opportunities come when the connections require more imaginative leaps. For example, one student may struggle to connect his object to ethics or professionalism. When that happens, the other students in the class are directed to give feedback specifically on how they would have made that connection. This turns into a few minutes where students are actively brainstorming about ways they can find lessons in ethics from a sewing kit. The lessons that students come up with are quite varied. For example, some students may discuss how attorneys should make sure their clothing fits properly, or how they should always be prepared and carry sewing kits in case they lose a button on the way to the courthouse. Other students may use the sewing kit to illustrate how a competent attorney will weave many threads together to reach the best result for the client.

Similar frustrations may arise with the stapler. In that case, I provide an example from my own experience with oral arguments: asking the attorneys to cover a staple with tape to prevent injury to those handling the document. Thus, a stapler becomes a lesson on how attorneys must always be familiar with a court’s local rules.

Although the main point of the Grab Bag is to give students practice speaking in front of others and thinking on their feet, it has the added benefit of teaching students about the importance of ethics and professionalism. Because this exercise is conducted at the beginning of every class during the semester, it communicates to students that attorneys must confront ethical and professionalism issues more frequently than students might expect. Moreover, the exercise not only engages students in active thinking about the many different ethical dimensions of practicing law, it also helps students learn how to be respectful while giving and receiving feedback.

1 Many of these articles and opinions have been circulated on the DVI Listserv.

Featured Articles

Through these two exercises, and the lessons that can be derived from sea sponges, boomerangs, and sewing kits, I am able to teach my students about the many dimensions of ethics and professionalism that attorneys face when communicating with the court, their clients, and other attorneys.
Religious Shunning and the Beam in the Lawyer’s Eye

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Some LRW professors design assignments so that students begin learning fundamental legal skills in the context of issues of particular interest to the professor – what Sue Liemer calls “teaching the law you love.” Recent articles have explained how this might work when applied to such varying matters as multiculturalism or transactional practice. But exposing LRW students to diversity of religious belief does not appear to have found as much traction, at least in the literature. This essay describes one attempt to design a problem that grounds students in just such a larger firmament, while not distracting students (or the professor) from the paramount aim of any LRW course: introducing fundamental skills of legal analysis, communication, and research.

A common piece of advice is to create hypothetical clients with sufficient detail to remind students that their real world clients will not be drawn from a single homogenous culture. This is fine advice as far as it goes; designing realistic assignments is always a worthy goal. I wanted to do more, however, than create a problem that simply included a client who featured religious belief among her personal attributes. Rather, I wanted students to explicitly consider how a given religious belief, and their response to it, could affect the substantive outcome of legal analysis. I also wanted to choose a religious practice that might typically be viewed as “conservative,” but that

didn’t trigger “hot button” reactions on the grounds of gender roles, sexual practices, child-rearing, and so on.

The Assignment

I created a closed memo assignment to achieve these goals. The facts were loosely based on a local case.1 A parishioner was “slain in the spirit” at a prayer rally, striking her head on the floor when she collapsed. The pastor individually visited to reimburse her medical expenses, insinuating that she was faking her injuries. Angered, she began telling friends that she might leave the church. The pastor privately confronted her, ordering her to stop “sowing the seeds of discord.”2 The next Sunday, her sermon emphasized biblical verses about the same topic, warning that parishioners who failed to adhere to church discipline risked being shunned. He did not identify her, but she claimed that he constantly looked at her throughout the sermon. Finally, after a heated phone call with the pastor where she told him she was leaving, she discovered that he had sent a letter to all parishioners claiming that she had violated several church precepts, had refused correction, and accordingly should be shunned by all parishioners until she repented. Her friends were apologetic but firm: they could no longer interact with her. Forced to seek out a new church, and upset at losing her spiritual and social community, she sued the church and pastor for intentional infliction of emotional distress.

Substantive Legal Analysis Posed by the Assignment

The assignment asked the students to analyze only whether the conduct was “outrageous,” an IIED requirement. Outrageousness is measured against a malleable standard: Would a reasonable person, hearing of the conduct, claim “outrageous?” Put another way, does the conduct go beyond the bounds of decency so that a civilized community would consider it utterly intolerable? Thus, students needed to determine what a trial judge would likely conclude about how a reasonable person would react to the conduct. Not knowing how to assess reasonableness is, of course, a challenge for all students learning about tort law. But the inquiry takes on particular salience when the conduct may well seem odd or irrational to students who lack experience with the relevant religious traditions. I wanted students to put aside their initial reactions along the lines of “that sounds crazy!” and explore more deeply whether a religious or cultural practice, no matter how unusual or even offensive it may seem to those who do not share the religion’s beliefs, crosses the line to actionable tortious conduct.

A key issue for interpreting and applying the “outrageousness” rule was whether the applicable community was society-at-large, religious believers in general, members of the particular church (or other churches with beliefs similar to those at issue), or some other grouping. Students could not start formulating answers to this potentially dispositive issue without grappling with what the cases say, or seem to say, about how to measure community reaction. In doing so, students learned the lesson, familiar to all experienced practitioners, that a creative analysis of the argument has to be weighed against what the law actually says. Conversely, the lack of authority directly supporting a lawyer’s position does not mean the conclusion is faulty, but does mean that the supervising attorney and client must be fully informed of that absence.

Other helpful class discussions revolved around several outrageousness factors, such as whether the pastor “abused his power” over the plaintiff. This, in turn, raised questions of what power, if any, he actually had over members of his “flock.” Are pastors in general, and this pastor in particular, comparable to the school principals and police officers in establishment illustrations, or the doctors and insurance adjusters in cases? Assuming he both had power (for example, to maintain church discipline) and used it, what if anything made it an abuse? Disciplining an errant parishioner cannot by itself be outrageous, any more than disciplining a misbehaving high school student. Where, if at all, did he cross the line?

A similarly fruitful dialogue arose in the context of “peculiar susceptibility to emotional distress.” Is there anything specific about religious belief that might give rise to viable arguments under this factor? Or do the Restatement and caselaw seem to suggest that this factor is only satisfied by identifiable physical and mental conditions, as opposed to particular beliefs?

Legal Writing Institute

Understanding Client Motivations and Client Counseling

As some surveys suggest, American society is growing more secular. Presumably, law students are not immune from this trend. If so, then problems with explicitly religious backdrops might become increasingly effective vehicles for forcing students to begin thinking about how to recognize, confront, and when necessary, overcome their individual biases when handling legal matters and representing clients.

With this in mind, I was able to use the assignment to introduce students to other aspects of legal practice, such as client counseling. The client has lost something she values highly: her longstanding membership in a supportive religious community. Finding a new church is not the same thing as choosing a new bank or cellular provider; her religious beliefs are a fundamental part of who she is. Does she question the church’s doctrine of shunning, and considers it an essential way to help believers stay on the “right path.” But she also believes the way she was shunned was deeply unfair. The students and I were able to explore how these client-centered concerns might affect the lawyer’s attempts to not simply analyze the law and provide dispassionate advice, but to take on the more fulfilling role of counselor, allowing him to advise the client on matters not limited to purely legal.

Going Forward

I rotate memo problems, and I’ve not yet had the opportunity to re-use this scenario. Reflecting back on the way the problem played out, however, I was impressed by the thoughtfulness of the students’ analysis about how the parties’ religious roles, beliefs, and practices intersected with the controlling legal rules. Moreover, the quality of their written work product met my standard expectations for a closed memo. Inserting a religious component into this assignment did not appear to negatively affect students’ ability to support their analysis with authority or communicate their conclusions in a format that senior attorneys will likely demand.

1 The reference comes from Matthew 7:3 (KJV): “And why behoidest thou the mote that is in thy brother’s eye, but considerest not the beam that is in thine own eye?”
3 E.g., Johanna K.P. Dennis, Ensuring a Multicultural Educational Experience in Legal Education. Start with the Legal Writing Classroom, 16 Tex. Wesleyan L. Rev. 615 (2010).
4 The case eventually made its way to the Michigan Supreme Court. Facet v. Mount Hope Church & 4th Outreach Ministry, 780 N.W.2d 763 (Mich. 2003).
5 See Restatement (Second) of Torts § 46, cmt. d.
6 At times, I had to rein in class discussions that took us a bit far afield into constitutional matters like freedom of speech and religion, such as whether judicial oversight of religious practices might amount to impermissible meddling in internal religious affairs. Should I re-use this problem, it might not be as easy to dodge these sorts of issues given the Supreme Court’s recent decision in Snyder v. Phelps, 131 S. Ct. 1207 (2011).
7 See Model Rule of Professional Conduct 2.1.
THE SECOND DRAFT

Program News

Chicagoland

The University of Kentucky College of Law

The University of Kentucky College of Law is pleased to announce the implementation of a new staffing model for the first-year legal research and writing course. The course was previously taught almost exclusively by adjunct faculty, but will now be taught by full-time faculty beginning in August 2012. Melissa Henke will continue as the law school’s Director of the Legal Research & Writing Program and will teach in the first-year course. Also teaching in the first-year course are two new full-time legal writing professors, Kristy Hazelwood and Diane KrafT, as well as Allison Connelly, the Director of the Legal Clinic, and Jane Grise, the Acting Director of Academic Success. The law school is continuing to explore how to best utilize our dedicated adjunct faculty in an upper-level LRW curriculum.

The University of Miami School of Law

The University of Miami School of Law’s Legal Communication & Research Skills program has moved to a directorless model with a rotating chairperson. This shift continues the growth of Miami’s program, which transitioned from an adjunct program to a full-time faculty model in 2010. At that time, the school completely revamped its first-year research and writing curriculum under the “LComm” brand to better address the needs of contemporary law students and practice. The eleven full-time professors who teach LComm have over 75 years of combined experience practicing law. Their rich and varied practice experiences have contributed to the tremendous success of the new program. Pete Nemirovski will chair the LComm faculty through the 2013-14 academic year.

The University of Oregon School of Law

The University of Oregon School of Law hosted an ALWD Scholars’ Forum and Scholars’ Workshop just before the Western States Regional Legal Writing Conference on Friday, August 10, 2012. Steven Johansen (Lewis & Clark), Joan Rocklin (Oregon), and Suzanne Rowe (Oregon) facilitated the forum and workshop. Lunch was a special event, honoring several legends in legal writing: Mary Lawrence (Oregon), Terri LeLercq (Texas), and Charles Calleros (Arizona State). Thanks to a grant from the Association of Legal Writing Directors (ALWD), the event and lunch were free. The University of Oregon School of Law will host an ALWD Scholars’ Forum and Scholars’ Workshop just before the Western States Regional Legal Writing Conference begins on Friday, August 10, 2012. The forum encourages colleagues to present ideas or works-in-progress and then receive feedback, it is especially suited for newer scholars. The Workshop requires submission of a draft paper for peer review and discussion. Lunch will be provided. Thanks to a grant from the Association of Legal Writing Directors (ALWD), there is no cost for participating in the Scholars’ Forum or Scholars’ Workshop. For more information, visit the UO website at http://law.uoregon.edu/lrw/lwconference2012/alwd-scholars-forumworkshop/ or contact Suzanne Rowe at srowe@uoregon.edu.

The University of Texas School of Law

As a result of a generous gift, the law school’s legal-writing program is now the David J. Beck Center for Legal Research, Writing, and Appellate Advocacy. (Beck is a well known lawyer and alumnus.) Wayne Schiess, formerly Director of Legal Writing, is now the Director of the Beck Center. The Center’s primary focus is the required, first-year course in legal research and writing—now entering the third year of an expanded curriculum. The Center also includes several other courses: a new course on legal writing for foreign LLM students, upper-division courses (Transnational Drafting, Writing for Litigation, and Advanced Legal Writing), two judicial- clerkship-preparation courses, and the Law School Writing Center. In addition, the Beck Center coordinates interscholastic moot court, and Gretchen Sween is Director of Interscholastic Moot Court. The law schools’ ninth full-time writing lecturer, Natalia Blinkova, will begin in fall 2012. The current full-time Beck Center faculty are Kamela Bridges, Beth Youngdale, Sean Petrie, Wayne Schiess, Stacy Rogers Sharp, Gretchen Sween, Elana Einhorn, Robin Meyer & Accomplishments

Hiring and Promotion

Chicago-Kent College of Law

See Chicago-Kent Program News.

Concordia University School of Law

Tennille Fordyce-Ruff joins as a Director of Legal Research and Writing Program.

Emory University

Karen B. Cooper was awarded a five-year contract in recognition of her continued accomplishments as a faculty member teaching in Emory Law’s Legal Writing, Research & Advocacy Program.

Sue Payne, who has taught Basics of Contract Drafting and directed the IL Contract Drafting Module at Northwestern for seven years, will be moving to Emory Law School this fall. She has accepted the position of Executive Director of the Transactional Law and Practice Center and Professor in the Practice of Law.

Golden Gate University School of Law

Debbie Mostaghel writes “I will step down after five years as Director of Golden Gate University School of Law’s first-year legal writing and research program. It has been a great five years for me personally and professionally. I am particularly proud that GGU has changed the credit hours for first-year writing and research from three to five and that it has committed to hiring more full-time legal writing instructors.

GGU is delighted to welcome Rachel Andrews as interim director of the program. She comes to GGU from the University of South Dakota Law School, where she directed the school’s fundamental legal skills program and taught Legal Writing, Appellate Advocacy, and South Dakota Practice.

Lewis and Clark

Ozan Varol will join the faculty at Lewis and Clark. Professor Varol joined the IIT Chicago-Kent faculty after practicing law as an associate with Keker & Van Nest, LLP, in San Francisco, where he worked on complex civil and white-collar criminal defense litigation. Before entering practice, he was a law clerk for the Honorable Carlos T. Beaz of the U.S. Court of Appeals for the Ninth Circuit. Professor Varol received his law degree from the University of Iowa College of Law, where he graduated first in his class and served as the editor-in-chief of the Iowa Law Review. Professor Varol has a bachelor’s degree in planetary sciences from Cornell University, where he was a member of the operations team for the 2003 Mars Exploration Rovers mission. His scholarship has focused on a comparative analysis of religion-state relations, constitutional design, and inter-branch institutional programs.

Stenson Law

The faculty voted to extend full voting rights to all Professors of Legal Skills.

Program News

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LEGAL WRITING INSTITUTE

THE SECOND DRAFT

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Louis D. Brandeis School of Law
Judith Fischer was awarded tenure this spring.

Marquette Law School
Jake Carpenter will join our faculty in the fall as an Assistant Professor of Legal Writing. Jake will teach our first year required Legal Analysis, Writing & Research courses and occasionally an upper level seminar. Since graduating from Mercer Law School in 2002, Jake practiced with Williams McCarthy LLC in northern Illinois for four years. His practice focused on commercial litigation, personal injury law, employment law, and municipal law. He then joined the faculty of DePaul Law School in 2006 where he taught Legal Analysis, Research & Communication I and II and Transactional Drafting.

Sandra Day O’Connor College of Law at Arizona State University
Andrew Carter joined its full-time faculty in fall 2012. Andrew most recently practiced law in Vermont, although many may remember him from when he was a legal writing professor at Seattle University School of Law from 2002-2005.

Kimberly Holst was elected as Secretary of the AALS Section on Legal Writing, Research, and Reasoning in January 2012 and was recently elected as member of the editorial board of Legal Writing: The Journal of the Legal Writing Institute.

University Hugh Downs School of Human Communication with a Doctor of Philosophy degree. Kelly Feeley was promoted to Professor of Legal Skills and was granted tenure.

Suffolk University Law School
Kathleen Elliott Vinson was elected Chair of Association of American Law Schools Section on Legal Writing, Reasoning and Research (January 2012) and was elected President-Elect of Association of Legal Writing Directors (August 2012).

The University of Colorado School of Law
Amy Griffin will join this fall to fill the brand-new position of Student Legal Writing Engagement Coordinator. Professor Griffin joins us after teaching legal writing at Notre Dame Law School for several years, where her honors include being recognized by the Black Law Students’ Association as Teacher of the Year. This new position reflects Colorado Law’s ongoing commitment to excellence in legal writing, by ensuring that second- and third-year students have access to intensive one-on-one writing instruction that builds on their first-year legal writing courses. In addition to teaching an upper-level legal writing elective each year, Professor Griffin will work individually with upper-level law students to continue to develop their writing in a wide variety of settings, such as law journal notes and comments, seminar and independent legal research papers, clinical and externship writing projects.

The University of Detroit Mercy School of Law
Karen M. Henning promoted to tenure-track status.

Cristina D. Lockwood promoted to Associate Professor.

Deborah P. Paruch was granted tenure.

University of Florida Fredric G. Levin College of Law
Mary Adkins has been promoted to director of the Legal Writing and Appellate Advocacy department. Its former director, Henry Wilhynk, is creating a new program in oral communication for law students. The department has moved to beautiful new offices in the Martin H. Levin Advocacy Center.

The University of Kentucky College of Law
Kristy Hazelwood and Diane Kraft, two new full-time legal writing professors teaching in the first-year course.

The University of Richmond Law School
Andy Spalding will be joining the faculty at The University of Richmond Law School. Prior to coming to Chicago-Kent, Professor Spalding was a Fullbright Senior Research Scholar based in Mumbai, India, where he studied the impact of anticorruption laws on developing countries in Asia. He previously conducted corporate governance investigations and securities fraud litigation in the Washington, D.C., office of Wilmer Cutler Pickering Hale and Dorr, following clerkships at the U.S. Court of Appeals for the Ninth Circuit and the U.S. District Court for the District of Nevada. He has a Ph.D. in political science from the University of Wisconsin-Madison, and taught political science at the University of Nevada, Las Vegas, while earning his J.D. Professor Spalding’s teaching and research interests lie at the intersection of business law, international law, and criminal law, with a specific focus on international anticorruption statutes. He has published articles in the UCLA Law Review, Wisconsin Law Review, and Florida Law Review, and his research has been featured in The Economist, The Wall Street Journal and Forbes magazine. At Chicago-Kent, he has taught International Business Transactions, Securities Regulation, and Legal Writing I and II.

The University of Texas School of Law
Wayne Schissel, former Director of Legal Writing, is now the Director of the Beck Center.

Washington & Lee
Chris Seaman, whose most recent article appeared in Iowa Law Review, will be joining the faculty at Washington & Lee. Professor Seaman received his B.A. in 2000 from Swarthmore College and his J.D. in 2004 from the University of Pennsylvania Law School. Following law school, he clerked for the Honorable R. Barclay Surrick of the U.S. District Court for the Eastern District of Pennsylvania. Before joining the faculty in 2009, Professor Seaman was an attorney in the intellectual property litigation practice group at Sidley Austin LLP in Chicago, where he represented clients in patent, copyright, trademark and trade secret cases in federal and state courts. Professor Seaman’s academic articles have appeared or are forthcoming in the Iowa Law Review, Brigham Young University Law Review, Saint Louis University Public Law Review, and Michigan Journal of Race & Law. His recent paper “Willful Patent Infringement and Enhanced Damages After In re Seagate: An Empirical Study” was selected as one of the winners of the inaugural Sumsung- Stanford Patent Prize competition for outstanding new scholarship related to patent remedies. Professor Seaman has taught Intellectual Property Litigation, Intellectual Property and Antitrust, and Legal Writing I and II at Chicago-Kent.

Needless to say, these three marvelous people will be very much missed. They are excellent teachers, very highly regarded by their students and our faculty colleagues, and Richmond, Lewis and Clark and Washington and Lee are so lucky to have them now.

Western New England University School of Law
Harris Freeman was promoted to Professor of Legal Research and Writing, appointed by Governor Deval Patrick to a five-year term on the Commonwealth Employment Relations Board, the appellate body of the Department of Labor Relations overseeing public sector labor relations in Massachusetts.

Jeanne Kaiser was promoted to Professor of Legal Research and Writing.

Publications, Presentations and Accomplishments

Mary Garvey Algero (Loyola-New Orleans), Spencer L. Simons (Houston), Suzanne E. Rowe (Oregon), Scott Childs (Tennessee), and Sarah Ricks (Rutgers-Camden) published Federal Legal Research (2012).

Mary Myra Orlen was promoted to Associate Professor of Legal Research and Writing. She has also been appointed the Assistant Dean for Academic Success.
Lori Bannai of Seattle University School of Law testified on February 29 before the Senate Judiciary Committee in Washington, D.C. on the Due Process Guarantee Act, legislation introduced in response to the provisions of the National Defense Authorization Act, that could be used to authorize the indefinite military detention of individuals suspected of terrorist activities.

Heather Baum, Christine Mooney and Libby White from Villanova University School of Law, and Alison Kehner, Mary Ann Robinson and Jean Sharge from Widener University School of Law, Delaware Campus, presented "Teaching Professional Values Across the Curriculum: Engaging Student Learners in the Process of Becoming Lawyers" at the Teaching Methods Section Program (AALS Annual Meeting, Wash. D.C., Jan. 2012). The program featured a panel discussion, film vignettes, and interactive teaching techniques designed to engage students in professionalism curriculum.


Mary Bowman of Seattle University School of Law published Engaging First-Year Law Students through Pro Bono Collaborations in Legal Writing, 62 J. Legal Educ. (forthcoming 2012). The article also made several Top Ten download lists from SSRN, including the Legal Writing eJournal. She also, along with Anne Enquist of Seattle University School of Law, was the Student Services Section luncheon speaker at the AALS National Meeting in Washington, DC and presented “Gotta Love ‘Em: Our Multitasking, Facebook-Loving, Just-In-Time, Need-it-Now, Feeling Entitled Millennial Law Students”; gave the lead presentation “We Have a Dream: The Integrated Future of Legal Writing and Clinical Education” (with Sara Rankin and Lisa Brodoff) at the AALS Section on Legal Writing, Reasoning, and Research in Washington, DC on January 7, 2012.

Donna Bain Butler of American University Washington College of Law published Essential Legal Skills: Legal Writing From an Academic Perspective, ROSSIAN LAW: THEORY AND PRACTICE, NO. 1 (2012); presented “Content-Based Pedagogy in a Second Language (L2) Research Writing Course” at the Meeting on English Language Teaching (MELT) at École de Langues at the University of Quebec at Montreal (UQAM), Quebec, Canada (April 27, 2012); was a Fullbright Specialist Program Grant Recipient; she was appointed as Faculty of Modern Languages, Institute of Law, Public Administration and Safety at Udmurt State University in Russia. Charles Calerios of Sandra Day O’Connor College of Law at Arizona State University presented at the 2012 Second Annual Western Regional Legal Writing Conference on “Email Memos in Context and in a First Semester Final Exam”; spent his spring break in Hong Kong, coaching a student team in the Vis (East) International Commercial Arbitration Moot. On April 20-21, he made presentations on teaching and working with a diverse student body to the faculty, adjunct faculty, and staff of the College of Law at Loyola Univ. New Orleans. On May 14, he presented a morning-long workshop on using examinations for teaching and assessment to the faculty of Southern Univ. Law Center at Baton Rouge as its faculty retreat June 18-20, he taught his evening-long course at the Univ. of Paris Descartes on Common Law Legal Method and Introduction to Comparative Contract Law and International Conflict of Laws.

Susan Chesler of Sandra Day O’Connor College of Law at Arizona State University presented “Developing Students’ Professional Identity through Legal Writing Pedagogy” at the 2012 Rocky Mountain Legal Writing Conference (with Kimberly Holst and Carrie Sperling); “Not Your Average Cup of Joe: Scholarship Beyond the Traditional Law Review” at the 2012 Legal Writing Institute Conference (with Anna Hemmingsway and Tamara Herrera). Scott Childs, see Mary Garvey Algero.

Beth Cohen, Director of the Legal Research and Writing Program and Associate Dean of Academic Affairs at Western New England Law School, coordinated the National Brief Writing Competition for the Board of Scribes – the American Society of Legal Writers, served as Moderator at the Difficult Client Workshop at the American Bar Association Forum on Client Protection held in conjunction with the 38th ABA National Conference on Professional Responsibility in Boston, June 2012, published A Name of One’s Own: The Spousal Permission Requirement and the Persistence of Patriarchy, 45 Suffolk U. L. Rev. (forthcoming 2012); serves as a representative from Western New England Law School in the Alliance for Experiential Learning in Law which will hold its inaugural conference at Northeastern University School of Law in October 2012; she served on a working group appointed by the Massachusetts Supreme Judicial Court to consider how to help new lawyers deal with difficult issues that can generate complaints to the Board of Bar Overseers. The committee recommendations led to the Court proposing SJC Rule 3.16, which if adopted would require all attorneys admitted to the Massachusetts bar to take a “Practicing with Professionalism” course within 18 months of their admission to the bar. The course would address a variety of issues, including law office management, professionalism and civility, professional ethics, the bar discipline system and how to managing the attorney-client relationship.


Scalia, see Steven B. Parrino.

She recently presented at the 7th Biennial Central States Legal Writing Conference (with Joseph Hnylka) and the 2nd Annual Capital Area Legal Writing Conference (with Hugh Mundy). She also served as an organizer and presenter at “Breaking In: How to Become a Law Professor or Law School Administrator” held at The John Marshall Law School. She is an elected member of the Board of Governors for the Society of American Law Teachers. In addition, Professor Duhart received the law school’s “Professor of the Year” award. In April, she was appointed Director of the Lawyering Skills and Values Program at Nova.

Anne M. Enquist of Seattle University School of Law published From Both Sides Now: The Job Talk’s Role in Matching Candidates and Law Schools, 42 Tol. L. Rev. 619 (2011) (along with Paula Lustbader and John B. Mitchell); Just Moxos (3d ed. 2011) (along with Laurel Currie Oates); presented at the Global Legal Skills international conference in San Jose, Costa Rica, on “Multitasking vs. Focus: What is the Essential Legal Skill for Law Students and Lawyers?” See also, Mary Bowman.

Judith Fischer of Louis D. Brandeis School of Law presented “Gender-Neutral Language on the Supreme Court” at the Capital Area Legal Writing Conference at Georgetown, March 2012.

Harris Freeman of Western New England University School of Law lectured on problems of the low-wage temporary workforce at the 2012 session of the Harvard Law School Program on Cases and Ethics in the Workplace, an annual event at Smith College, teaching a course on Workplace Law in Capitalist America, winter/spring, 2012; was a panelist on “Developments in Massachusetts Public Sector Labor Law” at the Annual Conference of the Boston Bar’s Labor and Employment law section, 2012 Harvard Law School; was a moderator for a panel in Central Falls, Rhode Island entitled “Bankruptcy, Bargaining and Beyond” at the 12th Annual Conference of the New England Consortium of State Labor Relations Agencies (Western New England Law School, June 20, 2012); published a white paper for the Massachusetts legislature, The Challenge of Temporary Work in Twenty-First Century Labor Markets: Flexibility With Fairness for the Low-Wage Temporary Workforce (Labor Center, Univ. of Mass. 2011) available at SSRN: http://ssrn.com/abstract=1971222 or http://dx.doi.org/10.2139/ssrn.1971222 (with George Gomes of State University of New York), The First of Thousands.
Stephanie Roberts Hartung, see Carrie Sperling.

Anna Hemingway, see Susan Chesler.


Tamara Herrera of Sandra Day O’Connor College of Law at Arizona State University presented at the 2012 Rocky Mountain Legal Writing Conference on “Administrative Opportunities: Landing Them and Succeeding at Them” with Judy Stinson. She also presented at the 2012 Legal Writing Institute conference on “Not Your Average Cup of Joe: Scholarship Beyond the Traditional Law Review” with Susan Chesler and Anna Hemingway.

Dana Hill of Northwestern University completed a year-long fellowship program with the University’s Seattle Center for Teaching Excellence. The program provides early-career faculty with the expertise and knowledge to critically assess and solve problems in their courses and design innovative approaches to teaching to advance their students’ learning and to develop their own teaching practice. Dana was the first faculty member selected from the School of Law to participate in the program.

Kimberly Holst of Sandra Day O’Connor College of Law at Arizona State University was elected as Secretary of the AALS Section on Legal Writing, Research, and Reasoning at the January 2012 conference where she also presented a poster on “The One-Click Classroom Makeover.” In March 2012, she presented on “Teaching Mediation Skills in Practice” at the LWI conference “Elevator Pitches, the Partito, and the Summary of the Argument: Making the Most of an Under-appreciated Section of the Appellate Brief.”

Amy Langenfeld of Sandra Day O’Connor College of Law at Arizona State University served on the Program Committee for the 2012 Legal Writing Institute Conference in Palm Desert, California.

Crystina D. Lockwood of The University of Detroit Mercy School of Law presented with Deborah P. Paruch, “Be Careful What You Wish For”. The Challenges Confronting Legal Writing Directors and Professors on Tenure-Track Status” at the 2012 Rocky Mountain Legal Writing Conference.

Jenn Mathews of Emory Law School won the Emory University Crystal Apples Teaching Award. She was one of eight Emory University teachers chosen by university-wide student vote to receive the Award, for excellence in the category of Professional School Education. Mathews was selected from a field of more than 350 nominations. The professional schools category includes law, nursing, business, medicine and allied health and public health. Teachers are ranked on accessibility, positive student relationships, mastery of subject matter, having an engaging classroom presence and an innovative style of teaching. Service to the Emory community also is considered.


Christine Mooney, see Heather Baum.


Hugh Mundy, see Olympia Duhart.


Chad Noreuil of Sandra Day O’Connor College of Law at Arizona State University published Temp: Zen of Law School Success (2011). He also was co-chair of the program committee for the 2012 Rocky Mountain Legal Writing Conference and presented “Making the Most of Your First Assignment: Getting to Know Your Students and Getting Them to Know Each Other.”

Laurel Currie Oates of Seattle University School of Law spent two weeks teaching Afgani law professors and law students in Herat, Afghanistan. See also, Anne M. Enquist.


Timothy Pinto, see Kathleen Elliott Vinson.

Sara Rankin of Seattle University School of Law published Tired of Talking: A Call for Clear Strategies for Legal Education Reform - Moving Beyond the Discussion of Good Ideas to the Real Transformation of Law Schools, 10 SEATTLE J. JUST. 11 (2011). See also, Mary Bowman.

Anne M. Rector of Emory Law School gave a poster presentation at the LWI conference “Helping 1s Transition from Memo Writing to Exam Writing.”

Sarah Rickis of Rutgers-Camden, visiting at U. Penn Law School for 2012-13, was appointed co-chair of the Section 1983 Subcommittee of the Civil Rights Litigation Committee of the American Bar Association. In May 2012, she guest lectured on comparative approaches to prisoner litigation and other topics at a university in Madrid, Spain, and presented “Four Ways to Incorporate Public Interest Work & Practice Skills into the Curriculum” at the LWI national conference. In March, she presented “A Casebook Designed to Integrate the Teaching of Skills and Doctrine: Current Issues in Constitutional Litigation: A Context and Practice Casebook” at the Inaugural Conference of the Center for Excellence in Law Teaching (Albany Law School). At the AALS Conference in January 2012, she presented to the Section on Pro Bono and Public Service Opportunities “Teaching Research, Writing, Collaboration, and Professional Communication Through Service Learning and Pro Bono Programs.” She delivered the keynote address in June at the Empire State Legal Writing Conference (SUNY
Buffalo), where she led an ALWD Scholars’ Forum. She co-authored FEDERAL LEGAL RESEARCH (Suzanne Rowe ed., 2012) and the Teachers’ Manual. She was appointed to the Executive Committee of the Yale Law School Association. Her book CURRENT ISSUES IN CONSTITUTIONAL LITIGATION: A CONTEXT AND PRACTICE CASEBOOK (2011) with Evelyn Tenenbaum) was an American Constitution Society Book Talk selection and has been reviewed in The Law Teacher, Circuits Split blog, Adjunct Law Professor blog, and the Rutgers Journal of Law & Public Policy. In May 2012, she taught in the international relations and criminal justice programs at a university in Spain and was appointed to the Executive Committee of the Yale Law School Association.


Mary Ann Robinson, see Heather Baum.

Jennifer Murphy Romig of Emory Law School presented “Check It Out: The Theory and Practice of Using Checklists in the Legal Writing Curriculum from 1L to 3L and Beyond” on a panel at the Legal Writing Institute’s biennial conference in Palm Desert, CA.

Suzanne E. Rowe, see Mary Garvey Algero.

Mimi Samuel of Seattle University School of Law conducted a week-long training session on skills training and clinical teaching methodology for the faculty of the Kenya School of Law in Nairobi, Kenya, January 2012.

Jean Sharge, see Heather Baum.


Spencer L. Simons, see Mary Garvey Algero.

Carrie Sperling of Sandra Day O’Connor College of Law at Arizona State University presented at the AALS Conference in January 2012 on “Feedback is not a One-Way Street: Preparing Students to Embrace Your Critiques.” In addition, she was conference co-chair and presented at the 2012 Rocky Mountain Legal Writing Conference (with Susan Chesler and Kimberly Holst) on “Developing Students’ Professional Identity through Legal Writing Pedagogy.” She also presented at the 2012 Legal Writing Institute Conference on “Igniting a Passion for the Practice of Law: Integrating Social Justice into the Legal Writing Curriculum to Foster Experiential Learning and the Development of Professional Identity” (with Stephanie Roberts Hartung and Naniya Ryan).

Tina Stark of the Boston University School of Law accepted the Burton Legends in the Law Award on June 11th, at the Library of Congress. Other Legal Writing professors in attendance were Karin Mika, Anne Kirgeli (who presented the award), Katy Mercer, Mary Algero, Ralph Brill, Lisa Bliss, Linda Anderson, and Darby Dickerson.


Judy Stinson of Sandra Day O’Connor College of Law at Arizona State University was the plenary speaker for the Second Annual Western Regional Legal Writing Conference held in August in Eugene, Oregon. She also presented at the 2012 Rocky Mountain Legal Writing Conference on “Administrative Opportunities: Landing Them and Succeeding at Them” with Tamara Herrera.

Evelyn Tenenbaum, see Sarah Ricks.


Libby White, see Heather Baum.

Pamela A. Wilkins of The University of Detroit Mercy School of Law published Confronting the Invisible Witness: The Use of Narrative to Neutralize Capital Jurors’ Implicit Racial Biases 114 W. Va. L. Rev. (forthcoming 2012); presented the topic of her article at the Third Annual Applied Legal Storytelling Conference, Summer 2011; conducted two writing training sessions for paralegals attending a CORT conference.