LEGAL WRITING INSTITUTE

The Second Draft

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From the Editors ... The essays in this issue address the important question, "How do I teach my students the legal analysis that is the foundation of any piece of legal writing?" The essays published here provide insight into the methodologies of a number of experienced teachers, as well as practical ways to implement these insights in the classroom. We thank all who contributed to this issue, as well as all who have contributed to The Second Draft over the six years that it has been published at Boston College. We now turn the Second Draft over to our very able colleagues, Barbara Busharis of Florida State University, and Suzanne Rowe, currently of Florida State but soon to be of University of Oregon. We're looking forward to seeing their work when we receive the Fall 2000 issue in the mail!

...Joan Blum, Jane Gionfriddo, Elisabeth Keller, and Judith Tracy
Boston College Law School

The President's Column
Stand Up and Be Counted!

As I write this column, the papers are filled with reports of complaints about the United States Census. Some people are upset at having to answer personal questions about the number of toilets in their home or about their income (although, as a friend pointed out to me, we're already telling the government our income through the IRS). To counter these concerns, the government has spent millions on an advertising campaign trying to show people the bad consequences that will occur if you don't complete your census forms. The commercials show barns burning down and children going without day care because people went uncounted.

What does the census have to do with legal writing? The latest survey of legal research and writing faculty was sent out in early April. LWI doesn't have enough money to film television commercials begging you to fill in the forms. I'm not sure what we would put in the commercials — perhaps, instead of a barn burning down, we would show someone cleaning out her office, having reached the end of a capped contract.

This column is a bald request for you to fill out your survey and send it in! By doing so, you may be helping yourself; you will definitely be helping your colleagues around the country.

Whenever you read an article about how to improve your eating habits or your spending habits, you will predictably see a particular piece of advice: write it down. Write down what you eat, write down what you spend and what you spend it on, so that you can identify patterns and then decide what to do about them.

That sage advice applies to more than just eating and spending. With any problem, you have to understand what is really going on before you can begin to change things. And that's exactly what we're trying to do in legal writing. As we press forward with our demands for job security and equitable salaries, we are helped by information that reflects the current reality. We need to know what is going on out there before we can argue about what needs to change.

People have been surveying legal writing programs for a long time. Marjorie Rombauer did one of the first in the modern era, in the early 1970's. With the emergence of the Legal Writing Institute, Jill Ramsfield began to conduct and publish surveys of the membership in the 1980's. Lou Sirico and Jo Anne Durako have continued that work (Jo Anne is the author of the most recent LWI surveys). And Jan Levine and Richard Neumann have conducted independent surveys, as well.

I'm no doubt missing some names, but I want to make two points. First, I want to express gratitude to all of those who conduct surveys - they write the questions, get the surveys out, nag us to reply, do the Herculean task of putting the replies into useable form, and then publish the results. They do a great service for us and for the legal profession. Second, I want to express gratitude to the hundreds of anonymous legal writing faculty members who send in replies. Without the replies, the best-drafted survey is useless.

If you are at the low end of the salary or security pool, make sure you are counted! We need to know what law schools are doing. Many of my doctrinal colleagues have been shocked to see the lowest salaries in some of our survey categories. If your salary is at the lowest level reported in your state, your region, or - God forbid - in the nation, you may have a powerful argument the next time you seek a raise.

If you are at the high end of the range, your survey is just as important. We need to show that low salaries in legal writing are not the norm and are not inevitable. The more high-end salaries that are included, the higher the salary averages go, and the better able we are to get that message across.

I'm a case in point on the importance of the surveys. As many of you know, I will move from a staff position to a tenure-track faculty position at Ohio State this summer. When this issue came before the faculty, the question I heard most often was, "is anybody else doing this?" Perhaps because lawyers rely so much on precedent, law faculties frequently want to know if there is any precedent for actions they are taking. It was great to be able to hand them Jan Levine's latest compilation of Legal Writing program structures and the latest LWI survey.

Even those of us with only a rudimentary knowledge of statistics know that the bigger the survey, the more useful the results are. So, no matter where you are, no matter what your salary or your status, PLEASE COMPLETE AND SEND IN YOUR SURVEY AS SOON AS YOU CAN! I thank you, and your colleagues thank you.

I can't let this issue of The Second Draft go to press without a big thank you to the people who have put it together for the past six years. This is the last issue of The Second Draft to be published by the Boston College Law School Legal Writing faculty. The next issue will be published by Barbara Busharis at Florida State University and Suzanne Rowe, who is moving from Florida State University to direct the legal writing program at University of Oregon.

Jane Gionfriddo and Joan Blum have done a fabulous job with The Second Draft, working on it since 1994. In recent years, they have been assisted by their Boston College colleagues, Judy Tracy who joined the staff in 1998, and Lis Keller who joined in 1999.

Jane and Joan's continuation of the idea of "theme issues" has made The Second Draft an invaluable resource for new legal writing faculty. They have given many of us our first published piece, and perhaps the courage to send an article in to a law journal.

The next President's column will be written by Jane Gionfriddo. Even as she gives up the responsibility of publishing The Second Draft, she will assume the presidency of the Legal Writing Institute. I know that LWI will be in great hands.

Regards,

Mary Beth Beazley
President, Legal Writing Institute
Director of Legal Writing
The Ohio State University College of Law

Essays by Members of The Institute on Teaching Analysis

Reading Critically is the Foundation for Legal Analysis

LR&W SHOULD BEGIN AT THE BEGINNING: READING LEGAL AUTHORITY

Jane Kent Gionfriddo
Boston College Law School

We all know that many of our students come to law school with a fundamental problem: they don't read critically. Given this, each year I spend more time in class teaching students this important skill and its relevance to thorough and sophisticated legal analysis.

Throughout the first semester, when much of class discussion focuses on case analysis, I make students support their assertions with specific language from the relevant case or cases. At such points I ask students, "on what page did the court discuss this idea?" When students locate the language, I make them read the phrase, sentence or passage aloud. Sometimes students find that the language of the case validates their ideas. Sometimes, though, students realize that what the court *did* state on the page is quite different from what they remember, or they realize that the language on the page (or lack thereof) indicates they drew an inference that was incorrect.

One of my classes toward the middle of the first semester illustrates this process. At this point, students are working on the analysis of a requirement in a common law tort cause of action in Massachusetts that concerns the relationship between a direct victim and bystander. Students have read and analyzed the relevant cases on their own to prepare for class discussion. As students answer questions on the facts of each case and whether the court found those facts to satisfy the requirement, I require them to support their assertions by going back to the language of the case. Coming into class, students think they have read and analyzed the cases carefully; class discussion points out that in some instances they have not.

For example, students are excited about one highest appeals court case because it is

the only case they have located that "addresses" whether a sibling relationship is sufficient. In fact, the highest appeals court does describe how the *trial* court had found that a minor sibling of the direct victim satisfied the relationship requirement. What students have missed, however, is a quick, seemingly insignificant statement of procedural history: while the *mother* of the direct victim had appealed her cause of action to the highest appeals court, the *sibling* of the direct victim had *not*. Skipping over this piece of the procedural history, students fail to realize that the sibling relationship was never before the highest appeals court and that consequently, the case indicates nothing at all concerning whether a sibling will satisfy the relationship requirement. At that precise moment, students begin to comprehend the dangers of reading uncritically, especially because we go on to discuss a supervisor's reaction to receiving an analysis based upon an erroneous reading of this case.

In another case, the relationship is between a mother and her son, who are residents of different states. The son dies in a plane crash. When I ask what specific relationship was before the court, students always answer parent/*adult* child and that this is important since the rest of the Massachusetts cases have only made clear that a parent-*minor* child relationship satisfies the requirement. I respond by asking the class to locate the specific place in the case where the court describes the son as an "adult," and I give the class plenty of time to go through the case. Scouring the case, students can find no reference at all to an "adult" son even though coming into class they would have sworn that the words "adult son" were stated explicitly somewhere within the case.

Finding no explicit reference, students articulate the real basis of why they believe the son was an adult: "Well, the son was living in another state and traveling on an airplane, and thus he *had to have been* an adult." Once this idea is out in the open, other students immediately recognize that the facts of "living in another state" and "traveling on an airplane" do not require the resulting inference that the son was an adult. At this point, someone always brings up a hypothetical scenario, such as a minor child of divorced parents traveling to see a parent living in another state. In this manner, students come to understand that the case simply doesn't give them sufficient facts to know one way or the other. They confront how reading uncritically allowed them to "infer into the case" the words "adult son" when in fact it was an unsubstantiated inference from other facts in the case. We conclude this scenario by discussing how it would feel to be arguing before a judge and have that judge point out to you that you had just "made up" a fact in a case. I point out that making up a fact in a case is completely different from synthesizing a group of cases together to come up with implicit reasoning.

Teaching students to read critically in this manner takes a great deal of time in class. Yet the benefits are substantial. Students are forced to confront just how well they have read each individual case. They see in a vivid manner how easy it is to miss key ideas and how missing those key ideas can seriously undermine their understanding of the case. In essence, it is this foundation of learning how to read well that prepares students for all the other analytical skills required in sophisticated legal problem-solving.

Case Analysis

ROLLING UP THEIR SLEEVES: USING A SINGLE CASE TO TEACH MULTI-FACETED CASE ANALYSIS

Maureen Straub Kordesh
The John Marshall Law School

I have found that a fundamental confusion among beginning law students results from their inability to recognize the rich legal analytical context within which each opinion is nested. An experienced attorney "sees" this context, which includes precedential and non-precedential analysis, statutory analogies, legal history, policy, and logical and inductive analysis. All judicial opinions exist within this context, even when the printed word does not express it; attorneys are always, at least unconsciously, aware of it.

It seems an old idea, really, using a case to teach analysis, but to its credit, it is not gimmicky, and to students it feels "real." On the other hand, it appears to be a very traditional method. However, I believe that it is not, and hope that, if you try it, you will be pleased with the results. I use this exercise early in the first semester, when students are most receptive to learning techniques for close case analysis. I recommend this approach for anyone who believes, as my father taught me, that the most competent engineers are the ones who take real engines apart and put them back together.

The trick is to find the right case. I use Moore v. Regents of the University of California, a famous biotechnology case in which the plaintiff was deceived into returning for tests and therapy for several years after he had been successfully treated for leukemia. Apparently, his cells were unique, and defendants used them to develop a patented cell line with a projected value over a billion dollars. The issue was whether his bodily tissues and fluids were property; if so, he could maintain an action in conversion and recover for their wrongful appropriation. Moore is a "sexy" case and students usually read it enthusiastically.

Moore lays bare various techniques of legal analysis. It also provides a response-in a concurrence and dissents-to each of the legal analysis techniques the majority uses. Thus, it gives students a uniquely rich view of the context of analysis on a single fact pattern. Two examples will, hopefully, suffice to illustrate the opinion's usefulness in teaching students to recognize methods of analysis.

The first technique we discuss is precedential analysis, something they do in their other classes as well. The court explicitly states that "no reported judicial decision supports [his] claim" and rejects the law of privacy as a precedential justification for recognizing property

rights in body parts. We build the argument from the several privacy cases discussed, and the students come to recognize that genetic identity does not equal persona.

Teasing out the dissent's precedential argument is more difficult. It provides two important lessons about legal analysis: first, opposing arguments are often different, rather than Annie-Oakley-style "No, you can't; Yes, I can" arguments. The argument is difficult for students to find because they are searching for the dissent's proof that privacy does equal property. Second, precedent-based arguments do not always cite authority, but rather refer to an area of law without explicating it. The dissent focuses on sales of bodily fluids like blood plasma and paid contracts for medical research. Students do not recognize this as a precedential argument because it relies on unacknowledged authority that sales of certain bodily products, and contracts for medical research, are lawful. Students are pleased to recognize that the dissent has an entirely different basis for its position.

While it is a common type of analysis, students often do not recognize precedential analysis as one of *many possible* approaches to analysis. A second example of analytical technique is statutory analysis. The majority and a dissent lock horns over which statute is the appropriate analog for determining whether body parts are property. The majority favors the medical waste disposal statute; the dissent advocates using the Uniform Anatomical Gift Act. We usually have a lively discussion about choosing one statute over the other. Comparing the statutes also provides an excellent forum for teasing out policy arguments, another context for legal reasoning. Both statutes require the justices to reveal their assumptions about the character of society, appropriate incentives, the implications of conferring property rights, and the limits of economic theory, morality, and state intervention in establishing and enforcing legal relationships. When students set the analyses side-by-side, they learn an important lesson about what makes up case analysis.

The opinion contains examples of direct moral arguments about liberty and social oppression, close statutory analysis, economic theories of property, analysis of institutional competence, and more. While the opinion is not perfectly transparent, there is no single opinion in the course of the semester that does as much as Moore to expose students to, and enlighten them in, the many layers of—often unspoken—legal analysis present in judicial opinions.

I teach the case more for its value for case reading than anything else. Invariably, students report that they read cases "completely differently" after Moore—which I generally take to be a good thing—because they had no idea that so much could be going on in a single opinion. Since my point is that every opinion exists within a context like this, once they are exposed and enlightened, and empowered to search for this context, they "do" case analysis much better, even when these arguments are not explicit in the printed case.

Classroom Teaching Methodologies for Legal Analysis

TEACHING LEGAL ANALYSIS TO THE "SEERS, HEARERS, AND THE DOERS"
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Adults learn differently. When trying to spell a word do you visualize it in your mind, sound it out or write it down to see if it looks correct? This question will be answered differently by each of us depending on whether we are visual learners, auditory learners or more tactile learners. In this essay I will explore ways I have tried to incorporate each of these learning preferences when teaching legal analysis.

The Visual Learner

Of the technologies available to teach the visual learner, I primarily use PowerPoint and a computer with a LCD projector.

I use PowerPoint to create an outline of my lecture. I put this presentation on our school's intranet so students can access it later.

I also use PowerPoint to display examples of a statute or a court's opinion. The students visually see how to identify claims and defenses in a real life application. PowerPoint is also very useful when teaching *The Bluebook*. Utilizing a computer and an LCD projector, I can project a word document that shows good analysis or bad analysis. A floating keyboard allows students to highlight different parts of the analysis or do real time editing. For example, I could project a memorandum with poor synthesis because it just lists and describes cases. The class suggests ways to improve the memorandum. I also use writing samples that are not IRAC-ed well. By using the cut and paste features the students can correct the samples right in class.

Another great visual approach for teaching distinguishing cases appeared in the Fall 1999 issue of *The Law Teacher*. Author Karen Gross suggested taking two portraits of women by different artists. The students identify the similarities and differences. The professor then tells the students about the time period of the paintings. This shows the importance of

knowing about the era in which cases are decided. Finally, the artists' styles are analyzed to show students that judges too have styles, and it is therefore important to know who wrote the opinion.

The Auditory Learner

In the area of analysis my traditional lectures are filled with simple non-legal examples so students can relate analysis to something they know. One of my colleagues, Professor Kathleen Bean, has a great way to teach IRAC. Modeling after Professor Bean, I use the following exercise:

Parents tell a baby-sitter that their child may not have sweets after 7 p.m. At 7:30 p.m., right before her parents leave, the child asks the dad if she may have a cookie. Her dad says "No, you are not allowed to have sweets after 7 p.m." The child then asks the sitter for a) a doughnut, b) a marshmallow, and c) a glass of water.

Students initially discuss the problem by asserting that the child may not have the doughnut or marshmallow but may have the water. Because they intuit the answer, they fail to adequately explain their conclusions, including identifying the parents' rule and its underlying reasoning, how that rule has been applied previously by the father, and how the rule will be applied by the baby-sitter. During the discussion, students begin to understand that there is a rule (No sweets after 7 p.m.) and the rule has been applied (No cookie because it is a sweet and it is after 7 p.m.). They go on to reason that a doughnut and a marshmallow are much like a cookie because they all have little nutritional value and lots of sugar and therefore this is why the child may not have the doughnut or marshmallow. In contrast, a glass of water is not like a cookie because it has nutritional value and no sugar and this is why the child may have the water under the father's "rule."

Of course, as they work through the exercise the students begin to realize that they must focus not just on the "rule" but the underlying "reasons" that led to the parents having the rule. For example, the parents are interested in promoting life-long healthy eating habits that will contribute to the well-being of their child. Limiting the intake of sweets helps them achieve that goal. Through this exercise, then, students come to understand that it is not enough for thorough analysis just to focus on facts and rules without also understanding and applying the rationale behind the rules.

The Tactile Learner

"Tell me, and I forget, Show me, and I remember, Involve me and I understand." Chinese Proverb

Tactile learners are those students who need to actually try something hands on before they can learn it. To effectively teach these students you need to do more than just show (samples) and tell (lectures). You need to *actively* involve them using techniques and methods that appeal to their need to practice what they are trying to learn.

To help tactile learners I use in-class writing assignments. *Writing and Analysis in the Law* by Shapo, Walter and Fajans (4th Edition) provides many of these assignments in addition to my own problems. This fall I gave the students a dog-bite statutory problem. The first week they just received the facts and the statute. They identified claims and defenses by looking at the statute's elements and seeing if those elements could be satisfied with their facts. I added two cases in the second week. This required more advanced analysis and synthesis. The third week I had them put their analysis in a memo format sheet. Finally, in the last week I changed the facts slightly, added two additional cases and had them draft a memorandum. I marked up these exercises before the next class so they could get some feedback. By gradually adding different elements to the problem, the concept of analysis did not become so monumental. The tactile learners were able to actively learn each step of analysis. All the students, whether tactile learners or not, benefited from the extra writing practice.

Conclusion

I have only briefly shared some of the methods I find to be effective in teaching analysis to visual, auditory and tactile learners. No matter how you teach it by varying your methodologies, you will reach more students than by using a "one size fits all" approach.

50,000,000 ELVIS FANS CAN'T BE WRONG: THE SOCRATIC METHOD WORKS

James B. Levy
University of Colorado School of Law

A recent study by Professor Steven I. Friedland published in the Seattle Law Review entitled *How We Teach: A Survey of Teaching Techniques in American Law Schools* concluded that "an overwhelming majority of those who [teach] first year classes" use the Socratic method. Interestingly, the study noted that those who have taught the longest tend to rely the most on the Socratic method. Although Professor Friedland speculated that this is due to generational differences, an equally plausible explanation is that experienced teachers return to the Socratic method after experimenting with other pedagogical techniques because they know it works.

Nearly all educators agree that a pedagogical approach that encourages students to engage in the learning process is better than one that permits them to passively absorb information. Educational psychologists recognize that students who actively discover the concepts being taught learn it better than those who merely listen to an explanation of the same material. This helps explain why the Socratic method is still the preferred teaching technique in law school more than 120 years after Professor Langdell of Harvard first introduced it.

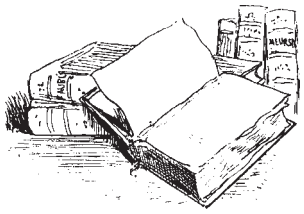
Unfortunately, the typical legal research and writing curriculum does not always permit the use of a purely Socratic teaching style. Many of the subjects we teach - like how to do legal research or write a brief - require extensive explanations. In many instances, lecturing

to students about key concepts or skills may be the most efficient way to impart that information to them.

Nevertheless, it is pedagogically important to incorporate the Socratic method into your teaching style whenever possible in order to engage your students in the learning process. That is especially true when teaching students legal analysis. As our doctrinal counterparts already know, engaging students in a colloquy that requires them to dissect and examine the different portions of a judicial decision is the best way to train their minds to think like lawyers. When we teach analysis in a legal writing class, however, we often have to focus not on a single case but instead on several cases at once as well as how to synthesize and apply them to a hypothetical fact pattern. While it is not always obvious how to use the Socratic method in this context, it is important that we try to do so.

Accordingly, whenever I teach legal analysis - whether it is how to identify the cases most analogous to our hypothetical writing problem, how to recognize the holdings of those cases, or how to organize a discussion of multiple cases within a memorandum - I always try to engage the students in the material through an interactive dialogue. For instance, if I am teaching my class how to write an office memorandum on nuisance, I begin by discussing the importance of finding analogous legal authority. But merely explaining this to the students is not enough. Instead, I want them to discover for themselves the skill of recognizing analogous authority. To accomplish that, I describe to the class several hypothetical cases and then ask them to consider which one they would choose to discuss in their office memo. I then call on a student and ask him to explain which of my hypothetical cases he would choose and why. I call on a second student and ask her whether she agrees with the first student's answer or not. Finally, I may ask the entire class to vote by a show of hands which case they think is the most analogous to our hypothetical writing problem. In this way, I try to engage the entire class in learning how to think like a lawyer.

With some resourcefulness, the same technique can be used to teach all the subjects we cover, including research, writing and organization. While admittedly it is not as easy to adapt the Socratic method to the legal writing classroom as it is in a traditional doctrinal class, pedagogically speaking, it is important that we do so in order to ensure a meaningful learning experience for the students. The Socratic method may not represent the cutting edge of law school pedagogy, but it is a tried and true teaching technique that nearly all law school teachers have used with great success for more than a century.



CONSTRUCTING AN ANALYTICAL FRAMEWORK THAT CAPTURES AND VERIFIES IMPLICIT REASONING

Judith B. Tracy
Boston College Law School

The benchmark of our first-year Legal Reasoning, Research & Writing (LRR&W) program is that analysis comes first, presentation comes next. We teach our students that in order to effectively communicate any material, whether in an objective or persuasive form, they must have a solid understanding of the analysis. At that point, they will be able to construct a written document that successfully addresses its audience and purpose. Thus, an internal office memo or a letter to the client sets forth the analysis objectively and comprehensively and predicts a likely outcome or provides an opinion about a course of action based on that analysis. An advocacy document, such as a trial memo or a letter to opposing counsel, selectively presents that analysis to persuade the reader that the outcome sought is appropriate and is a logical application of that analysis. In any of these situations, a complete understanding of the analysis is essential.

Given this perspective, we structure our assignments throughout the course so that we begin with analysis and then gradually introduce appropriate writing techniques for the audience and purpose. In teaching analysis, I rely on what I refer to with my students as the "analytical framework." In essence, this is an outline or a diagram that captures the basics of the substantive analysis; as we develop that analysis together in class, by incorporating more authority, we add to that diagram, subtract from it or change it. My goal is to provide students with a visual, concrete understanding of the analysis while confirming with them that we must synthesize all relevant authority into our analysis and that this synthesis determines but also changes our framework.

I use this technique throughout the course to teach analysis, beginning with our first assignment in which students prepare a closed memo based on four short cases. Then, in late September, we introduce students to case research and a new common law problem in a real jurisdiction. The goal is to find relevant cases, analyze and synthesize them, and then construct an objective memo on the law, including an application of that law to a set of facts. My problem this year concerned the right to privacy in a particular jurisdiction.

We gathered the relevant cases and then I assigned as the first case for class discussion the supreme court decision which recognized the right of privacy and causes of action for its invasion. I explained to students that there is no magic place to begin analysis of an issue, and that practitioners have individual preferences. I also told them that it is helpful when learning about an area to obtain a broad, general understanding of the nature of the right and the causes of action, and that of course, it is logical and appropriate to begin with any authority from the highest court in the jurisdiction.

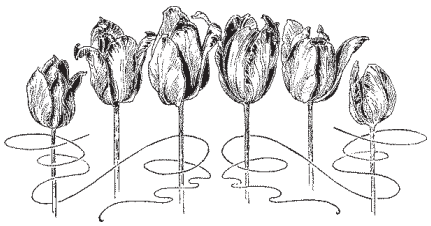
We carefully worked through this first case, so that we identified how the court both articulated this right to privacy and the claims for its invasion. We then looked at our hypothetical facts and determined that from among the three possible claims under this tort, one - the publicity or disclosure tort - was most applicable. Our task now was to fully understand the elements of this claim, so we selected for discussion a number of cases from courts of appeals from our state which address it.

Although we proceeded with our discussion on a case by case basis, we set out to build an analytical framework based on principles enunciated in the cases or reasoning implicit in the decisions. The cases are the sources for the pieces of the analytical framework but this is not a series of case briefs. Nevertheless, for each case, we would always first review the procedural history and posture, so that we were clear about what the court was and was not doing. Then we discussed the facts and the outcome before identifying the court's explicit reasoning, so that we could put that into our framework. For example, we learned explicitly from several cases that there are five elements of the publicity tort, one of which requires that the matter publicized must be a private matter.

Since the assignment required analysis of this issue, we then read a number of cases to determine what constitutes a private matter. Several cases stated that this is something that is "truly a private concern," or "concerns one's private rather than public life," but these statements did not help us fully understand what this really is; we added it to our framework, but realized that we needed more. In returning to our cases, we noted that the courts implicitly acknowledged that, for example, sexual orientation, drug use, and a private credit dispute with a retail store were all proper subjects for a claim under this tort. We added this to our analytical framework, but we still needed to draw out the implicit *reasoning* here, so that we could explain this in a meaningful way; and, we needed to verify the validity of this explanation.

We talked extensively about how we might describe these matters which we had placed on our framework as examples of what is private, and we agreed that they are all personal and intimate; we added this to our framework as the implicit reasoning here. But now we needed to be sure that this was accurate and complete, so we returned to the cases and tested this explanation back on them. We wanted a description which fully and appropriately explained the outcomes based on the facts and was consistent with the explicit reasoning in the cases. Here, our re-reading confirmed that this was a useful and valid explanation, but we also determined that it was incomplete. There were several cases which denied liability where there had been publicity of matters which although personal and intimate were available in a public record or left open to the public eye by the plaintiff. We saw from careful rereading and verification that our explanation was too narrow, so we amended it, incorporating this additional analysis into the framework.

Students were now ready to continue reading cases to independently complete and verify the analysis on this issue, and then to apply this approach to the other aspects of the problem. This gradual and collaborative process of acquiring an understanding of one part of the analysis demonstrated how analysis evolves, focused class discussion as it developed, and addressed the needs of both verbal and visual learners. By combining what we worked on together with what they constructed independently, students were able to engage in meaningful and thorough analysis, and then, to prepare their individual objective memoranda.



Teaching Case Synthesis

SHARPENING THE FILE: TEACHING CASE SYNTHESIS IN THE CLASSROOM

Tracy Bach
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One of the most difficult transitions I've observed in first year legal writers is moving from rotely perceiving and applying a multi-part case rule to synthesizing one from several cases. When I asked my students last month "what's the rule for measuring breach of construction contract damages in Minnesota in the year 2000," they cited me to a seminal case from the 1950s and stopped there. They read the subsequent case law, and puzzled over the changes in the court's choice of words or the new wrinkles in fact patterns. But they generally hesitated to stamp their own imprimatur on what they had read. After only three months of law school, most were not ready to "either file down to razor thinness or expand into a bludgeon." Karl Llewellyn, *The Bramble Bush* 180 (1930) (noting that "rules guide, but they do not control decision. There is no precedent that the judge may not at his need either file down to razor thinness or expand into a bludgeon.").

In my first year of teaching, I scratched my head and wondered what was wrong with them. Four years later (in my "cap" year, which provides grist for a different column), I now take these 1Ls through a gradual, step-by-step analysis of case synthesis, both in the abstract and as applied to the dispute they're resolving. In so doing, students develop more confidence in their reading of individual cases and in their ability to read the rule of a jurisdiction over several cases. The students begin by garnering the facts of the client's problem from a prepared intake memo. (I used to teach some interviewing skills and then have the students elicit the facts during an intake interview with a 3L posing as the client; unfortunately, teaching and learning this valuable skill took needed time away from the research, analysis, and writing skills at the heart of this course, so I resorted to

the canned memo). Once we've spotted the various legal issues in class, we then develop research strategies based first in secondary sources and then in the case law and statutes of the jurisdiction. When our school's portable "smart" podium is available, I'll do on-line research in class, with students formulating the various queries. More often, we'll discuss both hard copy and on-line research approaches, as I put various queries on the board.

So that students do the research on their own, I have them identify initial key cases in short memos due the day before the class in which we'll discuss them. I then post several cases useful for teaching the basic rules in the jurisdiction and how they've evolved over time, and the students prepare those for class. We begin with a case that establishes the general rule, identify the key parts of it against the backdrop of that case's facts. I then ask them about another case and how it adds to the rule. We review Shapo's points about subsequent cases adding new elements or key explanatory facts, and re-look at this second case and others, always putting them in their factual and procedural context. Finally, either in this class or a subsequent one, we apply that learning by drafting a synthesized rule applicable to a specific subissue of this contracts problem.

And then the rubber meets the road when the drafts come in and I set to critiquing them. While this part of teaching legal analysis occurs outside the classroom, via my individual comments and follow-up conferences, I bring it back to the classroom by using anonymous excerpts (from the submitted intraoffice memos) of both effective and ineffective case synthesis. My admittedly low-tech use of overheads allows students (both visual learners and those who more readily apply abstract concepts) to see in more complete form what we'd earlier drafted on the board, and to point out when "rule-building" via case synthesis worked and didn't.

This method for teaching case synthesis is time consuming, both in the classroom and outside it. But I've watched students steadily develop their legal voices as they gain confidence in reading cases, synthesizing rules, and committing their analysis to paper. Through this approach to legal analysis, first year law students begin to see how they can use the law-rather than merely parrot it-to argue their points.

SYNTHESIS OF CASE ANALOGIES

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Students often have difficulty understanding the importance of case synthesis. I have used the following illustration to stress the importance of synthesizing cases before comparing the cases to your client's situation.

You represent a client, Jones, who has been charged with murder. Jones was arrested when a rope was found in the trunk of his car. The rope had no blood or tissue on it. The victim was strangled. The following three cases are mandatory precedent in your jurisdiction:

Case A: Abel was found guilty of murder. He was arrested with a gun that was still smoking, in his hand. Forensic evidence indicates that the victim was shot by the same type of bullet used in Abel's gun.

Case B: Baker was found guilty of murder. He was arrested with a switchblade, dripping with blood, in his pocket. The blood type on the switchblade matches the blood type of the victim, who died from stab wounds. The switchblade had Baker's fingerprints on it.

Case C: Cain was found not guilty. Cain was arrested with a baseball bat, found in his backyard. The bat was clean, with no blood or tissue on it. The victim died from injuries made with a blunt instrument.

A weak argument is that Jones should not be guilty because, unlike Abel, Jones did not have a gun. Also, unlike Baker, Jones did not have a switchblade. Jones is more like Cain because neither the bat nor the rope had blood on it.

None of the precedent cases holds that a suspect is guilty ONLY if he has a gun or a switchblade. A stronger argument would result if Case A and Case B were synthesized before comparing to Jones.

You could say that the Abel and Baker cases hold that defendants are found guilty if (a) they are found in possession of a weapon; (b) the weapon has no non-violent function; (c) there is evidence that the weapon was recently used by the defendant; and (d) there is some evidence linking the victim to the weapon. A more in-depth analysis would explain that possession implies control, and items in the hand or pocket of a defendant are in the immediate and direct control of a defendant. An item which may have been placed in the yard or trunk by a third party, possibly without the knowledge of the defendant, lacks such control. Although it could be argued that guns can be used for skeet shooting and switchblades can be used in the kitchen, the most common uses for this type of item involve violence.

The Cain case held that defendants are not guilty if (a) the alleged weapon is not in their possession and control; (b) the alleged weapon has another, non-violent function; and (c) there is no evidence linking the victim to the alleged weapon. A more in-depth analysis would explain that there was no evidence that the bat was ever used as a weapon, and no evidence of recent use as a weapon. The lack of direct control by the defendant also implies that the defendant may not have known of the location of the bat, and there is no evidence that he ever controlled it.

After this synthesis, comparing Jones to the facts of the three cases will be more persuasive and lead to a stronger argument. Jones is more like Cain because in both situations, the alleged weapon had non-violent purposes, was found in an area not in the direct control of the defendant, and there was no evidence linking the weapon to the victim. There was also no evidence that Jones or Cain ever touched the bat or rope, was aware of the location of the item, or ever used the item in any way. Jones is different from Abel and Baker, because both Abel and Baker were found in possession of a weapon which had been recently used and

was linked to the victim, unlike Jones whose rope was not linked to the victim by any evidence. There was no evidence that the rope had recently been used by Jones or was ever in direct control by Jones, unlike the possession and control of the weapons in Abel and Baker.

Students can relate to the simple issues in this example and gain a better understanding of the importance of case synthesis. Students should be reminded of the need for citations in the sentences above.

TEACHING ANALYSIS

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Teaching legal analysis, and how to effectively communicate it, is the heart of LRW. Indeed, I hesitate to acknowledge that there is an effective LRW class that does not teach analysis. But certainly some classes focus more specifically on types of legal analysis—for example, case synthesis. In the Temple LRW program, the students do three projects in the first semester. The first teaches them to crawl, the second to walk, and the third, we hope, to fly—or at least run. We give them the first memo assignment the second day of class and get them into the library immediately. That memo is, of necessity, extremely simple analytically and requires little or no synthesis beyond a simple application of one or two cases to a fact pattern. The second memo is meant to be more challenging—to be the memo that allows them to focus on how to find and use authority to apply a clear rule. The final problem of the semester requires them to first develop a rule, that is, to predict what rule will be used or developed by the court in a first impression case. To be able to fly on that final problem, the students need a firm grasp of more basic analysis—working with the application of a clear test to a set of facts not identical to those in any available case. Thus, my goals for the second problem are to teach rule application, case synthesis, and use of authority.

I have seven classes to work through this problem. I spend the first two on issue identification and research strategy. The students must first find and recognize the Third Circuit case that provides the rule for their federal statutory problem: whether a bankruptcy debtor qualifies for a hardship discharge of her student loan. That lead case adopts a fact-intensive test that requires the plaintiff to satisfy three somewhat overlapping prongs. Their research nets them four other circuit court cases that have adopted a variation of the test and numerous lower court cases that have applied the test in similar, but not identical, fact contexts. Because this is a bankruptcy problem, the students must also grapple with the relationship between the district courts sitting as intermediate appellate courts, the circuit courts and the bankruptcy court. To further complicate things, the Third Circuit adopted the test from another circuit, giving me another opportunity to cover what makes authority binding rather than persuasive.

Once the students have found the test, we turn to rule application. My immediate goal is to help them use the Neumann[1] paradigm to organize their analysis. Charting the relevant authority on the blackboard helps them learn to synthesize the cases and visually reinforces the classroom discussion about the importance of the facts and reasoning of the available cases. The chart has three sections for each of the three prongs of the test. The first section sets out the history and purpose of the first prong of the test as stated by each charted authority. The second covers the general background facts relied on by each case—including the debtor's age, family situation, and level of education. The third lists the specific facts relevant to application of the first prong of the test, which focuses on the debtor's current financial situation, so her income, efforts to find work and current expenses are all important. I include columns for the binding precedent, other crucial circuit level cases, several of the lower court cases from our district and for our case. I complete the chart for the other authorities, listing the facts each decision emphasized in its application of the test, the result, and the explanation the decision provided. In class we first review the chart and identify the differences and similarities in the facts of our case. We also discuss the comparative weight of the listed authorities. In small groups, the students complete the chart for our case by generating a list of key facts relevant to the history and purpose of the first prong of the test, facts relevant generally, and facts relevant specifically to application of the first prong. They predict how our court will apply the first prong to these facts, using the comparative cases on the chart. I walk the room at this point to check on each group's progress and to answer questions. Each group reports its conclusion, justifying it based on the precedent relevant to the first prong of the test. I distribute blank charts for the second and third prongs for the students to complete on their own. I emphasize that we have not covered every important case on the chart. They must consider what other cases matter here.

This technique offers several advantages in teaching case synthesis. It visually drives home the need to compare both the facts and reasoning of relevant authority in analyzing an issue. It helps reduce the students' tendency to use a laundry list approach, discussing each case independently instead of attempting to integrate the available authority. It highlights the critical interplay of facts and reasoning and the need to convey that information to the reader. The exercise always leads to discussions about why two decisions treated a fact differently and which authority our court is more likely to follow. For many students, the exercise and the model chart enables them to use this technique to develop their analysis for future problems, including the more challenging final memo which requires them to synthesize authority to develop a rule, instead of simply applying a known rule to new facts.

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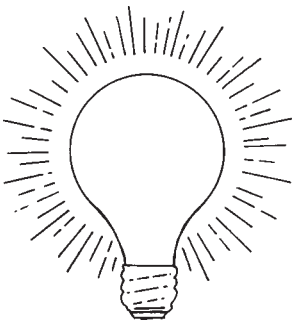
[1]Richard K. Neumann, Jr., LEGAL REASONING AND LEGAL WRITING, §10.1 at 90 (3d ed. 1998).



THE ART OF LEGAL ANALYSIS IN THE LEGAL WRITING CLASSROOM

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In our Lawyering course, students work through a series of research paths in order to find relevant statutes and case law that will serve as the basis for their analysis of a client's legal problem. As they gather that authority, we gradually shift the focus to "making meaning" of the law in preparation for their drafting an office memo. Making meaning, however, involves skills that students often struggle with—analysis and synthesis. These are some techniques that I use to familiarize them with those skills.

First, I use non-law examples to introduce these skills. Students are sometimes intimidated by the formal labels that texts use, and by practicing the skills before involving the law, we can easily move to the next step—using the skills in a law-based context. For example, when I discuss using a decision chart to analyze and organize cases in preparation for synthesizing and explaining rules and making arguments, I use an employment example. We chart out the exploits of a number of high-school and college-age employees as each missed a shift at work—the facts, their rationales, their length of employment, their personal characteristics, any penalty/discipline imposed (analysis). We then try to identify some guidelines to help predict the boss's response the next time that a worker misses a shift (synthesis of rules). This example works well because we can discuss identifying explicit and implicit rules, as well as drafting broad and specific rules.

Second, I set up the skills by asking simple questions. As they begin to discuss their cases, I ask questions that force them to see past the boundaries of specific cases. "What general trends can you identify?" encourages them to synthesize without yet labeling the skill, as does "What do these cases have in common?" I frequently start with synthesis and then move to analysis, for students are so comfortable moving within the boundaries of a single case that if we begin by discussing their briefing and analysis of individual cases, they have a hard time shifting to synthesis. However, if we start by synthesizing, it's never a problem to move back to individual case analysis, which often uncovers less obvious material that then leads us to more opportunities for synthesis.

Third, I set up the whole analytical paradigm (rule->explain->apply) by using a fun exercise that helps them to understand that the paradigm is a sequence that probably mirrors their real-life decision-making process. The following example is based on using art as the real-life, already-familiar basis for the exercise, although many other scenarios and bases, including music, food, clothing, and movies, would also work.

Analysis Exercise

Start the exercise by telling students that they have been hired to scout the market for, recommend, and ultimately acquire art for a wealthy collector. This collector has given them some very broad guidelines for what he likes (the "rules")- these may be preferences as to color, style, theme, form (painting, sculpture, photography), collecting philosophy, etc. (Keep these rules broad to push the students to find subtle meaning within the next part of the exercise.) Then ask them what else they need to know before they start scouting. Their most likely response will be "Examples!"

Give them postcards and photos of artwork that this collector has approved and purchased in the past. (BTW, this is a great excuse to buy lots of souvenirs on your next trip.) For example, you might use "The Stations of the Cross" by Barnett Newman, a photograph of multi-colored rhanunculus against a grey granite backdrop, and an Alexander Calder mobile. Then have the students try to explain the collector's rules in light of these examples. By trying to explain the color rule, for example, the students move away from discussing only the painting or only the photo and instead try to find logic that reconciles the examples-or perhaps that explicitly identifies an inconsistency amongst the group of examples. Also have them look for and explain implicit rules, such as graphic impact or mood.

Finally, give them a piece to consider recommending to the collector and have them analyze and predict whether he would like to add, for example, Mark Rothko's "Yellow Band" to his collection. They can then apply the collector's explicit rules to the piece, draw analogies and distinctions based upon the collector's past acquisitions, and even make "policy" arguments based upon collecting philosophy. For each argument or "point," ask them to state their conclusion, then support/explain it. Then ask whether anyone disagrees, thus introducing them to recognizing and developing counteranalysis.

This exercise is fun, illustrative of a process that many of them believe is difficult and alien, and encouraging. It gives them an example—and a success—to refer to as they take the next step-analysis and synthesis based in the law found in their research process.

Relationship between Legal Analysis and Legal Research

COMBINING LEGAL ANALYSIS WITH RESEARCH

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The process of locating and analyzing primary law reminds me of the following

riddle: which came first, the chicken or the egg? I guess this is because I always think one is not possible without the other. You cannot research without understanding something about the legal issue. Similarly, you cannot analyze a legal problem without locating relevant cases and statutes.

Because I think of research and analysis in these terms, I've often wondered why more law schools don't teach research and analysis together. Fortunately I've been given an opportunity to simultaneously teach research and analysis at Boston College Law School (BCLS). At BCLS, each reference librarian is paired with a member of the writing faculty. The librarians collaborate with the writing faculty to create a course that merges research with analysis.

For example, I use the legal issue from an advocacy writing assignment to teach Boolean and natural language research skills. The issue is whether a psychiatrist has a duty to warn a third party of potential harm from a patient. As part of the assignment, the students must locate cases which describe whether the victim was "readily identifiable" to the psychiatrist.

The students are given the seminal case, Tarasoff v. Regents of Univ. of Cal., 17 Cal. 3d 425 (1976). I expect the students to read the case before my Boolean and natural language class. Also prior to class, the students receive basic instruction on Boolean and natural language searching, and they must complete a research exercise that requires them to write Boolean and natural language searches.

Most students arrive at the class with something like the following for their Boolean search: PSYCHIATRIST /P DUTY /P WARN! /P THIRD-PARTY. I use this search to introduce the concept of using synonyms for search terms. I run the search in the California cases database. The search retrieves two cases, and while both cases are relevant, the leading California case, Tarasoff, is not among them. Why is Tarasoff missing? Tarasoff discusses a "therapist's" duty to warn, not a psychiatrist's.

Using an on-line thesaurus, the students are shown the terms "therapist" and "psychologist" as synonyms for psychiatrist. After adding the terms to our search, I focus the students on the use of the phrase "third-party," and I suggest the term "person." After checking for other synonyms the new search becomes: PSYCHIATRIST OR THERAPIST OR PSYCHOLOGIST /P DUTY /P WARN! /P THIRD-PARTY OR PERSON.

The search retrieves thirty-eight cases and most of these contain a general discussion of the cause of action. At this point I ask the students if there is a way to identify which cases are most relevant. Then I ask them to consider the law in light of the advocacy writing assignment. I focus the students on the element that requires the victim to be "readily identifiable" to the psychiatrist. The use of the phrase "readily identifiable" is terminology the courts consistently use to describe this element. Thus the use of synonyms at this point is inappropriate.

I show the Locate and Focus features on WESTLAW and LEXIS, and have the students find the phrase "readily identifiable" in the search results. I also use a topic and key number from a relevant case to conduct an on-line digest search on WESTLAW.

Taking the time to include the finer analytical points in the research class makes teaching the research skills much more relevant. Students immediately grasp the importance of thinking beyond what is "given" in a fact pattern and can appreciate using synonyms when they search on-line. They also see the value behind closely reading cases and understanding something of the legal analysis before they continue or conclude their research.

By teaching research and analysis together we bring the practice of law into the classroom. After all, attorneys analyze new areas of law and conduct research throughout their careers. "It is not so much in knowing the law as in knowing where to find [and how to analyze] the law.[1]"

Teaching Legal Analysis Using IRAC

"A" IS FOR ANALYSIS, APPLICATION AND ANALOGOUS CASE ARGUMENTS

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Beginning with the first writing assignment in the fall semester, I continue the time-honored mission of teaching brand-new law students "IRAC," or "CREAC," or some other acronym. For those of you unfamiliar with these devices, the basic IRAC form organizes analysis by first presenting the *Issue* in question, then the applicable legal *Rule*, the *Application* of this rule to the given fact situation, and finally a *Conclusion*. Variations abound, including CREAC (*Conclusion/Rule/Explanation of Rule/Application/Conclusion*).

The "A" part ("application") of any of those acronyms is the most challenging to the students, many of whom are being exposed to this type of critical thinking for the first time. The first year that I taught LRW, I just kept repeating the words "apply the law to your facts" over and over, speaking louder and more succinctly each time. Sometimes I would emphasize the words "law" and "facts," and sometimes I would emphasize the words "your facts." Imagine my surprise to receive those first

[1]Hon. Bernard Ryan, Presiding Judge, New York State Court of Claims. (1959)

memos, only to find the "A" part consistently missing in all of them! I finally concluded that I would have to resort to some sort of special teaching method to be of any help to my students.

Although making analogous case arguments is just one tool we use in the application of law to a fact situation, I began my revised mission by focusing on this skill. Although making these types of arguments is relatively easy after a few semesters of issue-spotting exams, students have a hard time articulating these types of arguments in the first few months of law school. My students would cite cases in the "A" section, but would not use the cases analytically or make comparisons to the facts of the cases. I had already learned the hard way that standing in front of them saying "You need to compare the facts of your case to the facts of these cases" was not all that effective. My first challenge was showing students what an argument based on case analogies was and the difference between just citing cases and actually analogizing to them.

The students' memos themselves gave me the tools to begin my task. In looking at their memos, I noticed that the students would state a conclusion about their case, i.e., "Johnny did not assume the risk of being struck from behind with a hockey stick," and then follow that conclusion with a cite to a case discussing assumption of the risk (*Pitcher v. Batter*). I slowly realized that the analysis, the "A" part, was happening in the students' heads. Between the sentence about Johnny and the hockey stick and the cite to *Pitcher*, the students were implying a sentence or two that connected the sentence and the citation. The "silent sentences" explained how Johnny's incident was similar to the incident in *Pitcher*, so therefore the holding in *Pitcher* applied to Johnny. I demonstrated this concept to the students by preparing handouts that first showed conclusory sentences and cites from their own papers, then rewritten paragraphs unpacking the "silent sentences." Ah-hah!

I then devised several in-class exercises to help students start comparing their facts to the facts of other cases. One exercise involves a handout detailing the intricate facts of poor Johnny and the hockey stick. The handout gives the synopses of four other assumption of the risk cases from the mythical jurisdiction, *Pitcher v. Batter, Guard v. Forward, Forward v. Goalie,* and *Punter v. Tackle*. Each case involves a plaintiff who was injured during some type of sporting match and then sought to sue the player who caused the injury. Each scenario is slightly different than Johnny's incident. Two of the cases find for the plaintiff, but two of the cases say that the plaintiff assumed the risk and therefore cannot recover.

I then divide the class so that half represents Johnny and the other half represents the hockey player wielding the stick. After 10-15 minutes of reviewing the case law, Johnny's team must tell me how Johnny can recover, using two of the cases. I ask them what cases are good for Johnny and why. Johnny's team must articulate which of our facts are so similar to the facts of those two cases that a court would have to decide Johnny's case the same way. Then, the other side tells me how Johnny cannot recover, using two of the cases. Again, the defendant's team must be specific about why this scenario is factually similar to the cases in which the defendant prevailed. Then, Johnny's team distinguishes the other two cases, and vice versa.

The most enjoyable part of the exercise is to watch the students in the huddle. The students actually become advocates and start making very precise and creative comparisons and distinctions. I then bring the class back to our original sentence: "Johnny did not assume the risk of being struck from behind with a hockey stick. *Pitcher v. Batter*." The students now know how to unpack the silent sentence that contains the analogy and show the analysis of the case law. This analytical step eventually emerges in the all-important "A" section.

Applying the Law to the Client's Situation to Predict the Future Court's Result

THE APPLICATION PROCESS

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Although students arrive at law school knowing little about how to apply the law to certain facts, they do know quite a bit about how to apply to law school. Every law student has been in the position of trying to convince the admissions committee that he should be admitted. I use an example for legal writing application that capitalizes on students' expertise in law school application. Besides using an example that the students know about, talking about the admissions process reminds students that they have already accomplished something significant in being admitted to law school and takes some of the focus off the difficulty they may be having in legal writing.

I use this example in conferences for students having a difficult time understanding the need for applying a legal rule to facts or the process of doing so. However, the example can be easily converted to an in-class exercise. Many law students have a tendency when they are first learning legal analysis to assume that a rule has only one meaning - the one that the court has assigned it - and that elaboration on the rule is unnecessary. In a student's mind, you need only state the rule and conclude that your facts are or are not governed by that rule. This example is designed to help students understand that rules are not self-explanatory and that analogy to cases involving that rule can be a critical component in explaining the application of a rule to a specific set of facts.

I ask the student to imagine that she is a member of the law school admissions committee. I am a current student who has come to her to persuade her to vote

for the admission of a friend of mine. We assume for this exercise that the only admissions requirement (the "rule") is being a good student.

First I say, "The admissions committee admits good students. Therefore, you should admit my friend." I ask the student if she's ready to admit my friend. She says no, and I ask why. The student can usually articulate that my conclusion doesn't relate directly to my rule - my rule is about the admission of good students, but my conclusion is about the admission of my friend. I haven't linked the two.

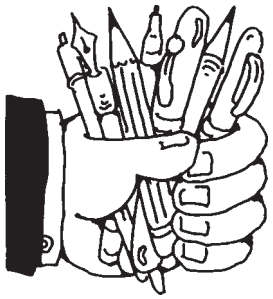
So, I try again: "The admissions committee admits good students. My friend is a good student. Therefore, you should admit my friend." I ask the student if she's ready to admit my friend yet. Again, she says no, and I ask why. The student can usually articulate that being a good student may not mean the same thing to me as it does to the committee; an example of someone I believe is a good student and who has met their criterion in the past would be helpful.

Next, I say, "The admissions committee admits good students. I was admitted to the law school; therefore, I must be a good student. I had a 3.7 GPA and scored in the 95th percentile on the LSAT. I was the president of two undergraduate student organizations and a member of student government. My friend is like me. Therefore, you should admit my friend." I ask the student if she's ready to admit my friend yet. The student will probably say no. If she agrees to admit my friend, it will probably be with some reservation. The student can probably articulate that I've demonstrated that we have the same idea of what makes a good student but that she would like to have information about my friend similar to the information about me. So, I begin again, this time giving information about my friend similar to the information I gave about myself but not expressly comparing our characteristics. I ask if my friend gets in yet. She'll probably say yes.

I then tell the student that, even though she found my argument adequate, I think I can do even better. "My friend should be admitted to this law school. The admissions committee admits good students. I was admitted to law school; therefore, I meet that requirement. I had a 3.7 GPA and scored in the 95th percentile on the LSAT. I was the president of two undergraduate student organizations and a member of the student government. Like me, my friend had a GPA above a 3.5. In addition to a similar GPA, she has an LSAT score in the 96th percentile. She, too, was the president of two undergraduate student organizations and surpassed my position in student government by holding office." The student usually begins nodding about half way through and agrees that it would be difficult to justify denying admission to my friend. I've not only elaborated on the meaning of the rule, I've given specific facts about a prior "case," given specific facts about the new "case," and expressly compared them to one another.

By then, the student sees why it's important to do a full application of the "law" to the facts. The student has seen that the law alone is not sufficient to draw a conclusion. You must instead first elaborate on the meaning of the rule by giving an example of how it was applied. Then, you can best demonstrate how the law should apply to your specific facts by drawing parallels between facts the court has already ruled on and your facts.

I usually wrap up the example by pointing out which parts of my argument correspond to the parts of legal analysis that we've talked about in class. (Although we use CREAC for legal analysis, the components are similar for most teaching methods.) My conclusion, stated first, is that the admissions committee should admit my friend. The rule is that the admissions committee admits good students. The explanation of that rule is given through my characteristics - characteristics that have previously met the standard of "good student." Next, the rule is applied to the new facts by explicitly comparing the previous facts (my characteristics) to the new facts (my friend's characteristics). Finally, I restate my conclusion that my friend should be admitted to law school. You can go through the entire example as an illustration, or you can specifically contrast different parts of the example, depending upon which part of legal application is most troublesome to your student.



METHODS FOR TEACHING LEGAL ANALYSIS: A DEMONSTRATION OF HOW TO HELP STUDENTS TURN THE FACTS OF A CLIENT'S CASE INTO GOOD LEGAL ANALYSIS

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A common frustration for LRW professors centers around getting first-year students to construct fully developed analysis sections in their written memoranda and brief assignments using the facts of a client's case. One area that first-year students typically overlook is understanding when and how the facts of the client's case should be used to predict the outcome of the case.

This issue tends to be problematic in the fall semester with the intra-office memoranda because students arrive at law school thinking in a persuasive way. They look at a set of facts and only envision the client's position but are unable to grasp how the same facts can be used to predict an alternative outcome within the same document. They seem to believe that once they use a fact for one position, that fact cannot be used in other sections or for counter analysis.

Moreover, first-year students find it difficult to envision how the facts of a client's case can build on each other to create a good legal prediction or analysis.

They ignore some facts because they do not see the utility of using them and instead only focus on the obvious ones. This practice underlies the development of bad writing habits during LRW in the fall, as well as in the spring semester as students overlook important facts that can make a good analysis a great analysis. It also shows up in final exams in other first-year courses when students are writing under time constraints.

Thus, the fall semester in LRW focuses on orienting first-year students to the objective memorandum format. The objective format forces students to recognize that a factual statement may be used more than once and for opposing positions within the same document in order to make a prediction on the outcome of a client's case. In other words, students must learn to take a broader view of the legal issues as if, in fact, they represent the client and the client's opposition. The objective format also forces students to combine factual statements to effectively apply the law to all of the relevant facts.

One solution that I developed to assist my students in this area requires them to highlight the facts that support a prediction of each potential legal outcome. The goal of this assignment is to teach students the different ways to use facts to make an effective and fully developed analysis or objective prediction. In essence, it teaches them how to apply the law to the facts.

Prior to class, ask the students to bring two highlighters of different color with them for the exercise. Then, at the beginning of class, have them pick up two copies of the fact pattern that you will use in class that day. On the first copy of the fact pattern, have the students highlight all of the facts that they would use to support an argument in favor of the client. Whether you prefer the term analysis or objective prediction, it is particularly important to refer to the analysis as "arguments" at this point because it is a recognizable term with which the students identify.

Once the students have completed the task, go over the exercise with them and discuss which facts that they highlighted and why. Doing so will assure that they understand the point of the exercise. Using a projector and transparencies to show the highlighted facts will make this exercise easier for you to use and provide a visual stimulation for the students. It also allows the confused students to catch up and realize where they may have gone astray.

Next, ask the students to take out the clean copy of the fact pattern. This time, they should use a different color highlighter to highlight the facts that they would use to make the opponent's argument. Again, go through the facts that they have highlighted with them, but on a separate transparency.

Let's suppose that your first transparency was highlighted with a yellow marker and the second one with a blue marker. You can then place the two transparencies on top of each other to show how the facts highlighted in what is now the color green, are the overlapping facts.

At this point, you have a teachable moment. There will be many questions about how you could use the same fact more than once and for different purposes. Thus, you can show the students that some of the facts they used for the client's position also could be used for the opposing argument and discuss the reasons why.

It is also at this point that you can alter the term "arguments" and place the exercise in the context of a memorandum to show the students how they constructed the analysis and counter analysis for the memoranda assignment to predict the outcome of the client's case. Not only will the analysis be more fully developed, but the students can begin to mentally convert "arguments" into analysis under the memoranda format for subsequent assignments. Also, the exercise may be instrumental in teaching those students who learn by visual stimulation. As an added bonus, you have shown the students how they can employ this technique on their own for future assignments.

This strategy is an example of a technique that works well in the spring for transitioning into brief writing as well. It provides a nice introduction to factual emphasizing and de-emphasizing as a skill for writing the statement of the case. On a final note, there are other variations of this technique that you can try. It is always good to have techniques that you can use more than once!

Other Interesting Ideas for Teaching Legal Analysis

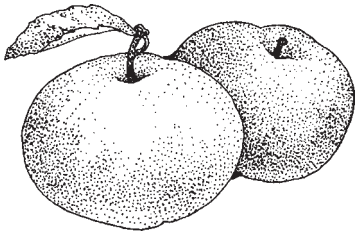
FROM GROCERY TO COURTHOUSE: TEACHING ANALYTICAL SKILLS TO FIRST-YEAR LAW STUDENTS

Suzanne E. Rowe and Jessica Enciso Varn
Florida State University College of Law

In the first few weeks of law school, students need to grasp quickly the concepts of case briefs, analogical reasoning, the court system, and case synthesis. We use the following exercises in several classes to convey these critical concepts through class discussion and role playing.

In the second week of class, we introduce students to our version of the "grocer" exercise presented by Charles Calleros at the 1998 Legal Writing Institute Conference at the University of Michigan.[1] "You work for a grocer who is about to leave on vacation. Before leaving, the grocer puts you in charge of window displays. The grocer tells you the point of placing various fruits or vegetables into

[1]See Charles R. Calleros, *Reading, Writing, and Rhythm: A Whimsical, Musical Way of Thinking about Teaching Legal Method and Writing*, 5 Legal Writing: The Journal of the Legal Writing Institute 2, 10-11 (1999). The inspiration for Professor Calleros's demonstration was an exercise developed by Elisabeth Keller at Boston College Law School. *See id*. at 8-9 and n. 12 (citing Jane Kent Gionfriddo, *Using Fruit to Teach Analogy*, The Second Draft (Legal Writing Inst., Seattle, Wash.), Nov. 1997, at 4.



the window is to attract customers. The grocer puts a red apple in the window, but puts a brown potato in the produce bin near the back of the store. Then the grocer leaves." We accompany this short story with visual aids. An apple sits on top of the lectern, a potato rests below on a table. "The next day," we tell our students, "a shipment of limes arrives. Do the limes belong in the display window or in the produce bin?"

Because most new law students are uncomfortable with the uncertainty they feel as they begin legal analysis, we remind them that the grocer will not return from vacation for two weeks. The grocer is hiking in a remote rain forest and cannot be reached by telephone, fax, or e-mail. The students must use their analytical skills and trust their own judgment.

Case briefs

We use the initial discussion to reiterate points made in previous classes about briefing cases. We point out that the question about where to place the lime is an "issue." When a student says that the lime the teacher is holding goes in the window, the teacher notes that the student has given a "holding." Then the teacher asks for "reasoning." One obvious reason is that apples and limes are fruits. The teacher follows up by asking if that reasoning is consistent with the "policy" of attracting customers into the store.

Analogical reasoning

We press students to give many reasons for their decisions to place the lime in the display window or in the produce bin.

"Both the lime and the apple are bright colors."

"The lime and the apple are about the same shape."

"The lime should go with the potato because they both require some form of preparation before they can be eaten."

We point out to students that what they are doing is called "analogical reasoning." To link this exercise to the rest of the curriculum, we remind them of situations in torts classes when the teacher asked the students to compare a case from the textbook to a hypothetical situation. We mention their first memorandum assignment, in which they will have to apply cases by analogy to a client's situation.

We also note that analogical reasoning is different from, and more difficult than, the work they may have done as undergraduates. Deciding where to place another apple would require only memorization and regurgitation. Legal analysis will require them to answer questions that they have not seen before and that do not have clear answers.

Court system

In the next class, we use the grocer example to demonstrate the Florida court system.[2] At the beginning of class, one student is named a trial judge.[3] The issue of lime placement comes before her court. The only helpful precedent concerns the apple and the potato. She must decide whether the lime goes in the window or the bin, and she must set out her reasoning.

Her decision is appealed. The First District Court of Appeal is comprised of three students sitting near the circuit judge. They must decide whether to affirm or reverse and give their reasons. If one judge reaches the same conclusion as the other two but gives a different reason, we discuss concurring opinions. If one judge disagrees with the conclusion of the others, we discuss dissenting opinions.

Then a trial court judge in a different part of the state is faced with the same question. Under Florida case law, that judge must decide his case consistently with the First DCA. When the case is appealed to the Second DCA, however, that court is not bound by the earlier decision of the First DCA.

Ultimately, the case is appealed to the Florida Supreme Court, either to resolve a split that has developed among the circuits[4] or to resolve a matter of great public importance.[5]

Synthesis

The final class in this series teaches students to synthesize several cases to develop a single rule of law. We jump forward to a time when several cases have been decided by the Florida Supreme Court. We summarize the following cases for the class:

1. The green apple belongs in the window display because it is a fruit of vibrant color.

2. Despite the banana's vibrant yellow color, the banana cannot be placed in the window. According to grocer customs, window displays must last for one week. Since bananas exposed to the sun will turn brown in less than one week, bananas cannot go into the window display.

3. The orange does not go into the window display because customers cannot bite into an orange. Fruits that go into the window display must require no preparation before eating (e.g., no peeling).

4. The vibrant purple eggplant belongs in the produce bin because it is not a fruit.

Students synthesize these cases into a rule that they can apply to other produce: "A fruit of vibrant color belongs in a window display as long as it does not perish within

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[2] Before the class, students have read *State v. Hayes*, 333 So. 2d 51 (Fla. 1976), which explains *stare decisis*.

[3] In the Florida court system, circuit courts are trial courts, while district courts of appeal are the intermediate appellate courts.

[4] See Art. V, § 3(b)(3), Fla. Const.

[5] See Art. V, § 3(b)(4), Fla. Const. (this rule usually provides a moment of comic relief to the class).

a week and does not require preparation before it can be eaten. All other produce must go into the bin."

To apply this synthesized rule, students are asked whether cauliflower can be placed in the window. Some students may debate whether cauliflower is a fruit. Most will agree it does not perish quickly. Other students will wonder whether cutting off the florets is sufficiently similar to peeling an orange to be considered preparation. Everyone should agree that, because white cauliflower it is not vibrant in color, it cannot be placed in the window display.

Then the Florida Supreme Court decides another case, holding that a carrot and a green pear go into the window display because now either fruits or vegetables can be in window displays. The court goes on to explain that the weekly display custom has changed; now window displays are changed daily. The rule synthesis then changes because two of the original requirements have changed. The students notice that, when synthesizing a rule, they need not include portions of the rule which have been overruled by later decisions. Thus, the students do not need in the rule synthesis both (a) window displays must last for one week and (b) window displays must be changed daily. The synthesized rule changes to the following: A fruit or vegetable of vibrant color may be in a window display as long as it needs no preparation prior to eating.

Conclusion

The fact pattern for the exercises is simple, allowing all students to begin the semester with confidence. These short exercises build on each other, emphasizing recursive learning. We find that students refer back to the lime example throughout the first semester, showing what an impact it had on their early analytical development.

TEACHING LEGAL ANALYSIS IN COMPONENTS

Melissa Weresh.
Drake Law School

I would love to report that I have an excellent, concise, illustrative lecture that walks my students through legal analysis. Unfortunately, I am unable to do so. I find that I understand concepts more easily when they are broken down into discrete components. I therefore present legal analysis as a process made up of components that students must comprehend individually. For example, we first discuss the question presented, which requires an understanding of the specific legal question framed in the context of the particular facts and applicable source of law. Next we focus on how to apply a given legal rule to a set of facts. Once the students understand application of law to fact, they must master the process of extracting the legal rule from a single case. This requires an understanding of the difference between the holding and dicta, and the realization that the holding is often implicit, rather than explicit. Finally the students must learn how to integrate the holdings from a number of authorities to discern a legal principle. We discuss each component in class and the students then complete a writing assignment that requires them to utilize skills inherent in understanding the component. As the semester progresses, the students must integrate the components to master the process of legal analysis.

A. The Question Presented: Understanding the relationship between the source of law, legal test and facts. We begin the fall semester with a discussion of questions presented. We use the "under/does/when" format discussed in *The Legal Writing Handbook*, 2d. ed. by Oates, Enquist and Kunsch. The format illustrates three necessary ingredients of legal analysis: 1) the general source of law; 2) the specific legal question; and 3) the specific facts of the issue to be analyzed. In addressing a legal problem, students recognize they must first identify a general source of law, be it statutory or common law, state or federal. They must also be able to articulate and thereby research the specific legal question. In completing the appropriate research, students recognize they must identify the critical facts and how they relate to the legal question. I believe the question presented exercise, although straightforward, provides critical context for and introduction to legal analysis.

B. Simple Application of Law to Fact. The students next prepare a relatively simple reasoning exercise. They are given a fact pattern and a statute and asked to apply the law to the facts to predict a result. This exercise requires simple application but provides a good basis for a discussion on organization of legal analysis and how that organization is driven by the structure of the applicable legal rule.

C. Culling the Applicable Legal Rule from a Case. The next component the students must master is locating and articulating the legal rule. They begin this endeavor with a research note in which they are given a specific source, such as American Jurisprudence, and asked to locate a case which provides a rule applicable to a particular fact pattern. This requires an understanding of the authority that is on point, and the ability to distinguish between a case with merely similar facts and one which applies a relevant legal rule. Moreover, the students must cull the rule from the authority, which often requires that they go beyond simply looking for the holding. Rather, they must articulate the legal test from the case based not only on the court's express statements and reasoning but also on the facts upon which the court ruled.

D. Integrating Legal Authorities. The students then proceed to integrating legal authorities. They first practice this component in a closed memorandum format in which they are given a fact pattern and two authorities. The authorities are typically competing, meaning they compel different results when applied to the given facts. They must identify the rule from each authority. They must then integrate the rules by either synthesizing or distinguishing to

provide an overall legal principle to apply to the fact pattern. Next the students complete a second research note which requires that they locate two cases from two different sources, such as American Law Reports and an encyclopedia. They therefore become familiar with two additional sources and must build on their rule identification, integration and application skills. Finally the students prepare the open memo problem which clearly requires that they be able to locate the appropriate sources, cull the specific legal rules from those sources, integrate the rules and apply the legal principle to the facts.

While this staged process is not perfect, I believe that it particularly helps the student who is overwhelmed by the first year of law school. One of the most frustrating aspects of the first year seems to be a lack of context and a corresponding inability to understand seemingly straightforward concepts. An additional obstacle that legal writing faculty must overcome is resistance to feedback. I believe this resistance stems from an inaccurate perception on the students' part that they are being asked to simply demonstrate writing concepts that they mastered prior to law school. By breaking the process of legal analysis into discrete components, the student is provided additional context. Student difficulties are easier to diagnose and address. Finally, students can better understand that they are mastering and integrating new skills, so that instructor feedback is better tolerated.

Legal Analysis and Advocacy

LEGAL ANALYSIS IN 100 WORDS OR LESS—USING THE LAW AS AN ADVOCATE

Catherine J. Wasson
Widener University School of Law, Harrisburg

We spend so much time during the first semester trying to help our students acquire the basic skills needed to build a sound legal analysis. We work painstakingly through case briefing and the articulation of legal rules in their various forms. We show students how to discern the elements of a rule and determine which elements are at issue. We work on simple and complex reasoning skills such as case comparison, case synthesis, and branch point analysis. We make elements charts, flow charts, factors charts, and outlines. Then, just as they are starting to get a handle on all of this, along comes second semester, with its typical shift from advisory writing to advocacy writing. This shift in purpose as a writer can be difficult for many students, because they often confuse advocacy with emotionalism—with unfortunate results for the quality of their analysis.

It is a problem I see every year: just when students begin to understand what they must do and how to do it, it becomes evident that many don't really know why. Thus, when we shift the focus to advocacy writing, they have trouble finding the essence of their case—the solid analytical core that compels an emotionally satisfying resolution. Although most students easily grasp the emotional power of their client's story, they often feel restricted by the methodical, step-by-step approach to analysis learned during the first semester, believing that such objective plodding through the law is somehow inconsistent with the role of "zealous advocate."

Last year, my second semester class was struggling with a motion practice problem. It had lots of juicy facts, and was analytically rather complex. In an effort to force my students to really think about the essence of their case, I divided the class into small groups of plaintiff's or defendant's advocates. I then gave each group twenty minutes to write its argument in one hundred words or less. My students claimed that this was an impossible task. I assured them that it was not, and pointed out that the clock was ticking. A period of intense debate within each group followed, as they tried to figure out which points they absolutely had to get across to the judge. They struggled to find the best reasons supporting each point. They argued about the most effective placement of each idea. They wrangled over each fact in search of the most relevant. As they worked, I heard remarks like: "We can't argue that unless . . ." "We need a hook." "The judge needs to know . . ." "That takes too many words!" In the end, the groups produced relatively cogent statements which articulated the real heart of their case. They linked their assertions to key legal principles and facts. They used simple, expressive words. And for the rest of the semester, we were able to draw on their new, deeper understanding of the "essence" of their case.

In their written work, I saw improvements in almost every section of their motion memoranda. Questions Presented and point headings reflected a much better understanding of the purpose of those components, and were more likely to be concise and forcefully phrased. Point headings, in particular, were more focused than I had come to expect, and reflected the steps in the student's analysis more clearly. Statements of Facts contained fewer irrelevant facts, and key facts were used more effectively in the Argument sections. Overall, there was a greater cohesiveness to these papers, a stronger sense of purpose.

As students prepared for and delivered their oral arguments, I found it much easier to explain how to develop a theme or theory of the case. They had less difficulty crafting strong opening and closing statements. Compared with past classes, many students seemed to find it easier to respond to questions from the bench without becoming unduly rattled, and were better able to make smooth transitions between the various parts of their outlines in response to questions.

I received more positive student comments on this exercise than on almost any other in-class project I have done. The most frequent comments related to increased confidence: students said that the exercise helped them to appreciate just how much they really knew about their case. One student said he was less anxious about oral argument, because "I know what's important." As a teacher, it helped me to show my students that sound analysis is compelling, and will bring a client's story to life.

News

ELECTION OF NEW MEMBERS TO LWI BOARD OF DIRECTORS

Congratulations to the new LWI Board members who were elected this spring!

The new LWI Board members who will serve from 2000-2004 are: Colleen Barger (University of Arkansas-Little Rock), Mary Beth Beazley (outgoing President) (Ohio State), Joan Blum (Boston College), Davalene Cooper (New England), Steve Johansen (Treasurer) (Lewis and Clark), Maureen Kordesh (John Marshall), Susan McClellan (Seattle University member), and Katy Mercer (Case Western Reserve).

These new members will join the Board members whose terms expire in 2002: Jane Gionfriddo (incoming President) (Boston College), Jan Levine (Temple), Laurel Oates (Seattle), Debbie Parker (Secretary) (Wake Forest), Terry Seligmann (University of Arkansas-Fayetteville), Helene Shapo (Northwestern), and Lou Sirico (Villanova).

Thanks for all the hard work by outgoing Board members whose terms expire in July, 2000: Steve Jamar (Howard), Terri LeClercq (University of Texas), Marilyn Walter (Brooklyn) and Mark Wojcik (John Marshall).

Thanks also to Lori Lamb and Debbie Parker who checked the eligibility of voters and counted all the votes.

—Kathleen Elliott Vinson and Jane Kent Gionfriddo, Co-Chairs of the Election Committee

* *

Darby Dickerson (Stetson) was awarded tenure in October 1999 and was promoted to Associate Dean for Academic Affairs in January 2000. She gave several presentations at the National Conference of Law Reviews, March 22-25, 2000 and also served as Faculty Advisor for the Conference.

K.K. DuVivier was recently hired by the University of Denver College of Law to direct its Lawyering Process Program. After 10 years as an instructor at the University of Colorado School of Law, K.K. is excited to make this move to a tenure-track assistant professor position.

In February, **Diane Penneys Edelman** was appointed Co-Director of Villanova's Legal Writing Program, moving her from a capped position to an uncapped one. She is currently Chair-Elect of the AALS Section on International Legal Exchange.

In the 2000-01 academic year, **Lisa Eichhorn** will be starting a new position as an Associate Professor at the University of South Carolina College of Law, where she will direct the school's Legal Writing Program and teach other courses.

Scott Fruehwald has accepted a position as Legal Writing Instructor at Hofstra University.

Sue Liemer becomes the Director of the Lawyering Skills Program at Southern Illinois University School of Law this summer.

Ellie Margolis was promoted from Assistant to Associate Professor at Temple.

Ruth Morton, who has been teaching Legal Writing at Wake Forest since 1990, has been appointed as Co-Director of the Legal Writing Program at Wake Forest Law School.

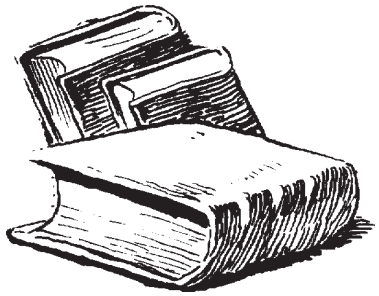
Debbie Parker, who has been Director of Legal Writing at Wake Forest Law School since 1988, has been appointed Assistant Dean of Students at Wake Forest Law School. Debbie will also co-direct the Legal Writing Program with her friend and colleague, Ruth Morton.

Debbie Perschbacher, Director of Legal Process at McGeorge School of Law, has accepted a full-time appointment as a Lecturer in Law at the University of California, Davis. At UCD, she will teach Professional Responsibility, Pretrial Skills, and Negotiations. For the 2000-2001 year, she will also continue to teach half-time at McGeorge, where she will teach Civil Procedure.

The faculty of University of Arkansas (Fayetteville) has recommended that **Terry Seligmann** be appointed to the rank of Associate Professor.

Suzanne Rowe, currently teaching legal writing at Florida State, will become the Director of Legal Research & Writing at University of Oregon School of Law.

Mark E. Wojcik (John Marshall) was nominated by The John Marshall Law School Alumni Association to receive the Distinguished Service Award for his work with Professor Ralph Ruebner on the case of two American women who were in prison in Peru. As part of a human rights seminar that they co-taught, the professors brought proceedings on behalf of the two women before the Inter-American Commission on Human Rights. Professor Wojcik traveled to Peru last November to represent the women at the hearing at which they were finally transferred back to the United States under the U.S.-Peru Prison Transfer Treaty. He received the award at a special program on May 19.



Publications

Recent publications by **Darby Dickerson**: Association of Legal Writing Directors & Darby Dickerson, *ALWD Citation Manual: A Professional System of Citation* (Aspen L. & Bus. 2000); *Deposition Dilemmas: Vexatious Scheduling and Errata Sheet Changes*, 12 Geo. J. Legal Ethics 1 (1998) (to be reprinted in an forthcoming issue of the Defense Law Review); *Scheduling Depositions: What Is Reasonable Notice?*, ABA Section of Litigation, Pretrial Discovery Newsletter, Fall 1999; and *In re Moot Court*, 29 Stetson L. Rev. ___ (forthcoming Spring 2000).

Greenwood Publishing Group has accepted for publication **Scott Fruehwald**'s book, *Choice of Law for American Courts: A Multilateralist Method*.

Terri LeClercq, University of Texas writing specialist, has recently published two articles in the Journal of Legal Education: *Failure to Teach: Due Process and Law School Plagiarism* (June 1999) and *The Seven Principles of Legal Education: Feedback* (September 1999). In addition, her second edition of *Guide to Legal Writing Style* (Aspen) appeared in February, 2000.

Jim Levy's articles, *Escape to Alcatraz: What Self-Guided Museum Tours Can Show Us About Teaching Legal Research* will be appearing in 44 N.Y.L. Sch. L. Rev. (forthcoming late summer/early fall 2000) and *Legal Research and Writing Pedagogy - What Every New Teacher Needs to Know* will be appearing in Vol. 8, No. 3 of *Perspectives* (forthcoming June 2000).

Ellie Margolis's article, *Beyond Brandeis: Exploring the Uses of Non-Legal Materials in Appellate Briefs*, was published at 34 U.S.F. L. Rev. 197 (2000).

Herbert N. Ramy (Suffolk) and **Samantha Moppett** (Arizona State) recently completed a book entitled *Navigating the Internet: Legal Research on the World Wide Web*. The book offers a concise and enjoyable discussion of the Internet for both law students and legal practitioners and helps make the Internet a resource that both computer experts and computer neophytes can use to their advantage. William S. Hein and Co., Inc. will publish the book by June of 2000.

Terry Seligmann of University of Arkansas (Fayetteville) has two articles to report: *Beyond "Bingo!": Educating Legal Researchers as Problem Solvers*, 26 Wm. Mitchell L. Rev. 180 (2000), and *Not as Simple as ABC: Disciplining Children with Disabilities Under the 1997 IDEA Amendments*, 42 Ariz. L. Rev. ___ (forthcoming Spring 2000).

Amy Sloan's book, *Basic Legal Research: Tools and Strategies* was published by Aspen in early 2000. For a review of the book by Joan Shear of Boston College, see the Spring 2000 Newsletter of the AALS Section on Legal Writing, Reasoning, and Research.

Mary Rose Strubbe, Associate Professor of Legal Research and Writing and Assistant Director, Institute for Law and the Workplace at Chicago-Kent College of Law, is the principal author and editor-in-chief of the 1999 Cumulative Supplement to Lindemann & Kadue's treatise, *Sexual Harassment in Employment Law*, published in December 1999 by BNA.

Cliff Zimmerman of DePaul published *Thinking Beyond My Own Interpretation: Reflections on Collaborative and Cooperative Learning Theory in the Law School Curriculum* in 31 Arizona State L. J. 957 (1999).

Staying in Touch

Keep Your Address Current

Please contact Lori Lamb, The Legal Writing Institute, if your school or email address has changed so that Lori can keep the LWI address list and LWI listserv, lwinet, up-to-date. Call Lori at (206) 398-4033 or email her at <llamb@seattleu.edu>.

Conferences and Meetings

LEGAL WRITING INSTITUTE TO HOLD NINTH BIENNIAL CONFERENCE IN SEATTLE, JULY 19-22

The Biennial Conference of The Legal Writing Institute will be held at Seattle University School of Law from Wednesday, July 19 through Saturday, July 22, 2000. Brochures have been mailed; if you want one, but did not receive one, please contact Lori Lamb at <llamb@seattleu.edu> or at (206) 398-4033.

Conference highlights include the Plenary Session, at which Richard Zitrin and Carol Langford will speak on "Ethical Issues Facing New Lawyers"; the Basics Track, of particular interest to newer teachers (advance registration required for the Basics Workshop: Critiquing Student Work); the Technology Track, of interest to anyone who wants to be up-to-date on using computer technology in law teaching; the Advanced Skills Workshop, on the Multistate Practice Test; and the Scholarship Workshops, at which five LRW scholars will lead round table discussions of their works in progress.

And, don't forget the evening fun! Thursday night will include the traditional Talent Show (contact Joe Kimble at <kimblej@cooley.edu> if you'd like to participate) with music and dancing to follow. Friday night will be a picnic followed by a Mariners game at the new Safeco field. Saturday will offer a reception in the afternoon with optional activities in Seattle that night.

ALWD MEETING

The next ALWD full membership meeting will be held Wednesday, July 19, 12:30 - 4:30 p.m., in the Campion Ballroom on the campus of Seattle University. ALWD will be celebrating its 5th anniversary, taking time to reflect on the organization's accomplishments to date, and looking ahead at plans for future projects.

NOTRE DAME COLLOQUIUM ON LEGAL DISCOURSE JUNE 25 - 30, 2000

Five days in an intimate setting with five nationally known scholars: James Boyd White, Peter Goodrich, Martha Nussbaum, Jack Sammons, and Steven Mailloux. Mary Beth Beazley calls it "scholarship summer camp!" Contact Terry Phelps (Notre Dame) or Linda Edwards (Mercer) for more information.

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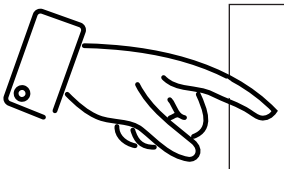

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