

## Getting Down to Business: LWI Meets in Knoxville



*The 2002-2004 LWI Board of Directors on the steps of the University of Tennessee College of Law: (front, l-r) Katy Mercer, Judy Rosenbaum, Elizabeth Fajans, Mary Beth Beazeley, Davalene Cooper, Sue Liemer; (back, l-r) Steve Johansen, Anne Enquist, James Levy, Terry Jean Seligmann, Jane Kent Gionfriddo, Joan Blum. Not pictured: Coleen Barger, Maureen Straub Kordesh, Mimi Samuel. The board met with members at the LWI business meeting on May 31.*

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*As LWI conference keynote speaker, Terri LeClerq captivates the audience with her "Past, Present and Future" depiction of the evolution of a legal writing professor. Close to 400 LWI members attended the biennial conference. A list of presenters and links to bibliographies from some conference presentations is now available on the LWI web site, [www.lwionline.org](http://www.lwionline.org).*



# From the Editors

After each biennial conference of the Legal Writing Institute, we devote an issue of *The Second Draft* primarily to LWI business. We hope the committee reports this issue contains will help you get to know the Institute, and your fellow members, a bit better. A list of current LWI committees is included along with contact information for each committee chair. You are welcome to contact these members at any time to ask questions about a committee's current projects.

In addition to the committee and officer reports published here, conference proceedings from Knoxville will be published in Volume 9 of LWI's peer-edited journal, *Legal Writing*. Two previews of that issue appear here, as well: Tracy McGaugh's essay on "Teaching Gen X" begins on page 4, and highlights of the LWI/ALWD Survey, summarized by Kristin Gerdy, begin on page 17.

We look forward to continuing the tradition of "theme" issues over the next two years, and welcome your suggestions for future themes. We are excited about the possibility of adding another column that will address the development and teaching of upper-level writing courses, and grateful that Anne Enquist continued to coordinate the recurring column "From the Desk of the Writing Specialist." News regarding promotions, publications, conferences or symposia, and program developments is welcome at any time.

Our theme for the Spring 2003 issue is somewhat open-ended: what are we "doing" in the first-year legal writing and research course? Despite broad similarities among programs, many differences in emphasis exist. What goals does your course have, and what decisions have you had to make regarding the allocation of time necessary to meet those goals? As with most of our assignments, there is no "right" answer! We look forward to hearing from you.

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

## THE LEGAL WRITING INSTITUTE

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

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

Barbara Busharis (Florida State), [bbushari@law.fsu.edu](mailto:bbushari@law.fsu.edu)

Sandy Patrick (Lewis & Clark), [patrick@lclark.edu](mailto:patrick@lclark.edu)

## Guidelines for Contributors

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

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

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

**Form of submissions.** We encourage electronic submission. Submissions can be attached to an e-mail and sent to either Barbara Busharis at [bbushari@law.fsu.edu](mailto:bbushari@law.fsu.edu) or Sandy Patrick at [patrick@lclark.edu](mailto:patrick@lclark.edu). You may also send a diskette to Barbara Busharis, FSU College of Law, 425 W. Jefferson St., Tallahassee, FL 32306-1601; or to Sandy Patrick, 10015 SW Terwilliger, Portland, OR 97219. If electronic submission is not possible, please mail a copy of the submission to both editors using the addresses given above. Documents in WordPerfect are preferred; for other acceptable formats, contact the editors. Include your name, full mailing address, phone number(s), and any other contact information.

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



## The President's Column

Steve Johansen, Lewis & Clark Law School

Like a lot of folks, I have my students write a personal statement for the first day of class. I intentionally leave the format wide open, hoping for something more interesting than the essays I read on the Admissions Committee. This year, I learned the following from the first three personal statements:

Mr. Nguyen abandoned a career in chemical research, reasoning, “[s]ure you could be finding the world’s greatest polymer or discover an energy resource that solves the world’s fuel problem. Then again, you could also find out from your doctor that you have become impotent and sterile from years of spilling acetone on the very hands that discovered a polymer that has no known use.”

Ms. Boston presented a photo essay that concluded with two photos—one of a handsome young man and the other a beautifully restored Chevy Vega with the caption “I will technically own both of these this coming Thursday at noon.”

And Mr. Williams submitted an “essay” entitled “Three Delicious Reasons to Procrastinate.” The three reasons were recipes for Flourless Fudge Cake With Raspberry-Brandy Sauce, Orange Creme Brulee, and Tartufo di Cioccolato.

My first reactions to these statements were disturbingly cynical:

*The stress of the legal profession may be even more likely to cause impotence than gallons of acetone.*

*A Vega??? Someone actually restored a Vega???*

*And finally, if “Tartufo” is Italian for tofu, I am never letting Mr. Williams cook for me.*

However, once I moved beyond my flip reactions, I realized that these students were part of a very diverse and talented group of folks. After all, if I had to invite 24 people to a dinner party, a scientist, an idealistic newlywed, and someone who appreciates gourmet desserts would be a pretty good start.

As the pace of the semester quickens, and we read the seemingly endless stack of papers, it is easy to forget that each of our students brings unique life experiences to law school. And of course, each of our students sees the law, and logic, and justice through the prism of her own experience. At times, it seems our task is to remove that prism, so the students can recognize with clarity the correct, that is, *our*,

view of law, logic, and justice. However, it should not be our goal to produce law graduates who all have the same vision of the legal profession and their role in it. Rather, we should embrace the diversity of our students and strive to provide them the tools that will allow them to incorporate their wealth of talents, interests, and perspectives into their legal careers.

Of course, students are not the only ones with varied talents and interests. This volume of *The Second Draft* highlights many of the Institute’s on-going projects. Volumes 8 and 9 of the *Journal* are well under way and will soon be landing on your desk. The Plagiarism Committee is hard at work producing a Source Book that will provide guidance not just for Legal Writing professors, but for all teachers and students. The Outreach Committee is busy planning our third Golden Pen reception, to be held January 4<sup>th</sup> at the National Press Club in Washington. This year’s recipient is the New York Times Supreme Court Correspondent, Linda Greenhouse. And of course, plans for the 2004 Conference in Seattle are already under way. As you read through the *Second Draft*, if you have ideas for how the Institute can better serve its members, or the legal community generally, please let me know.

At Lewis and Clark’s Orientation this year, I had the pleasure of appearing on a panel with John Ryan, a long-time friend of our school and a successful lawyer for over 50 years. He shared with us many stories of his colorful life in the law. He is also a published poet, a scholar of Irish literature, and a soon to be published cookbook author. The richness of his life serves as a model for our students. His success in the law came because of, rather than in spite of, his diverse interests. As we struggle to teach our students the perils of passive voice and the subtleties of cite form, let us hope that we can nurture a few more poet-lawyer-chefs as well.

And if the stack of papers starts to get the best of you, I have a great recipe for Tartufo di Cioccolato.



### 2004 LWI Conference

Seattle University  
School of Law  
Seattle, WA

Wednesday, July 21–  
Saturday, July 24, 2004

# Ten Tips for Surviving Generation X

Tracy L. McGaugh, South Texas College of Law

If you had any doubts before, the last few years of teaching law have probably convinced you that you can run but cannot hide from Generation X. Xers are students born between approximately 1961 and 1981, and the last of them will begin as new students in Fall 2003. While it is tempting to just hold your breath until they quit coming through law schools rather than try to adapt to them, remember that they will continue to enter law schools as second career students for many years to come. The good news is that any adaptations we make for Xers will also pay off with the next generation, dubbed Millennials or Generation Y. While Millennials promise to be a better natured and more diligent generation, these students will absorb information and relate to authority in many of the same ways that Xers do. Following are some tips for teaching Xer students and the Millennials following on their heels.

**Use PowerPoint presentations and document projectors.** Try to occupy as many of their senses as possible. When you cannot get away from a lecture format, consider having an outline of what you are discussing projected on a PowerPoint slide or document projector.



Tracy McGaugh: member, student, and teacher of Generation X.

**Use in-class exercises.** This is a generation that is accustomed to jumping right in. Have you ever seen an Xer read a software manual of any kind? Give them an opportunity to use new information in class. Legal research and writing courses lend themselves especially well to this because a number of curriculum topics relate directly to drafting or revising something.

**Assign computer tutorials.** LexisNexis and CALI, in particular, have a number of free web-based tutorials available for students. These tutorials let students do something with the information as they are learning it,

*This is a generation that is accustomed to jumping right in. Have you ever seen an Xer read a software manual of any kind?*

thus the students are absorbed in the material. Active participation also helps avoid the problem of students thinking that running your eyes over every word on the page is “reading.” It is much more difficult to complete a computer tutorial without taking any information in.

**Explain why they are doing what they are doing.** Xers tend to only retain the information they believe they need to use right away. Explain how each concept covered in class fits into an assignment they are currently responsible for, their exam-taking ability in other courses, and their clerking ability in the summer.

**Use quizzes.** The Socratic method serves as an effective check on student preparation. However, skills courses usually do not lend themselves to the Socratic method. Therefore, students can more easily be unprepared without being detected, and they know that. Using quizzes injects an element of accountability into the class.

**Frame your role as that of a coach.** The law students of today are the latch-key kids of the 70’s and 80’s. Because many of them are unaccustomed to supervision, they may resent the added layer of supervision implied by a “law firm” model adopted in skills courses. They may not respond to a “boss” as well as they would to a mentor.

**Be gentle and respectful with the tone of feedback.** Students expect feedback to be collegial rather than supervisory in tone. Try to frame feedback in terms of reader reaction rather than employer reaction (*i.e.*, why it would be difficult to read rather than why it would get them fired).

**Be generous in the amount of feedback.** Xers crave and expect feedback. In addition to margin notes, consider a detailed comment sheet that explains problems and offers concrete suggestions in the form of revised sentences or brief passages. Using word processing macros will help duplicate complex comments that would apply to a number of student papers.

**Be generous in receiving feedback.** Students see the information they have about your performance to be just as valuable and helpful as the information you have about their performance. Once you have evaluated them, you can expect that they will be inclined to evaluate you. Expect to receive this feedback, solicited or not, and try to be as gracious in receiving theirs as you expected them to be in receiving yours.

**Give them a flexible “compensation” scheme.** Xer students want balance between their personal and professional/academic lives and will try to strike that balance by sometimes reducing effort for school. Help them make that decision wisely by telling them exactly what the standard is for each grade so they can decide how much effort is needed to meet it (*e.g.*, “B work is work that could be submitted to a court with some revision of the organization.”).

# Minutes of the 2002 Business Meeting of the Legal Writing Institute

*E. Joan Blum, LWI Secretary*

The 2002 business meeting of the Legal Writing Institute took place in Knoxville, TN, on May 31, 2002. Steve Johansen, the President of the Institute, called the meeting to order. He noted that reports of the various committees of the Institute will be posted on the Institute's website, [www.lwionline.org](http://www.lwionline.org), and will appear in the Fall 2002 issue of the Institute's bulletin, *The Second Draft*.

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## Surviving Gen X

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**Communicate concretely minimum standards and consequences for not meeting them.** As students try to strike a balance in their lives by reducing effort and accepting a reduced grade, they may not realize that a standard exists below which they will receive no credit. Unless told differently, they will assume that any effort is worth some credit. Therefore, let them know what the cut-off point is. For example, if a late paper will receive a failing grade instead of a reduced grade, make sure they know this in advance so they can plan accordingly.

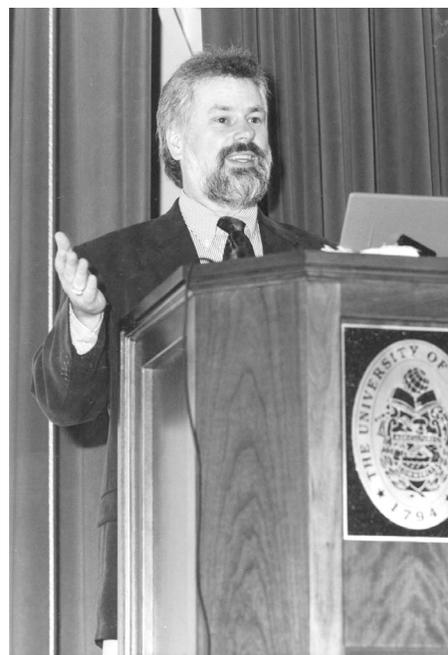
**Withhold judgment for the choices they make.** Consequences must be imposed, but they normally do not need to be accompanied by a lecture on professionalism. As long as the student's reduced effort does not foreshadow disciplinary problems down the line, try to impose the consequence without comment.

For more tips, what they're based on, and why they work, see the forthcoming article *Generation X in Law School: The Dying of the Light or the Dawn of a New Day?*, 9 J. Legal Writing (anticipated publication early 2003). ♦

**Introduction of Board and Officers.** The President introduced the Institute's Board and Officers for 2002-04: Coleen Barger; Mary Beth Beazley; Joan Blum, Secretary; Davalene Cooper, Treasurer; Anne Enquist; Elizabeth Fajans; Jane Kent Gionfriddo; Steven Johansen, President; Maureen Straub Kordesh; Katy Mercer; James Levy; Sue Liemer; Judy Rosenbaum; Mimi Samuel; Terry Seligmann, President-Elect.

The President acknowledged the contributions of departing members of the Board: Jan Levine, Susan McClellan, Laurel Oates, Debbie Parker, Helene Shapo, and Lou Sirico.

**Treasurer's Report.** Davalene Cooper gave the Treasurer's Report, which was distributed to the membership at the meeting. She noted that at its meeting on May 29 the Board voted to spend approximately \$45,000 for activities of the Institute over the next two years, including *The Second Draft*, *Legal Writing* (the Institute's Journal), the Golden Pen Award, and the award in memory of Tom Blackwell. As the Institute is funded through conference



*LWI President Steve Johansen addresses a general session at the Knoxville conference.*

fees, she noted that she would make an End of Fiscal Year Report that will reflect more precisely the financial position of the Institute after all Conference expenses had been paid. That report will be available on the Institute's web site.

**2004 Conference.** The Institute's 11<sup>th</sup> Biennial Conference will take place in Seattle, Washington from July 21 through July 24, 2004.

**2006 Conference.** A Call for Proposals for hosting the 2006 Conference will go out this fall, to enable the Board to decide on the venue for that Conference early in 2003.

**Conference Scholarships.** For the 2002 Conference, the Institute provided scholarships to four people who would otherwise not have been able to attend. Conference scholarships will be available for the 2004 Conference; application forms will be available on the Institute's web site.

**Host School.** The Institute will be seeking proposals for a school to host the Institute. On behalf of the Board and the membership, the President acknowledged the enormous contributions made to the Institute and to the discipline of legal writing by Seattle University Law School (and its predecessor, University of Puget Sound) and the members of its legal writing faculty through hosting the Institute for twenty years.

**Listserv.** The Institute will be seeking a new host school (or schools) for its listserv, *lwionline*. When the transition is implemented, the listserv will be limited to professional teachers of legal writing and they will be required to resubscribe.

**Tom Blackwell Award.** The Institute is establishing this award jointly with ALWD. The award will carry an honorarium of \$1,000 to honor the memory of Tom Blackwell, of Appalachian School of Law, who died in January of this year.

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## Business Meeting

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**Survey Report.** Jo Anne Durako summarized the 2002 LWI/ALWD Survey, which was distributed to all Conference participants. She introduced Kristin Gerdy, who will be succeeding her as Chair of the Survey Committee, and thanked all the committee members for their hard work.

**Strategic Planning.** The President announced that the Institute's immediate past and present Boards had a day-long strategic planning retreat on May 28, which followed several months of on-line discussion on issues affecting the Institute. At the retreat, which was led by Davalene Cooper, the participants envisioned where the Institute should be in five years. The consensus of the participants was that the Institute should retain its primary mission of service to teachers of legal writing, but that it should work to become "a force to be reckoned with" in the legal academy.

Davalene identified the topics discussed at the retreat and asked the Institute membership to contribute additional ideas. At the retreat, the Board addressed the following questions:

Who should be a member of the Institute? How should members signify their membership? Should the Institute require membership dues?

How should the Institute and its host school define their relationship?

How should the Institute be governed? Should the Board continue to elect officers, or should there be direct election by the membership of officers as well as board members?

How should the day-to-day work of the Institute be administered? Is it time to hire an Executive Director to do the administrative work?

After identifying these questions, Davalene opened up the discussion to the membership.

There was spirited discussion on both sides of the question whether the

Institute should require members to pay dues. While some speakers were concerned that requiring dues would increase administrative costs and lead to a decline in membership, others recognized that requiring dues could contribute to a more involved membership.

There was support for strengthening the membership of the Institute through support for more regional conferences, which cost less and can meet more frequently than the Institute as a whole. Speakers identified other ways that members can be involved in the work of the Institute: by joining committees, by submitting articles to *Legal Writing* or by serving as an Assistant Editor for Volume 9 (the Proceedings issue), and by identifying and serving new members.

Speakers noted that a one-day retreat is not sufficient for long-term planning. The President encouraged the members to continue the strategic planning discussion beyond the Conference, and encouraged the planners of regional conferences to set aside time for this discussion at regional conferences.

The meeting was adjourned. ♦

## Treasurer's Report for Fiscal Year 2001

*Davalene Cooper, LWI Treasurer*

We began the year with a balance in our accounts of \$197,471. We had additional income of \$7,191, almost all of which was from interest on our accounts. We had expenses of \$29,753. Our major expense categories were as follows: *Legal Writing Journal* (\$12,563), *Second Draft* (\$3,815), and Website/Survey (\$8,745). Other expenses included initial conference expenses, other programs, and postage and administrative costs. Our ending balance on December 31, 2001 was \$174,909.

We have significantly more income this year because our biennial conference is the major source of the Institute's funding, and the Knoxville conference was quite successful. At this point, however, the final books have not closed on the conference so I cannot report on how much money we made from the conference. I will give an updated Treasurer's report in the next issue of *The Second Draft*. ♦

## New Host School for LWI

A committee of The Legal Writing Institute board of directors has begun reviewing proposals from accredited law schools to act as the new Host School for the Institute. Seattle faculty decided at the time of the last LWI conference that it was time to pass the baton to a new school, and the LWI board issued a call for proposals in October. The board hopes to make a transition to the new Host School early in 2003.

The new host school will be only the second host of the Legal Writing Institute. As faithful *Second Draft* readers are no doubt aware, the Institute's current host is Seattle University School of Law. LWI was founded in 1984 at Seattle's predecessor

school, the University of Puget Sound, and the Institute moved with the law school to Seattle. Co-Founder and Seattle Faculty member Anne Enquist is on the Host School search committee. "We are grateful for the long and valuable service of Seattle University, its faculty, and its staff," said LWI President Steve Johansen. "By creating and nurturing the Legal Writing Institute, they have changed the face of legal writing in the United States and around the world."

If you have any questions about the process, contact committee chair Mary Beth Beazley, Moritz College of Law, the Ohio State University, by phone (614-292-5919) or e-mail (beazley.1@osu.edu).

# COMMITTEE REPORTS

## Blackwell Award Announced

Rebecca Cochran, University of Dayton, Chair



*Professor Richard K. Neumann, Jr., first recipient of the Thomas F. Blackwell Award for Outstanding Achievement in the Field of Legal Writing. Professor Neumann has taught at Hofstra University since 1978; he authored a leading legal writing textbook, Legal Reasoning and Legal Writing, and co-authored the ABA Sourcebook on Legal Writing Programs; and, in addition to his leadership within LWI and ALWD, has chaired the ABA Communications Skills Committee and the AALS Section on Legal Writing, Reasoning, and Research.*

Richard Neumann (Hofstra) has been selected as the first recipient of the Thomas F. Blackwell Award. The Boards of the Legal Writing Institute (LWI) and the Association of Legal Writing Directors (ALWD) jointly created this award to honor the life of our colleague, Tom Blackwell. Award Committee members include Rebecca Cochran (University of Dayton); Lisa Blackwell (Appalachian); Wendy Davis (Appalachian); Mary Lawrence (University of Oregon); Molly Lien (Independent); Amy Sloan (University of Baltimore); Steve Johansen (Lewis & Clark).

Professor Neumann will receive the award at a presentation during the

AALS reception to be held January 3, 2003, from 5:30 to 7:30 p.m., at the Sea Catch Restaurant in Georgetown.

The following information describes in greater detail the criteria and process for selecting future award recipients.

### **Thomas F. Blackwell Memorial Award for Outstanding Achievement in the Field of Legal Writing**

Honoring the life of Thomas F. Blackwell for his personal and professional qualities as a Legal Writing educator, the Legal Writing Institute and the Association of Legal Writing Directors give this award to recognize a person who has made an outstanding contribution to improve the field of Legal Writing by demonstrating an ability to nurture and motivate students to excellence; a willingness to help other Legal Writing educators improve their teaching skills or their legal writing programs; and an ability to create and integrate new ideas for teaching and motivating Legal Writing educators and students.

The committee has established the following selection process:

1. The Award shall be presented at the annual January meeting of the American Association of Law Schools (AALS).

2. Before July 31st of the year preceding the January presentation, the Award Committee shall have solicited and selected a nominee for the Award from the members of the Legal Writing Institute (LWI) and the Association of Legal Writing Directors (ALWD). The Committee shall request that nominations for the Award be sent privately to the Award Committee Chair.

3. The Award Committee, consisting of seven experienced legal writing professionals, shall be jointly appointed by the LWI and ALWD governing boards.

4. The Award Committee may consider a variety of factors related to the Criteria to select an Award recipient. These factors may include, among others, efforts to improve the status and security of Legal Writing educators; scholarship that is published or is presented at professional meetings; and efforts made to support and encourage other Legal Writing educators.

5. By July 31 of the year preceding the January meeting, the Award Committee will select a person to receive the Award, if any, and recommend the person to the LWI and ALWD governing boards for their approval. The governing boards will vote to accept or reject the nomination and instruct the Committee as to the Award's presentation. No person serving as a member of the governing boards or as a member of the Award Committee may be a recipient of the Award.

6. The Award shall be in the amount of \$1,000.00.

## Conference Scholarship Committee

Sue Liemer, University of Illinois, Chair

LWI offers scholarships to legal writing professors whose law schools will not provide funds for them to travel to or participate in LWI conferences. These scholarships were awarded for the first time for our most recent conference, in Knoxville. This academic year the committee will be reviewing our initial experience with the scholarships, including the application procedures and award criteria. If you participated in the scholarship application process last year, the committee would be very interested in your opinion of it. Please contact committee chair Sue Liemer at [sliemer@siu.edu](mailto:sliemer@siu.edu) or 618-453-8648 to provide or receive more information.

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## Committee Reports

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### Elections Committee Report

*Steve Johansen, Lewis and Clark, Chair*

Thanks to the superb efforts of Lori Lamb and Daryl Wilson (Lewis and Clark) the Board of Directors election ran very smoothly last spring. This election saw a record number of candidates (20) and a record number of votes cast (over 200). The newly elected Board members, who took office in May, are: Anne Enquist (Seattle), Elizabeth Fajans (Brooklyn), Jane Gionfriddo (Boston College), James Levy (Colorado), Sue Liemer (Southern Illinois), Judy Rosenbaum (Northwestern), Terry Seligmann (Arkansas-Fayetteville), and Mimi Rogers (Seattle University Representative).

At its meeting in May, the Board elected new officers. The new Executive Committee members are: Steve Johansen (President), Terry Seligmann (President-elect), Joan Blum (Secretary), Davalene Cooper (Treasurer), Mimi Rogers (Seattle University Representative), Jane Gionfriddo, and Judy Rosenbaum.

Special thanks also go out to those Board members who chose to step down this year: Jan Levine (Temple), Laurel Oates (Seattle), Debbie Parker (Wake Forest), Helene Shapo (Northwestern), and Lou Sirico (Villanova). All of you have made remarkable contributions to the Institute through your many years of service. We have benefited much from your wise counsel.

### Listserv Committee

*Judy Rosenbaum, Northwestern, Chair*

Most of the work on the LWI listserv was done by a committee consisting of Coleen Barger, Jan Levine and Bill Galloway, who were appointed by Jane Gionfriddo in the fall of 2001 to address specific issues that had come up with respect to transferring the Legal Writing listserv from Chicago-Kent College of Law, where it had been started by Ralph Brill, to the control of the Legal Writing Institute. That committee wrote an impressive report which, in addition to giving the history of the Legal Writing listserv, offered eight recommendations to the Board. Those recommendations were: 1) to create a new listserv called LRWPROF; 2) to create this new listserv as a closed list which permitted only legal writing professors to subscribe to the new listserv; 3) to create an open discussion forum on the LWI web site; 4) to create restricted listservs as needed for LWI committees; 5) to limit the use of LWI-NET, another list with email addresses of LWI members, to one-way messages from the Institute to its membership with no reply feature provided; 6) to establish and maintain a password-protected archive that would be a database of past communications and discussions; 7) to

require that the owner and manager of the new list be full time legal writing teachers; and 8) to require the entity hosting the list to use either LISTSERV or LISTPROC software (both of which are the industry standard for well-managed lists) and provide adequate technical support for the listserv.

The committee had also found a school that was willing to host the listserv and two Legal Writing professors who had indicated that they would together serve as List Owner and List Manager. Before these changes could be voted on by the Board and put into effect, however, there were a few changes in the conditions on which the recommendations had been based.

Thus, when the new LWI Board took office in May, 2002, President Steve Johansen appointed a new listserv committee consisting of Judy Rosenbaum, Anthony Niedwiecki, James Levy, and Tami Cowden. The charge of this committee was to review the report of the predecessor committee and to incorporate those recommendations into a document that will request schools to submit proposals to serve as the host for the new LWI listserv. The committee is in the process of writing the request for proposals and expects to have a draft before the Board by the time that the next issue of *The Second Draft* is published.

### New Member Committee

*Tracy McGaugh, Chair*

The LWI New Member Committee had a busy year last year. Besides periodically welcoming our new members through e-mails, the committee mainly focused its energies on making new members feel welcome at the LWI conference in Knoxville. Even before the conference, the committee sent e-mails to people attending their first conference advising them what to expect and offering them helpful tips. At the conference dinner groups were formed blending new and old members. Additionally, special new member tables were designated at Friday's lunch. Committee members, with their ASK ME badges, were available throughout the conference to help new members. Feedback from the new members was very positive and this committee is currently exploring ways to continue our outreach to new members during the next year. If you have any suggestions on helping us meet this goal please email them to the chair of the new member committee, Tracy McGaugh, at [tmcgaugh@stcl.edu](mailto:tmcgaugh@stcl.edu).

### Outreach Committee

*Joe Kimble, Cooley*

The Outreach Committee has three items to report.

First, through the Committee's efforts, the Legal Writing Institute held its second Golden Pen Award at the AALS meeting last January. We honored Dean Don LeDuc

for placing his legal writing faculty on tenure track more than 15 years ago and for publicly advocating for legal writing teachers. We publicized the event—and the reason for it—in many ways: by a letter to all law school deans, by an invitation on several listservs, and by posting notices and distributing about 200 LWI brochures at the annual meeting. The award ceremony was attended by 50-60 persons, including deans and professors from other schools. The guest speaker was Judge Lynn Hughes of the Federal District Court for the Southern District of Texas. His remarks and the remarks of Dean LeDuc will be published in *Legal Writing*. After the ceremony, we sent out a press release.

Second, for the third Golden Pen Award, the committee recommended and the Board approved Linda Greenhouse. She has been the Supreme Court Correspondent for *The New York Times* for the last 25 years and has won the Pulitzer Prize. The ceremony will again be held during the AALS annual meeting, on January 4, 2003, at 6:30 at the National Press Club (where we held our first award, honoring Arthur Levitt). This promises to be a memorable event.

Third, the committee is working on creating a judicial outreach program that would sponsor the attendance of state supreme court justices and federal judges—perhaps in groups of three to five at a time—as guests at our biennial conferences.

## Plagiarism Committee

*Pam Lysaght, University of Detroit-Mercy, Chair*

Under the direction of the LWI Board, the Plagiarism Committee has begun work on two new commercial publications addressing plagiarism in law school. The first is the *Handbook*, which will be for students' use. As currently envisioned, it will include a definition and explanation of plagiarism and will provide numerous examples, exercises, and hypotheticals for students to work through on their own or in class. The second publication is the *Sourcebook*, which will be directed at law school administrators and professors. It will delve into the theoretical and intellectual problems associated with defining plagiarism, as well as the considerations and implications of developing comprehensive and enforceable policies.

## Publications Committee

*Davalene Cooper, Outgoing Chair*

The major work of this year's Publications Committee was to review the two publications of the Institute—*The Second Draft* and *Legal Writing: The Journal of the Legal Writing Institute*, and discuss whether we should publish a monograph series. The Committee recommended, and the Board approved, that both publications be continued and that a separate committee be formed to develop a monograph series. The committee also recommended that the *Legal Writing*

Editorial Board schedule a retreat to discuss journal policy and specific steps to continue to improve the quality of the journal. *Legal Writing* is now available on both Westlaw and Lexis, although only Westlaw has placed all past issues online.



*Katy Mercer, new Editor-in-Chief of Legal Writing: The Journal of The Legal Writing Institute.*

The Committee greatly appreciates the work of Diana Pratt (Wayne State), Editor-in-Chief of *Legal Writing*, who is stepping down with the completion of volume 9. Katy Mercer (Case Western Reserve) has been appointed as Editor-in-Chief for Volumes 10 and 11. Finally, it is my pleasure to announce that Lou Sirico (Villanova) is the new Chair of the Publications Committee. He can be reached at [Sirico@law.villanova.edu](mailto:Sirico@law.villanova.edu).

## LWI Board's Strategic Planning Process

*Davalene Cooper, Strategic Planning Facilitator*

The LWI Board is engaged in a strategic planning process; this process began last winter and included a one-day retreat prior to the conference in Knoxville. We began by explaining our personal reasons for being involved in the governance of the Institute and then identifying the strengths and weaknesses of the Institute. At our retreat, we first discussed the purpose of the Institute, at least as defined in our brochure and by-laws: to improve legal writing and to provide opportunities for discussion and scholarship about legal research, legal analysis, and legal writing.

We then discussed the following topics and issues; this is a summary of some of our questions on each topic.

**Membership:** What does it mean to be a member? Should there be membership dues? How open should membership be? Should it be open to all who are interested in legal research and writing, including students? Only to full time legal writing teachers and professionals? To all teachers of legal writing and research? Should there be categories of membership?

**Governance:** How should the Board & Officers function? What are the duties of the President and the Executive Committee? Should the Board elect the Officer, or should that be done by LWI members? What should the relationship with the host school be? How should the Board report to the membership—what is meant by being accountable to the membership?

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## Committee Reports

(continued from page 9)

Assessment of LWI Programs or Services: How important and/or valuable are each of the services or programs of the Institute, including biennial conferences, *Legal Writing*, *The Second Draft*, web site, plagiarism materials, Golden Pen Award, joint LWI/ALWD survey, and listserv?

Potential Services or Programs: What should we develop or investigate for the future? Ideas include the following: monograph series, clearinghouse for international teaching, mentoring program for new teachers, joint ALWD/LWI committee to work on ABA standards regarding workload, outreach programs to law firms, judges, and other organizations, sponsorship of a writing competition, faculty prize for best journal article—competition, and possible assistance regarding bar results

The Board will continue this process throughout the coming year. We welcome your ideas, thoughts about these issues, or any other issues of interest to you as members of the Institute. Moreover, we will be soliciting your input as part of this process at specific times. Our goal is to continue to improve the Institute so that it meets the needs of its members. Please share your views with any member of the Board. Thanks in advance for your ideas!

### LWI/ALWD Survey

*Kristin Gerdy, J. Reuben Clark Law School/Brigham Young University, Chair*

The Survey Committee “charge” from the ALWD and LWI boards for 2002-2003 had three main components, in addition to responsibility for conducting the survey. First, the committee was charged with developing a way to respond to queries not currently included in the survey report, but which could be addressed using current data. The queries would not be programmed to enable a user to correlate information with a particular school. Second, the committee was asked to draft a disclosure agreement to be signed by those who supply data to the survey, and to formulate a detailed policy on access to the database. Finally, the committee was charged with reporting to both the LWI and ALWD boards throughout the year.

To address the first charge, the committee has been reviewing the survey document and generating ideas for the types of information people might request. Recent queries have included requests from people who wanted to know the breakdown of LRW faculty contract lengths by region of the country and the breakdown of advanced writing courses by school size. The committee will brainstorm and then narrow a list of queries and send it to the technical developer. The information resulting from the “queries” will be available on the ALWD and LWI websites.

For more information contact Kristin B. Gerdy, [gerdyk@lawgate.byu.edu](mailto:gerdyk@lawgate.byu.edu).

## Upper Level Writing Courses Committee

*Ruth Anne Robbins, Rutgers-Camden*

This new committee, formed after the LWI conference, is charged with “developing a proposal for assisting teachers of upper-level writing courses.” The committee has had virtual meetings to discuss our “wish list” and we will present a report at the LWI Board meeting in January. If people have specific issues they want our committee to address they should feel free to contact us. One of the first projects the committee will undertake is beginning a regular column in *The Second Draft*.

### Web Site Committee

*Joan Blum, Boston College; Rick Peltz (Rick Peltz, Arkansas-Little Rock), Outgoing Co-Chairs*

The Institute’s web site, [www.lwionline.com](http://www.lwionline.com), was launched on July 24, 2001 after a great deal of hard work by many people, including then-Chair Jo Anne Durako, then-President Jane Gionfriddo, and our web designer/developer James Cooper. At the end of September 2002, the web site had had 6,638 “unique” visitors (as opposed to visits including reloads); for a detailed summary of visitor data, click on the icon at the very bottom of the home page.

The web site has proved to be a useful tool for the Institute and its members. In addition to information about the Institute, visitors to the web site find links to important information of interest to teachers of legal writing and to others, such as the LWI/ALWD Survey of legal writing programs. Visitors to the web site can download issues of *The Second Draft*, which are posted in pdf format and indexed. In the months before the 10th Biennial Conference of the Institute, visitors were able to obtain the Conference brochure and registration materials online. Forms on the web site allow members to manage their subscription to lwionline, the Institute’s interactive listserv.

During the past year, the Web Site Committee proposed, and the Board adopted, policies and procedures for managing and maintaining the web site. The web site is currently being maintained by Mimi Samuel at Seattle. The Committee made a preliminary proposal to the Board concerning an online problem bank. After much discussion the Board decided not to go ahead with the proposal because of concerns about security of problems posted on the site.



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

## LWI Committee Assignments 2002-03

### Executive Committee

Steve Johansen (Lewis and Clark), tvj@lclark.edu; Terry Seligmann (Arkansas-Fayetteville), tselig@uark.edu; Davalene Cooper (New England), dcooper@faculty.nesl.edu; Joan Blum (Boston College), blum@monet.bc.edu; Jane Kent Gionfriddo (Boston College), gionfrid@monet.bc.edu; Judy Rosenbaum (Northwestern), j-rosenbaum2@law.northwestern.edu.

### 2004 Conference Committee

Co-Chairs: Terry Seligmann (Arkansas-Fayetteville), tselig@uark.edu; Susan Kosse (Louisville), susan.kosse@louisville.edu.

Program Subcommittee: Terry Seligmann (Arkansas-Fayetteville); Susan Kosse (Louisville); Laurel Oates (Seattle); Melody Daily (Missouri).

Site Subcommittee: Laurel Oates (Seattle), Chair; Anne Enquist (Seattle); Susan McClellan (Seattle); Mimi Samuel (Seattle).

New Members Relations Coordinator: Tracy McGaugh (South Texas).

### Conference Scholarship Committee

Chair: Sue Liemer (S. Illinois), sliemer@siu.edu.

Members: Molly Current (Chicago-Kent); Susan Wawrose (Dayton); Jean Zorn (Florida International).

### Elections Committee for Board of Directors

Chair: Terry Seligmann (Arkansas-Fayetteville), tselig@uark.edu.

Members: To be appointed in Spring 2004.

### Blackwell Award Committee (Joint Committee with ALWD)

Chair: Rebecca Cochran (Dayton), Rebecca.Cochran@notes.udayton.edu.

Members: Wendy Davis (Appalachian); Lisa Blackwell (Appalachian); Molly Lien; Mary Lawrence (Oregon); Steve Johansen (Lewis and Clark); Amy Sloan (Baltimore).

### Host School Committee (new)

Chair: Mary Beth Beazley (Ohio State), beazley.1@osu.edu.

Members: Eric Easton (Baltimore); Anne Enquist (Seattle); Terry Seligmann (Arkansas-Fayetteville); Steve Johansen (Lewis and Clark) (ex officio).

### Listserv Committee

Chair: Judy Rosenbaum (Northwestern), j-rosenbaum2@law.northwestern.edu.

Members: Coleen Barger (Arkansas-Little Rock) (on sabbatical 2002-03, aboard the Calypso Poet); Tami Cowden (Denver); Anthony Niedwiecki (Temple); James Levy (Colorado).

### New Member Outreach Committee

Chair: Tracy McGaugh (South Texas), tmcgaugh@stcl.edu.  
Members: Candyce Beneke (South Texas); Kathleen Burch (Roger Williams); Melody Richardson Daily (Missouri); Barbara Lentz (Wake Forest); Jim Levy (Colorado); Anthony Palasota (Thurgood Marshall); Suzanne Rabe (Arizona).

### Outreach Committee

Chair: Joe Kimble (Thomas M. Cooley), kimblej@cooley.edu.  
Members: Harris Freeman (Western New England); Amy Gadjia (Illinois); Maureen Straub Kordesh (John Marshall); Sue Liemer (Southern Illinois); Catherine Wasson (Widener); Mark Wojcik (John Marshall); Chris Wren (Assistant AG, Wisconsin).

### Plagiarism Committee

Co-Chairs: Terri LeClercq (Texas), tleclercq@mail.law.utexas.edu; Pamela Lysaght (Detroit Mercy), lysaghtp@udmercy.edu.  
Members: Beth Cohen (Western New England); Kirsten Davis (Arizona State); Jane Gionfriddo (Boston College); Michael Loudenslager (Dayton); Shannon Moritz (Illinois).

### Publications Committee

Chair: Lou Sirico (Villanova), Sirico@law.villanova.edu.  
Members: Coleen Barger (Arkansas-Little Rock); Linda Berger (Thomas Jefferson); Darby Dickerson (Stetson); Betsy Fajans (Brooklyn); Katy Mercer (Case Western Reserve); Laurel Oates (Seattle); David Romantz (Memphis).

### Survey Committee (Joint Committee with ALWD)

Chair: Kristin Gerdy (Brigham Young), gerdyk@lawgate.byu.edu.  
Members: Jo Anne Durako (Rutgers-Camden); Jessica Elliott (Roger Williams); Anna Hemingway (Widener); Barbara Katz (Emory); B. Mitchell Simpson (Roger Williams).

### Upper Level Legal Writing Courses Committee (new)

Chair: Ruth Anne Robbins (Rutgers-Camden), ruthanne@camden.rutgers.edu.  
Members: Brian Foley (Widener); Michael R. Smith (Mercer); Judy Fischer (Louisville); Stephanie Vaughan (Stetson).

### Web Site Committee

Chair: Mimi Samuel (Seattle), msamuel@seattleu.edu.  
Members: Ken Chestek (Michigan); Sonia Green (John Marshall); Kristin Gerdy (Brigham Young) (ex officio).

## Program News

**James Levy** of the **University of Colorado School of Law** announced that the school's Dean recently approved a change in title for the legal writing faculty from "Instructors" to "Professors of Legal Writing." The new title will be included in all law school directories and faculty lists.

The Legal Research and Writing Department at the Paul M. Hebert Law Center at **Louisiana State University** has recently undergone sweeping improvements. All titles of legal writing faculty have been changed from "Instructor" to "Assistant or Associate Professor of Professional Practice." New faculty members have been added to ensure a 40 to 1 student/professor ratio. **Grace H. Barry**, formerly the Interim Director during the department overhaul, has been named permanent Director. **Linda Fowler** and **Marlene Allgood** are still teaching in the program, **Todd Bruno** and **Heidi Thompson** joined the faculty last year, and **Professor Mark E. Hoch** joined the legal writing faculty this year.

The legal analysis and writing faculty at **Northwestern School of Law of Lewis & Clark College** received a title change from "Instructors" to "Professors of Legal Writing."

**Barbara Tyler** has announced that the **Cleveland State University, Cleveland-Marshall School of Law** faculty approved a momentous status change for legal writing faculty. Previously, legal writing teachers were hired on year-to-year contracts without caps and had no voting rights. Their official titles were "lecturers." Beginning with the 2003-2004 academic year, legal writing teachers will be eligible for long-term (five-year) appointments, have voting rights except on the hiring and promotion of tenure or tenure-track faculty, and their official titles will be changed from "lecturers" to "Legal Writing Professors of Law."

The **University of Dayton School of Law** tenured and tenure-track faculty voted to give voting rights, long-term contracts, and new titles to legal research

and writing instructors. The teachers have been non-voting lecturers on year-to-year contracts without caps. They will now vote on all issues except promotion, retention, tenure, and the life of the legal writing program. The teachers will be eligible for a kind of 405(c) status, called "programmatic tenure." The new policy provides for a sequence of one, three, and five-year contracts that, at the five-year level, will be renewed unless "just cause" or financial exigency exist. The new titles are Assistant or Associate Professor of Lawyering Skills.



## Other News and Events

The proceedings from the **2001 ALWD Conference, *Erasing Lines: Integrating the Law School Curriculum***, was published by the Journal of Legal Education in October.

The **Legal Writing Institute** will present its third **Golden Pen Award** to Linda Greenhouse, the Supreme Court Correspondent for the New York Times, during the AALS annual meeting, on Saturday, January 4, at 6:30 p.m. The presentation will be held at the National Press Club, in Washington, D.C.

The **Legal Writing, Reasoning, and Research Section** of the AALS will hold its session, *Better Writing, Better Thinking*, in Washington, D.C. on Thursday, January 2, at 2 p.m. The topic reflects on a statement made by Philip Kissam almost fifteen years ago which noted that "the writing process itself can serve as an independent source, or critical standard, that alters and enriches the nature of legal thought." How well has the legal academy used the power of writing to improve the quality of legal thought among our students? Have we harnessed this power? Do we effectively use it to inform the lessons learned in all our classes? During the maturation of the field of legal writing, the emergence of its pedagogy, and growth of its scholarship, we must continue to investigate how effectively those charged with teaching writing are at sharing the lessons learned.

This panel, including **Mary Beth Beazley**, (Ohio State), Dean **Kent Syverud** (Vanderbilt), and Professor and former Dean **Judith Wegner** (University of North Carolina), will explore how better writing (and better writing teaching) can lead to better thinking. Panelists will discuss how writing is used to educate the “reflective practitioner,” and how the best practices in writing programs can inspire and improve legal education throughout the law school. Panelists will also investigate how legal writing teaching techniques can advance analytical skills. By making thinking visible through writing, analytical skills can be examined, critiqued, and refined. By slowing down the thinking process through the recursive process of writing, key lawyering skills can be honed. By drawing from learning theory, clinical practice, and educational evaluation and innovation, we can learn how best to ensure that what we do in class helps our students become better writers, better thinkers, and better lawyers. For more information, contact Jo Anne Durako at (856) 225-6513, or write to her at [durako@camden.rutgers.edu](mailto:durako@camden.rutgers.edu).

The **New England Legal Writing Consortium** met on December 13, 2002, at **Suffolk University Law School** in Boston. The topic of the consortium was “Persuasive Writing, Analysis, and Advocacy.” For more information on the Consortium contact **Kathleen Elliott Vinson**, [kvinson@suffolk.edu](mailto:kvinson@suffolk.edu).

The Schools of Law and Mass Communication at the **University of Arkansas at Little Rock** will host the next **Southeast Colloquium of the Association for Education in Journalism and Mass Communication** on March 6-8, 2003. Sessions will be held for the history, newspaper, law, and magazine divisions, and for an open division. The registration form, as well as other information, is available at [www.southeastcolloquium.com](http://www.southeastcolloquium.com), under “Upcoming Annual SEC Meeting.” For more information, contact Rick Peltz, Associate Professor of Law, William H. Bowen School of Law, University of Arkansas at Little Rock, 1201 McMath Ave., Little Rock, Ark. 72202, [rjpeltz@ualr.edu](mailto:rjpeltz@ualr.edu), or call him at (501) 324-9962.

The **Third Annual Rocky Mountain Regional Legal Writing Conference** will be held on March 7-8, 2003, at **University of New Mexico School of Law** in Albuquerque, NM. The Program Committee invites participants to submit proposals for

conference presentations. Presentations may be on any subject of interest to those teaching legal research and writing. Presenters have two options regarding time: we encourage presenters to suggest ideas for 20-minute, practical presentations on teaching methods or assignments that have been especially successful; a more limited number of slots for 60-minute presentations are also available.

Those wishing to propose a presentation should send a brief description of the presentation (including title), as well as your name, address, phone, fax and e-mail information, to both Terrill Pollman and Raquel Montoya-Lewis (contact information below). E-mail submission is encouraged, but hard copies of proposals will also be accepted. The deadline for proposals is January 6.

Send information to: Terrill Pollman, Boyd School of Law, UNLV, 4505 Maryland Parkway, Box 1003, Las Vegas, NV 89154-1003; phone 702-895-2407; fax 702-895-2483; e-mail [pollman@ccmail.nevada.edu](mailto:pollman@ccmail.nevada.edu); and Raquel Montoya-Lewis, University of New Mexico School of Law, 1117 E. Stanford Drive, NE, Albuquerque, NM 87131-1431; phone 505-277-1002; fax 505-277-0068; e-mail [montoyalewis@law.unm.edu](mailto:montoyalewis@law.unm.edu).

The third **Notre Dame Colloquium on Legal Discourse** will be held the week of June 8, 2003. On each of the five conference days, a nationally prominent scholar, who is not part of the Legal Writing community but whose areas of expertise relate to our teachings, will present a topic. The Colloquium is intended to enhance the status of scholarship in legal writing in an enjoyable way. The discourse, which will be limited to around 30 participants, will provide an intensive, exciting week of total immersion in the substantive nature of legal writing and will include discussion time both with the speaker and among group members. Participants will leave not only with ideas to enrich their teaching, but also with valuable material for their own research and writing. Time for relaxing, reading, and thinking will be built into the schedule. Notre Dame has facilities for housing families, and the beautiful campus provides a variety of recreational activities in a lovely and spacious setting. If you are interested in attending, please e-mail Linda Edwards, at [Edwards\\_LH@Mercer.edu](mailto:Edwards_LH@Mercer.edu), or call her office at (478) 301-2191.



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## Publications, Promotions, and Other Achievements

**Jennifer Anglim** and **Brooke Bowman** recently joined the legal writing faculty at **Stetson University College of Law**. Anglim left a practice with Milbank Tweed in New York, and Bowman graduated from the law school in May.

**Barbara J. Busharis** (Florida State University) and **Suzanne E. Rowe** (University of Oregon) have published the second edition of their book, *Florida Legal Research: Sources, Process, and Analysis* (Carolina Academic Press 2002).

**Ken Chestek** (Michigan), a member of the LWI Website Committee which maintains and updates the LWI web page, has requested your assistance in keeping the site current. Please contact him with any information on upcoming conferences (including any consortiums or regional conferences), calls for papers or presentations, or any other items that might be of interest to LWI members nationwide. You may call him at (734) 764-9337, or send mail to: kchestek@umich.edu.

**Bill Chin's** (Lewis & Clark) article, *Implausible Denial: The Government's Denial of the Role of Race in its Prosecution of Wen Ho Lee*, has been accepted for publication in the Rutgers *Race and the Law Review*. Wen Ho Lee is a Taiwan-born, naturalized U.S. citizen accused of stealing nuclear secrets for China. He never was convicted of espionage, and instead pleaded guilty to mishandling classified data. The article explores racial misconceptions and proposes possible solutions.

**Susan DeJarnatt** (Temple) has published an article, *Law Talk: Speaking, Writing, and Entering the Discourse of Law*, 40 Duq. L. Rev. 489 (2002).

**Darby Dickerson** (Stetson) was promoted from Associate Dean to Vice Dean in August 2002.

**Kelly Feeley** and **Stephanie Vaughan** (Stetson) published the lead essay in the Spring 2002 issue of *Perspectives* called, *Yes, You Will Really Use Algebra When You Grow Up: Providing Law Students With Proof That Legal Research and Writing Is Essential in the Real World*.

**Judith D. Fischer** (University of Louisville-Brandeis) published an article, *Public Policy and the Tyranny of*

*the Bottom Line in the Termination of Older Workers*, 53 S.C. L. Rev. 211 (2002).

**Scott Fruehwald's** (Hofstra) article, *Individual Justice in Mass Tort Litigation: Judge Jack B. Weinstein on Choice of Law in Mass Tort Cases*, will be published by the *Hofstra Law Review* in its March 2003 issue.

**Cathy Glaser**, **Jethro Lieberman**, and **Lynn Su** of **New York Law School's Writing Program**, and **Robert Reuscher** of **St. John's University School of Law** have recently published a first-year writing textbook and teacher's manual titled, *The Lawyer's Craft* (Anderson Publg. 2002).

**Michael D. Murray**, formerly at the St. Louis University School of Law, has accepted a position as a visiting assistant professor of law at the **University of Illinois College of Law**. He will teach legal research, writing, and advocacy and other courses.

**Sharon Pocock** (Michigan State University-Detroit College of Law) has been named Director of the Research, Writing & Advocacy Program.

**Lawrence Rosenthal** (Stetson) was promoted to Associate Director of Legal Research & Writing in July 2002. Professor Rosenthal has two forthcoming law review articles on employment discrimination, one of which will appear in the *Utah Law Review* and the other in the *South Carolina Law Review*.

**Amy E. Sloan** (University of Baltimore) and **Steven D. Schwinn**, published a research workbook called, *Basic Legal Research Workbook* (Aspen L. & Bus. 2002).

**Nancy A. Wanderer** (Maine) has announced that she now has a faculty colleague in her legal writing program. **Debbie Challenger** serves as the new Legal Writing Fellow, which is a one-year position with the possibility of renewal for a year. Wanderer is now in the first year of her second five-year contract as program director at the University of Maine.

After a year serving as Acting Director, **Catherine J. Wasson** (Widener-Harrisburg) has been permanently named as Director of the Legal Methods Program and has been promoted to Associate Professor.

# Tips for New Teachers

## Writing Out Loud: Making Conferences Worthwhile

Linda A. Shashoua, Rutgers-Camden

Teachers everywhere recognize that a smaller class size yields larger success. We daydream about providing individual attention during class, indulging every last question without scrapping the lesson-plan, and actually demonstrating every conceivable variation of CRAC for each problem presented. So, when our daydreams come true in the form of a class size of one, how can we make the most of these professor-student conferences? By taking tips, of course.

The ideal scenario in this idealized class setting begins with the recognition that we need to have an agenda, to maintain control, and stay focused; students, for their part, need to know what is expected of them, come prepared, and participate. Without an expected agenda, it is almost guaranteed to become a runaway conference, which ultimately proves no better than the generic office-hour session. Our chief agenda at the conferencing stage of the semester is typically to reinforce case synthesis, as well as to identify the pitfalls of the legal writing form.

As I find that many of a legal writer's problems are exposed when the writer tries to explain what she wrote—or “writes out loud”—the conference becomes the ideal setting to have the student-writer meet the reader. Advise the student that during the conference, you will play the part of the reader, challenging the student-writer to be conscious of her audience as she talks through a case synthesis. At least four opportunities should arise to express the main concerns of the reader of case synthesis:

### *Opportunity One: No Suspense*

Particularly in public speaking, we love the payoff of the punch line. We like to set it up and, only when the audience is riveted, let loose with our bang. But in legal writing, if a bang comes at the end, it can mean *the end*, at least of a reader's patience. If the student-writer begins by backing into the controlling test, leading up to the holding, or leading you through a case-discussion in order to reach the point, the reader will want to interrupt and remind the student-writer to avoid building suspense. Assure the writer that the legal reader strives for comfort, rather than surprise, and thus expects the punch lines first.

### *Opportunity Two: Tell “The Story of the Court”*

If the student-writer elects to review precedent indiscriminately, one decision at a time, as many less fortunate memoranda discussions tend to do, the reader will want to redirect the writer's focus to precisely what the goal of reviewing precedent should be. Explain that the writer's task is to *make sense* of precedent, rather than simply to review it.

Faced with predicting how a court might rule under the present factual scenario, explain how that court would first want to know what it did before—the writer would thus strive to “tell the story” of the courts of that jurisdiction, making sense of like decisions of the past in order to predict the likely resolution of the present. The student-writer would be careful to explore what “the court” cared about in the past—both legally and factually—only enough to inform the prediction of what it would likely do here.

### *Opportunity Three: Make a Wish*

If the student-writer introduces a decision, inevitably she will begin with the generic, “In such-and-such case,” or reciting the facts, or even the holding. The reader would interrupt, and ask the student to make a wish: what would the student-writer wish more than anything for the reader to get out of her discussion of this case? Focus the student-writer on the specific insight into the legal rule that this case supplies, and advise her to put this insight first, by way of introduction to a discussion of this case. Thus, the insight into a particular aspect of the legal rule becomes the thesis, and the discussion of the case becomes simply proof of that thesis. Again, this idea of wishing up-front reinforces the goal of creating no suspense for the reader.

### *Opportunity Four: Are We There Yet?*

Wherever the student-writer is, there we are; but, where are we? If the student-writer is beginning to explain one element of a test, there should have been some context for the reader to understand how many elements make up this test, how the elements are related, and where we are within this order of elements. In other words, the reader needs context and transitions, and the reader will interrupt each time this concept is not unmistakably obvious.

Of course, aside from all of the interruptions and painful suggestions, we should always remember to reinforce the positive. Beginning students are generally unsure about all of the choices they made, even the well executed ones, so we will want to take this opportunity to clarify which decisions proved effective, and why. Finally, if all else fails, supply chocolate—as a favorite teacher once said, “A spoonful of sugar helps the medicine go down” and, hopefully, stay down. ♦

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

# From the Desk of the Writing Specialist



## Getting Started

by Deborah C. Hecht, *Touro Law Center*

Time, in May, seemed abundant. I was eager to begin a long-planned writing project—a research paper linking law and literature. I had ideas and notes, a stack of reference materials, and reams of paper. To my delight, I received a summer research grant. I couldn't wait to get started.

I flipped through my appointment book: in addition to the writing project, I was scheduled to attend the Legal Writing Institute conference in late May and scheduled to give a Continuing Legal Education presentation in late July. I wanted my CLE materials and my presentation to be perfect; I also wanted my writing project to get the time and attention it needed and deserved. But I wasn't worried, not really: I'm used to juggling projects; I know how to set up a schedule and stick to it. I still had more than two full months of freedom—two months to work on my project. I rejoiced.

In late May, I attended the Legal Writing Conference in Knoxville. Then, almost as soon as I got home, I left again—this time for a visit with my son, who'd moved to San Diego a year ago.

Time didn't seem quite so abundant when I got home from that second trip, but I still thought everything was fine—until I tried to start writing.

I couldn't find a starting point. Hour after hour, I couldn't settle down, I couldn't focus, and I could *not* find my starting point. Here I was, the writing specialist, wishing there were someone with whom I could talk. But there was no one. The colleagues with whom I usually discuss writing issues were away—one in China, the other in Woods Hole.

I reviewed the advice I give to colleagues and students and I made a list of my favorite “writing remedies”—remedies that I've gathered for nearly two decades. Now that I was the one struggling to get started on a writing project, I began to wonder how well my writing remedies would work for me.

I began with the question that the late Aaron Lipton, (professor, mentor, and friend) used to ask when I was starting a long writing project:

**Why is this topic important to you?** Professor Lipton had insisted that I *write* the answer, and he'd advised me to write for ten minutes. I set the kitchen timer for 10 minutes. 10 minutes is manageable, unthreatening. No matter what, I would set words on paper for 10 minutes.

Answering that question settled me, focused my attention on the heart of my topic, and gave me the starting point that I'd been missing. After 10 minutes, the timer rang—but I kept writing because I had so much more to say.

I had my starting point. However, I was still subject to all the demands of daily life in the real world; I was still vulnerable to procrastination-in-disguise: if I looked around my house, I saw several semesters' worth of household chores and repairs that needed immediate attention. If I looked around the garden—well, I tried not to think about the garden.

In May, time had seemed abundant. In June I'd looked at the calendar and saw how fast the days were sliding away from me.

In July, even though I was making progress, I felt as breathless as if I'd been running for a train. There was not and never would be enough time to write. But when a colleague had expressed similar feelings, I'd made a suggestion:

**Schedule a writing appointment with yourself; keep that appointment as if *you* are your own most important client.** With that in mind, I set aside an hour a day for my appointment with myself. I ignored my e-mails and unplugged the phone and reminded myself that this was only one hour—I could do an hour's work. On the first day I struggled to write a page in longhand; by the third day I'd moved to the computer. Before long, I didn't need an appointment—I woke up early, made the coffee, and started my work. And before long, I had a manuscript—one that called to me, one that clamored for my attention.

However, I discovered that time was not my only writing issue. A friend and former Writing Skills TA reminded me of advice I'd given her.

**Put the project in perspective.** I was writing on a topic that I find endlessly interesting, but I was increasingly uncertain about whether the completed work would meet my own expectations and be interesting to anyone else. My former TA asked, “What's the worst that can happen?”

I had to think about what “the worst” would be: That I would be unable to write to my own satisfaction? *I would edit and revise.* A paper no one else cared about? *That was beyond my control.* No—“the worst” would be not writing the paper at all. But how could I keep moving forward with this work?

**Don't try for perfection.** Another friend, a former Writing Skills TA who was subsequently Editor-in-Chief of the *Touro Law Review*, reminded me that she always outlines her work—a strategy that I'd recommended to her. Why? An outline does not have to be perfect.

The word “perfect” caught my attention. Until I thought about

# 2002 ALWD/LWI Survey Highlights



*Kristin Gerdy, chair of the joint LWI/ALWD Survey Committee*

## Getting Started

*(continued from previous page)*

“perfect” I hadn’t realized how much pressure I was putting on myself: I’d wanted the CLE materials to be perfect, and now I wanted my writing project to be perfect. In fact, I was writing myself straight into a perfectionist corner—a corner where nothing gets started or completed because it might not be good enough.

Summer ended in mid-August when Orientation began. I had a solid draft of my writing project completed and I had an editor interested in it. My sense of what this project can become is too strong for me to consider the work finished. However, I’m ready to present the material to colleagues as a work-in-progress and I’m scheduled to give a presentation in the spring.

When I came back to work, my colleagues were swapping stories about their summer adventures; someone asked what I’d been doing. I was tempted to say “not much,” but that wasn’t the case: on my summer vacation, I was forced to reconsider my own writing issues and I learned to take my own writing advice.



*by Kristin B. Gerdy*

The annual Survey of Legal Writing Programs in the United States, sponsored by the LWI and ALWD, has become a powerful tool for LRW faculty and directors. A record 154 schools participated in the April 2002 survey for an 83% response rate (up from 82% in 2001), thanks to the cooperation of legal writing program directors throughout the country. The 2002 survey includes information from American law schools representing schools from every region of the country, all geographic settings, and all school sizes. This article presents highlights of the findings regarding salaries, staffing models and status issues, curriculum, common practices, workload, and gender issues.

### Salaries

For the fourth consecutive year, salaries of legal writing directors in American law schools rose. The average director salary in 2002 was \$82,010, up 4% from 2001. The largest percentage increase was in the Great Lakes and Upper Midwest region, while average director salaries fell in four regions, most noticeably in the Southeast (from \$79,708 to \$76,218).

In 2002, the “average” director looked very much the same as in 2001, having graduated from law school 18.1 years ago, taught in law school for 11.4 years, and directed at her current law school for 6.8 years.

Full-time legal research and writing faculty base salaries also rose in 2002 from an average low of \$46,741 to an average high of \$54,316, an almost 6% increase from the 2001 average low of \$44,011 and a 2.5% increase from the 2001 average high of \$53,012. Average faculty salaries rose everywhere but in the Far West.

Unlike director and faculty salaries, the average salaries of adjunct faculty and teaching assistants in legal research and writing programs fell in 2002.

### Staffing and Status Issues

The overwhelming majority of American law schools have legal research and writing directors, but these directors hold a variety of faculty and administrative positions within the legal academy. Twenty-one or 16% are tenured faculty members whose primary responsibility is directing the legal writing program. Nearly half, 42% (55 of 130), are faculty members not on a tenure track.

In 2002, most American legal writing programs used full-time nontenure-track teachers (76 or 50%), a hybrid staffing model (41 or 27%), or adjuncts (21 or 16%). Faculty in 17 programs have ABA Standard 405(c) status, up from only 7 in 2001. A total of 20 programs reported using tenure or tenure track LRW faculty in some capacity, compared to only 8 in 1999 and 15 in 2001.

The overwhelming majority of those LRW faculties on contract have no limit to the number of years they may teach (100 of 109 or 92%). The percentage of programs with caps has fallen steadily during the past four years.

### Curriculum

Most writing programs extend over two semesters averaging 2.22 credit hours in the fall and 2.14 hours in the spring. Thirty-four programs have a required component in the fall of the second year, averaging 2.12 credit hours.

Almost all LRW courses are graded (125 programs). Many programs grade at least some assignments anonymously (79), but 70 programs do not. The majority of programs grade all or nearly all of the major first-year writing assignments, which typically include office memoranda, appellate briefs, pretrial briefs, and client letters. Thirty-eight programs include drafting documents, up from 28 in 2000. The most common oral exercises are

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## Survey Highlights

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appellate arguments, pretrial motion arguments, and in-class presentations. Other programs include oral reports to senior partners (31, a doubling of 2000 survey responses), trial motion arguments, or other oral skills.

The majority of American law schools (119 or 79%) offer upper-level elective legal writing courses. Only 13% (19) do not. These courses are taught by a combination of LRW and non-LRW faculty members. The topics of upper-level writing courses vary widely from general survey courses in advanced legal writing, advanced research, and drafting to courses focusing on such specialized topics as judicial opinion writing, legislative drafting, transactional drafting, and advanced appellate advocacy.

### Workload

In 2001-02, the “average” director taught 30 entry-level students 3 hours per week using 3 major and 4 minor assignments while reading 1,134 pages of student work and holding 36 hours of conferences during the fall semester. The spring semester workload was similar. In addition to their teaching time, directors spent an average of 41 hours preparing major research and writing assignments and 50 hours preparing for classes in the fall and comparable time in the spring.

In the 2001-02 academic year, the “average” LRW faculty member taught 43 entry-level students 4 hours per week using 3 major and 4 minor assignments while reading 1,589 pages of student work and holding 51 hours of conferences. In addition to their classroom teaching, faculty spent an average of 32 hours preparing major research and writing assignments and 57 hours preparing for classes in the fall and comparable time in the spring.

Nearly one-quarter of American law schools employ legal writing specialists to assist students with

writing. Nearly three-quarters of these specialists spend on average of 71% of their time preparing for and holding individual conferences. More than half provide workshops for students, taking up about one-quarter of their time.

In addition to their responsibilities in the required legal writing program, directors and faculty widely teach upper-level courses at their law schools. The vast majority of directors also participate in law school governance by serving on faculty committees as voting members (112 or 86%); only 10 serve as non-voting members. For LRW faculty, those in 88 programs (77%) serve on faculty committees. More directors than faculty are expected to produce scholarship (35% and 11%, respectively); in some programs scholarship is encouraged, but not required, with varying levels of financial support.

Voting rights of both legal writing directors and faculty have increased during the last four years. The majority of directors attend and vote at faculty meetings with 13 non-tenure track directors voting on all matters (17%) and 31 more voting on all but hiring and promotion (41%). In 2002, LRW faculty vote in 61 programs (53%) at faculty meetings with 25 (22%) of those programs affording voting on all matters. This shows a 10% increase from 2001 where faculty at only 42 schools (43%) were given a vote and a 12% increase from 2000 numbers.

### Gender Highlights

Consistent with earlier surveys, the 2002 Survey shows that female directors earn less than their male counterparts; however, the disparity between average salaries is decreasing. Female directors earn an average salary of \$79,806 compared with an average male salary of \$87,790. The data indicates that while female salaries are rising, male salaries are not increasing significantly, which may indicate that male salaries are approaching a ceiling.

The legal writing program director’s gender not only affects her salary but also affects the salaries of the faculty she supervises. In programs headed by female directors, once again the salary range for LRW faculty was lower: the averages at the low end of the range were lower (\$44,605 low with female director; \$48,031 low with male director). The averages at the high end of the range were also lower (\$53,380 high with a female director, \$57,533 high with a male director). Female directors are not only paid less than their male colleagues, they are also more likely to have lower status and a more limited role in law school governance.

### Conclusion

For the profession as a whole, the results of the 2002 Survey show the field of legal research and writing is making great strides. These strides are largely attributable to the many directors, LRW faculty, deans, non-writing faculty, and others who have used the data provided by earlier surveys to improve the programs within their own schools. But while the improvements are encouraging, we cannot rest on these laurels. Areas of concern remain that must be addressed. The general improvement in salaries is encouraging, but the relatively small percentage of full-time LRW faculty with tenure or on tenure track is disappointing. Gender disparities are diminishing, but class size for all LRW faculty members remains too high. Voting rights and involvement in law school governance are not afforded to each and every professional legal writing teacher. Legal writing faculty and others in the legal academy must now concentrate on these issues and aim to have new improvements reflected in future surveys.



## LWI Board Meetings

AALS Annual Meeting, January 2003  
AALS Annual Meeting, January 2004  
2004 LWI Conference: Wednesday, July 21, 2004

## 2004 LWI Conference

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

## Board of Directors Elections

Call for Nominations: January 2004  
Elections: March 2004

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

Status of Volume 9: Publication anticipated in early 2003  
Status of Volume 10: Currently accepting submissions

## The Second Draft

Deadline for submissions for Spring 2003 issue: March 15, 2003  
Deadline for submissions for Fall 2003 issue: October 15, 2003

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

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

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

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

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

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