2020 Emerging Scholar Award Recipient

Joe Fore

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The Board of Directors of the Legal Writing Institute (LWI) is delighted to announce that Joe Fore is the recipient of the inaugural Emerging Scholar Award. The Board created this award to help foster a new generation of scholars in our field. The award is limited to a professor's first or second full-length, published article on legal writing or pedagogy.

Professor Fore received the award for his article *'A Court Would Likely Find . . .': Defining Probability Expressions in Predictive Legal Analysis*, 16 J. Legal Comm. & Rhetoric: JAWLD 49 (2019). In this fascinating interdisciplinary study, Professor Fore critiques and categorizes the words lawyers use to predict results in legal disputes—and the words legal writing professors teach law students to use in predicting results in their objective memoranda. Legal writing professors and legal writing textbooks most commonly

recommend qualifiers like "probably/probably not," "likely/not likely," "possibly," etc. But Professor Fore argues "there is a fundamental problem with using qualitative probability expressions in legal writing: they don't have generally accepted meanings. Do 'likely' and 'more likely than not' mean the same thing? Does 'unlikely' mean a 49% chance of success? 33%? 20%? This ambiguity poses a serious challenge to lawyers when advising their clients."

To address this problem, Professor Fore first describes standardized probability expressions in the legal field, such as accountant responses to auditor inquiries and tax-lawyer practices in tax opinions. He then surveys standardized probability expressions in non-legal fields like medicine, national security, and climate science. Putting all of this together, Professor Fore encourages us all to begin to develop a standard legal writing probability lexicon. Issues to be addressed in developing this standard lexicon include how many gradations the probability scale should have; what words should occupy the opposite ends of the spectrum; and what percentages we assign to each probability expression. To begin this discussion, Professor Fore proposes a seven-point probability scale for legal writing starting with "Almost certain (90-100%)" to "Almost no chance (0-10%)." If you want to see the terms and values between these two extremes, you will have to read the article. It is available here. The article will change the way you teach "predictive" analysis!

The LWI Board is grateful for the work of the LWI Awards Committee in identifying nominees and making recommendations to the Board. The Committee includes Co-chairs Greg Johnson and Brenda Gibson, and members Andrew Carter, Lindsey Gustafson, Margaret Hannon, Dana Hill, Mary Nagel, and Suzanne Rowe.

We look forward to celebrating Professor Fore's accomplishment along with the other LWI award winners this year. Stay tuned for details on our awards celebration. We will let everyone know once the details are finalized.