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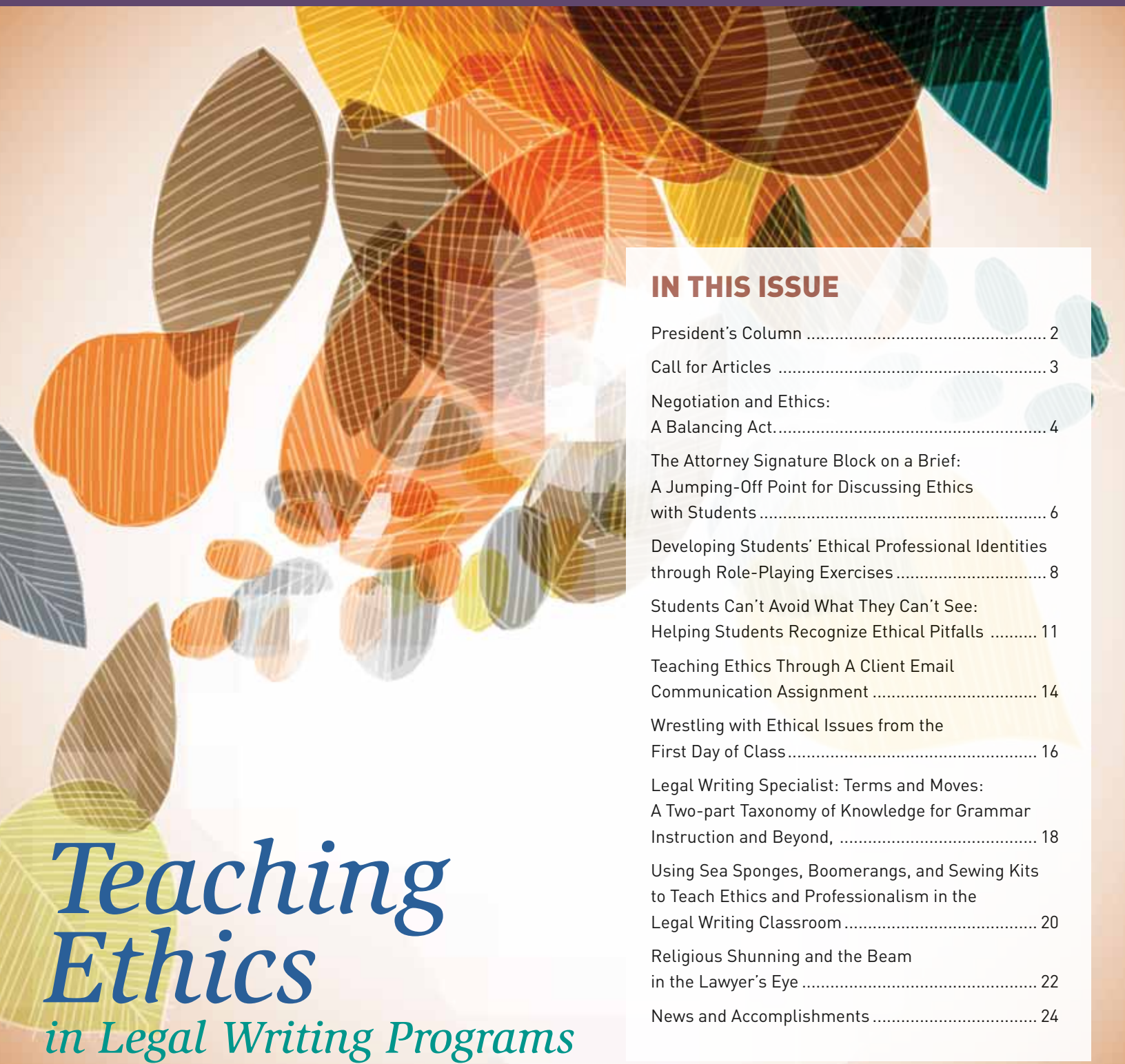

Teaching Ethics
in Legal Writing Programs

IN THIS ISSUE

The President's Column

Melissa Weresh

In his last President's Column, Ken Chestek noted that "[i]t is an interesting time to be a legal writing professor." Indeed, Fall 2012 is an interesting time to be a legal writing professor and, as importantly, to be a member of the legal writing community.

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

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

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

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

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

Call for Articles

Call for Articles – Winter 2012 Edition

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

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

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

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

All Program News and Announcements should be submitted using the following format:
[Name], [School], [Brief description of news, publication, or accomplishment].

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

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

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

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

If you have any questions, please contact us at thesecondraftlwi@gmail.com or one of the editors.

Negotiation and Ethics: A Balancing Act

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

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

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

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

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

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

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

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

The Attorney Signature Block on a Brief: A Jumping-Off Point for Discussing Ethics with Students

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

I love to see the looks on my students' faces on the first day of the spring semester when we peruse a sample brief, and they turn to the last page and see the line where the attorney signs his or her name. The students' eyes widen as they realize, "I'm going to have to sign my own name to what I write to the court? What if I'm wrong about something I wrote?" When writing legal research memoranda in the fall, 1L students garner some level of comfort knowing that the law firm partner or senior associate—their immediate audience—provides a cushy buffer between the student/law clerk and the outside world, someone to vet their legal analysis before it goes prime-time. But brief-writing becomes a whole new ball game when the students realize that someday, they will have to scrawl—whether handwritten or electronically—their own autograph across that signature line before their written work leaves their office making its way to the judge's hands.

In conjunction with a brief's signature block, Rule 11 of the Federal Rules of Civil Procedure provides a nice concise vessel for discussing all three of the abovementioned ethical issues in brief-writing: research, facts, and tone. Rule 11(a) states that "Every pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney's name . . . ." This is non-negotiable; Rule 11 provides "[t]he court must strike an unsigned paper . . . ." Further, Rule 11(b) summarizes three representations that lawyers make to the court with every signature. First, under Rule 11(b)(2), a signature verifies that "the claims, defenses, and other legal contentions are warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law." Second, according to Rule 11(b)(3), the signature confirms that "the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery." Third, under Rule 11(b)(1), the attorney's signature indicates that the written work product "is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation."

A classroom ethics discussion can start by breaking down each part of Rule 11(b). First, students start to understand that to be an ethical lawyer, they need to conduct thorough legal research, which is the basis of Rule 11(b)(2). Students need to grasp the importance of not stopping at the "easy yes" answer or the "easy no"—just to complete the research assignment—but instead using research strategy worksheets and redundancy techniques to make sure they understand all the strengths and weaknesses of the client's position under the law. For example, by researching a legal issue several different ways—such as starting with secondary sources and working toward statutes and case law, and then starting over again with case digests or annotated statutes and arriving at the same overall pool of results—students learn how to synthesize the results to ensure they understand the complete legal rule, and are not relying on a single rogue case that does not accurately reflect the law. Learning how to Keycite/Shepardize legal sources is also critical for students to double-check to make sure their "existing law" is sound and not outdated. An "older" case might contain great language for the client's position, but if it has been overturned or superseded, the students are not doing the client any favors by citing it. Students often marvel at the second half of Rule 11(b)(2)—that they can present "a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law." They ask, "you mean WE can help make new law?" They start to comprehend the power of legal research; the more thorough their research, the more they are likely to develop legal theories that might not have been available at first glance. The "easy no" for their client might transform into a "maybe" or even a "yes"—an example of zealous but ethical representation.

In tackling the difficult task of writing facts persuasively but accurately, Rule 11(b)(3) also provides guidance. In class, students can discuss the ethical permissibility of using persuasive brief-writing techniques in organizing "good" and "bad" facts, highlighting strengths, and explaining weaknesses, but always making sure they have "evidentiary support." This can lead to a lively discussion of ethics in other areas of daily life, such as advertising and politics where "facts" are often muddled. It is useful to banter about Aristotle's three methods of convincing—reason (logos), ethics (ethos) and emotion (pathos)—and how reason and emotion do not get an attorney very far if he or she lacks credibility. To practice writing facts persuasively, I often give my students a series of short fact patterns (i.e., an assault between a boyfriend and girlfriend, a car accident, a corporate fraud, an animal attack), and then instruct the students to describe the same event from two completely opposing points of view. Students must use descriptive nouns, adjectives and verbs to "tell the story" from opposing sides. Students become fidgety, feeling like flip-flopping politicians talking out of both sides of their mouths. We consider how to present client facts passionately but without changing the truth of the event.

Finally, we discuss the need to make ethical and professional language and tone choices in the written word as required by Rule 11(b)(1). As attorneys, our word—whether written or oral—is our vessel of communication to convince a judge, jury, or opposing counsel to believe our client's position. Passionate advocacy, through persuasive tone and language choices, can make all the difference in achieving the results our clients seek, but abuse of the written or oral word by "going too far"— writing a brief for an "improper purpose," such as to harass opposing counsel, delay a case, or churn litigation costs — certainly will undermine a lawyer's hard work. This can be a fine line to walk; it might help students to understand the effect of tone on their audience's perception by experimenting with writing persuasive sentences several different ways using different types of vocabulary—some acceptable and some not.

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

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

Overall, starting a classroom ethics conversation with a concept as rote as the students' own autographs—which they have probably scribbled thousands of times in their lifetime—is a nice catalyst for getting students thinking and talking about ethics in advocacy and the type of advocate, legal writer, and overall lawyer they want to become. ■

Developing Students' Ethical Professional Identities through Role-Playing Exercises

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The Carnegie Foundation's *Educating Lawyers: Preparation for the Profession of Law* encourages law schools to take an active role in the professional identity formation of their students.[1] Acquiring a professional identity requires learning more than the doctrine and practical skills needed to perform the tasks of a lawyer, but also involves developing an understanding of the values, norms, and perspectives needed to interact with other lawyers and with clients, to make decisions impacting clients, and to determine what constitutes appropriate and ethical behavior.[2]

According to cognitive psychologists, students need intensely participatory, role-playing learning environments to progress through stages of moral development in order to develop an ethical professional identity.[3] The primary goal of the role-playing exercises is to promote students' advancement from the initial stages of moral development with a focus on self-interest to the higher stages of interpersonal conformity and community welfare.[4] Therefore, to evolve their professional identities, students must understand what members of their peer group do, the group's expectations and norms, how they interact with others, and what is considered acceptable behavior, regardless of whether it is a violation of the relevant professional code of conduct.

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

Simulated Client Interviews

While many legal writing professors use simulated client interviews as a means of having students gather information for their writing assignments, I use this role-playing exercise primarily to introduce the role of lawyer as counselor, to explore what constitutes effective interactions between lawyers and clients, and to examine the various facets of rendering competent and ethical legal representation.

The exercise is conducted while my students are drafting an employment agreement, with half of the class representing the employer and the other half representing the employee. Before the interviews, we discuss the role of the transactional lawyer in conducting client interviews. I highlight the difference between interviewing clients for litigation-related matters and for transactional matters; in litigation, the interviews are retrospective in nature and aimed at obtaining the details of prior events, while transactional interviews are prospective and focus on events and conduct that has not yet occurred. Therefore, the lawyer in the transactional context takes on the role of planner, where she must predict what could happen during the employment relationship and protect her client by providing for those contingencies in the written contract.

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

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

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

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

1 William M. Sullivan et al., Educating Lawyers: Preparation for the Profession of the Law 126 – 61, 180 - 81 (2007).

2 Melissa H. Weresh, *I'll Start Walking Your Way, You Start Walking Mine: Sociological Perspectives on Professional Identity Development and Influence of Generational Differences,* 61 S.C. L. Rev. 337 (2009).

3 Lawrence A. Kohlberg, Essays on Moral Development, Vol. I: The Philosophy of Moral Development (1981).

4 Id.

5 Preamble to Model Rules of Prof'l Conduct (2010).

6 Model Rule 1.2 (a).

7 Model Rule 1.2, Cmt. 2.

8 Model Rule 2.1.

9 Model Rule 1.16(b)(4).

10 Model Rule 1.16(a)(3); Model Rule 1.2, Cmt. 2.

students developing their own professional identities to understand the potential consequences of their actions.

Peer Editing Exercise

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

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

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

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

11 Model Rule 1.1.

12 Model Rule 4.1(a).

Students Can't Avoid What They Can't See: Helping Students Recognize Ethical Pitfalls

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Each year, as my students prepare to draft their first persuasive brief, we discuss the ethical pitfalls that await them: overstating the facts, omitting controlling authority, mischaracterizing authority, etc. In the past, I provided my students with examples from reported cases and discussed the nature of the pitfalls reflected in the cases, the consequences of the attorneys' choices, and ethical ways to address negative facts and authority. Students accepted the examples as unethical without question, easily identified the reason the example was unethical, and expressed disbelief that attorneys would attempt such conduct. Yet, as I reviewed my students' drafts, I discovered that when faced with making their own ethical choices, students made the wrong choice more often than I expected. In talking with my students, it became clear that they were not deliberately making the wrong ethical choice; they simply did not realize they were making an ethical choice.

How could I better prepare my students to *recognize* when they were faced with an ethical choice? I decided that the answer was to first place the discussion in a familiar context: the client matter from the closed-universe office memo. In addition, I decided to ask the students to identify examples of ethical missteps within a broader context, rather than providing them with pre-selected examples and asking them to identify the problem. I had two goals for this exercise. First, I wanted to provide my students with an opportunity to identify the points at which an author makes an ethical choice, thus increasing the likelihood that my students would identify such points in their own writing. Second, I wanted to encourage my students to actively engage in the ethical analysis, instead of merely accepting an example as unethical.

The Out-of-Class Assignment. First, I provided my students with reading materials discussing the common ethical pitfalls of persuasive writing. Then, I provided my students with a written update on the client matter from the closed-universe office memo. Our client had been traumatized by watching her fiancé's near-fatal fall after his parachute malfunctioned. She wanted to sue the parachute adventure company. For the office memo assignment, students were asked to assess the likelihood that we could win a motion to dismiss if we asserted a claim for negligent infliction of emotional distress ("NIED"). One of the issues in the case was whether our client was closely related to the direct victim, her fiancé, as required under the relevant NIED law. According to the update, we had won the motion to dismiss and completed discovery, and the defendant had filed a motion for summary judgment. The update included excerpts from depositions, summaries of additional discovery, and summaries of additional law.

In addition to the update, I provided students with excerpts from the facts and argument sections of a draft response to the motion for summary judgment. Students were instructed to review the update and the response excerpts in anticipation of a trial team meeting during which we would discuss any ethical concerns raised by the response given the known facts and law. The response excerpts included some clear ethical violations as well as statements raising more subtle ethical choices. I drafted the excerpts to focus on the same pitfalls I would normally address with my students.

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

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

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

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

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

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

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

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

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

Teaching Ethics Through A Client Email Communication Assignment

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Adding a very short assignment to the first-year writing curriculum can yield benefits far beyond what the word count of such an assignment would suggest. By asking students to write an email to a hypothetical client, the professor creates an opportunity to discuss a myriad of potential ethical issues, such as the duty to provide prompt and candid advice, the duty of civility, and the need for (and limitations of) attorney-client privilege. In addition, a short assignment[1] allows the professor to provide additional feedback to students on their writing without overly burdening either the students or the professor.

At Miami Law, students spend the spring semester litigating a simulated case file from the perspective of a practicing attorney. They follow the case from the time a complaint is filed, writing first a trial court motion and then an appellate court brief. We typically ask students to write an email to their client shortly after they have submitted their trial court motions, but professors could create an email assignment at any point during the semester. In our program, a judge rules on the motion[2] briefed by the parties. The student-attorneys must then tactfully relay this outcome, whether good news or bad, to their clients.

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

While preparing the students to write this assignment, the professor can raise the duties of an attorney to be prompt in communicating information to the client,[3] to be candid with the client,[4] and to provide objective advice while still allowing the client to make the ultimate decisions for the case.[5] This can afford students better insight into the litigation process, as the students must outline the possible options for the client, along with the advantages and disadvantages of each. Possibilities might include whether the client should appeal an unfavorable judgment, offer a settlement, etc. The student-attorney must explain the options in language that a lay client can understand, providing an additional educational benefit to the student, who may be a little shaky on the concepts herself. This also allows the student greater insight into the realities of litigation as she explains to the client the potential costs of the various options, both monetary and, in some cases, emotional.

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

The status update format is only one of many potential ways to design an email assignment. For example, instead of an email to a client, the student could be asked to write an email to opposing counsel. This could involve discovery disputes, an offer of settlement, a request for a meeting, or anything else. The topic can be as simple or as complicated as the professor chooses. If the topic chosen is an incendiary one (for example, one party accuses another of not producing all documents in response to a discovery request), the professor can use this opportunity to teach about an attorney's duty of fairness, as well as the duty of candor, not only to the attorney's own client but to the court and opposing parties as well.[6] This also allows the professor to raise issues of civility. For example, how should an attorney respond to a rude or combative opponent?[7]

Client communication assignments often provide students with their first introduction to confidentiality8 and attorney-client privilege. This affords the professor an opportunity to discuss what privilege is, the purpose of making a document privileged (and how marking it as such does not automatically confer privilege), and other related practice tips. Depending on how much time the professor wishes to spend, the discussion might even include contemporary issues such as information security and removal of metadata prior to transmitting documents.

The professor then can lead the class in a discussion of which matters are not appropriate for email, such as "the jury found for the other side" or "you're fired." While there may be situations where the recipient is absolutely unreachable by any other means, the professor can emphasize to law students the importance of reserving textual communications for the appropriate subject matter. In an era where romantic relationships might be terminated via text messages, students can relate to this topic. The discussion can then segue into how electronic documents can "live" forever, even when the author believes that the documents have been deleted, and how discovery can lead to the production of embarrassing or incriminating documents. Any student who has ever had an embarrassing picture posted on Facebook can relate to and understand that in the world of legal practice, similar situations can carry costly ramifications for a client.

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

Clearly, the potential ethical questions raised by a client communication assignment are many. A professor can choose to include one or several, depending on the pace of the semester and the needs of the students. Given that most law students have no exposure to these issues prior to the required professional responsibility course, which is not taken until the second or even third year of law school, introducing first-year students to the ethical duties and challenges of the profession is time well spent.

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

1 At Miami Law, we set a limit of 500 words for this assignment. Depending on the scope of the assignment, professors may wish to make the limit higher or lower.

2 The motion can be on any topic: a motion for summary judgment, a motion to dismiss, a motion to recuse a judge, or many other possibilities.

3 Model Rules of Prof'l Conduct, R. 1.4.

4 Model Rules of Prof'l Conduct, R. 2.1.

5 Model Rules of Prof'l Conduct, R. 1.2.

6 Model Rules of Prof'l Conduct R. 3.3, 3.4.

7 In September 2011, the Florida Supreme Court added a pledge of civility to the oath of admission every new attorney admitted in the state of Florida must take in response to an increase in "acts of incivility" among the profession. "To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications." *In re The Florida Bar*, 73 So. 3d 149, 150 (2011).

8 Model Rules of Prof'l Conduct R. 1.6.

Wrestling with Ethical Issues from the First Day of Class

by Judith D. Fischer

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

I like to assign *Costanza v. Seinfeld*[3] in the first class. I assign it for two reasons: to introduce the students to reading cases and to prompt them to think about the profession's ethical standards. *Costanza* engages the students because they are familiar with the characters George Costanza and Jerry Seinfeld through ongoing reruns of the Seinfeld television show. The plaintiff in *Costanza* was Jerry Seinfeld's former classmate Michael Costanza, who alleged that the Seinfeld show had appropriated his name and likeness.[4] A New York trial court held that all three of Costanza's privacy-related claims were baseless.[5] In class, we discuss how to read the case carefully, distinguishing among the three claims and identifying the court's holding for each one.

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

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

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

Later, when we cover advocacy, the class confronts yet another baseless case. We listen to the *U.S. v. Johnson*[14] argument presented before the Seventh Circuit on March 2, 2005.[15] Johnson was convicted of drug possession after police dogs sniffed drugs in his car on a routine traffic stop. On appeal, the defendant's lawyer argued that the dog sniff without the defendant's consent was an illegal search. The problem with that argument, however, was that the United States Supreme Court had ruled two months previously in *Illinois v. Caballes*[16] that a dog sniff at a lawful traffic stop does not violate the Fourth Amendment, even when the suspect does not consent to it. In the oral argument recording, the defendant's lawyer hesitates and stumbles, finally admitting that he has no valid argument.

In class, after critiquing the lawyer's lack of preparation and poor arguing style, we discuss what he could have done when he learned that *Caballes* had eliminated his primary argument. Students suggest that he should look for a way to distinguish his case. That could solve the problem, but the oral argument suggests that Johnson's case could not be distinguished from *Caballes*. So to provide competent representation, the lawyer could look for other grounds for reversal and then file a supplemental brief or letter asking the court to consider them. Better yet, in hindsight, the lawyer ought to have known about the pending Supreme Court case and included fallback arguments in his original brief. But if there is no colorable basis for the appeal, the lawyer could consider withdrawing his request for oral argument, withdrawing the appeal with the client's permission, or withdrawing as counsel (through procedures that are beyond the scope of the first-year writing course).[17]

Professionals agree to maintain standards of competence and ethical conduct with the public good in mind.[18] The above discussions begin introducing law students to the legal profession's standards that a lawyer must provide competent representation while considering the good of the client, the legal system, and the public. ■

1 *See* Judith D. Fischer, *Pleasing the Court: Writing Ethical and Effective Briefs* 3 (2d ed. Carolina Academic Press 2011); Melissa H. Weresh, *Legal Writing: Ethical and Professional Considerations* 129 (2d ed. LexisNexis 2009) (both citing Model Rules of Prof'l Conduct R. 1.1 (2001)).

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

3 693 N.Y.S.2d 897 (Sup. Ct. N. Y. Co. 1999)) (*aff'd in part, dismissed in part*, 719 N.Y.S.2d 29 (Sup. Ct. App. Div. 1st Dep't 2001)).

4 *Id.* at 898.

5 *Id.* at 899-900.

6 *Id.* at 901.

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

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

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

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

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

12 *Id.* at 186.

13 *Id.* at 188.

14 *U.S. v. Johnson*, 123 Fed. Appx. 240 (2005). The defendant's lawyer was later suspended from practice for an unrelated offense. *Disc. Counsel v. Scacchetti*, 867 N.E.2d 830 (Ohio 2007).

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

16 543 U.S. 405, 409 (2005).

17 *See* Eric B. Schmidt, *A Call to Abandon the* Anders *Procedure That Allows Appointed Appellate Criminal Counsel to Withdraw on Grounds of Frivolity*, 47 Gonz. L. Rev. 199 (2011) (citing *Anders v. Cal.*, 386 U.S. 738 (1967)).

18 Melissa H. Weresh, *I'll Start Walking Your Way, You Start Walking Mine: Sociological Perspectives on Professional Identity Development*, 61 S.C. L. Rev. 337, 340-41 (2009).

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

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Many writing teachers, including legal writing teachers, tell law students that they are training to belong to a discourse community that has its own expectations regarding genres of documents, citation style, and even lingo or language or code; professional codes have connotations not only of professional behavior, but also of something that obscures and that must be broken or translated, like a secret code, and something that causes action, like computer and genetic codes. However, we should also tell students that a discourse *grammar* exists for that discourse community, that is, rules for putting the lingo or vocabulary together.[1] Subject areas have their own language. A language consists of terms plus moves; moves are the rules for putting those terms to use. Thus when I teach grammar, advise students about research paper writing, or need to get up to speed myself on a topic, I use a two-part taxonomy of knowledge or rubric for learning: terms and moves. This two-part taxonomy is easier to remember and apply than others such as Bloom's.[2] Dividing the pie of language into two parts has a long tradition, including Frederick de Saussure's *langue/parole* and Ludwig Wittgenstein's analogy that words are like chess pieces and that the rules of grammar are like rules for playing chess.[3]

When teaching grammar

For law students, reviewing English grammar can be overwhelming. In workshops and when working with students one on one, I tell them that we will be focusing on just two things to start with: what grammar terms your professors are likely to use, and what moves your professors are going to make with these terms. During their 1L year, we cover terms such as passive voice, nominalization, comma splice, dangling modifier, and vague pronoun reference. Along with the many comments students will receive from their legal writing professors about legal analysis and organization, their professors sometimes will mark comments along the lines of "this what?" and "DM" or "CS" or "by whom?"; I tell the students that those are the "moves" their professors will make.

When do I introduce definitions of the terms? Because I agree with the view that terms cannot be separated from the context in which they are imbedded, I try to get students as soon as possible to the moves their professors will be making. After a few examples of the moves or professor comments that the students can expect, then I stop, back up, and go over definitions. Ideally, I would rather immerse students in an entire session of moves without stopping for definitions of terms until the next class, but sometimes student learning preferences are so strong for the individual definitions first that I can get students reminded of or exposed to only about five potential comments or moves at a time.

When teaching research papers

When I give workshops on research paper writing for 2L and 3L students, I again advise students to focus on terms (such as prewriting, researching, drafting, and revising and editing) and moves (strategies for accomplishing those terms). I think the two-part approach can be applied when students read legal materials for class as well. Professors could ask students the following questions: What are the terms that come up in your reading? How do legal professionals use them—what moves do they make with those terms?[4]

Moves in academic writing and student scholarship

Books, papers, and authorities, whether discussing how to write scholarly papers or examining others' arguments, are beginning to use the term "moves" for written and/or logical strategies more frequently. My favorite research paper writing book, *They Say, I Say: The Moves that Matter in Persuasive Writing*, argues that students need explicit instruction in noticing sentences that accomplish "moves" in academic writing, such as distinguishing the student writer's opinion from that of sources.[5] However, are the writers and readers aware that they are employing a metaphor—moves—that implies that the moves take place according to a grammar? As I noted in a previous column, grammar is a powerful metaphor for powerful relationships.[6] Every subject area, including law, can be seen as being organized by a grammar of its own, not just linguistically as far as professional preferences and expectations, but also metaphorically as far as rules for combining concepts or terms.

Rethinking the importance of grammar

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

Conclusion

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

1 Christopher M. Leich & Steven H. Holtzman, *Introductory Essay: Communal Agreement and Objectivity*, *in* Wittgenstein: To Follow A Rule 20 (1981).

2 In 1956, Benjamin Bloom and David Krathwohl identified six levels of the cognitive domain. From least sophisticated to most, the levels are as follows: "knowledge, comprehension, application, analysis, synthesis, and evaluation." *See* D.G. Jerz, *Writing That Demonstrates Thinking Ability*, http://jerz.setonhill.edu/writing/style/taxonomy.htm. While Bloom's Taxonomy continues to be important pedagogically, it has been revised, too. *See* Leslie Owen Wilson, *Beyond Bloom—A New Version of the Cognitive Taxonomy*, http://www4.uwsp.edu/education/lwilson/curric/newtaxonomy.htm; L. Dee Fink, *Creating Significant Learning Experiences: An Integrated Approach To Designing College Courses* (2003); and Sam Wineburg & Jack Schneider, *Was Bloom's Taxonomy Pointed in the Wrong Direction?* Kappan 56 (Dec. 2009/Jan. 2010).

3 *See* Roy Harris, *Language, Saussure and Wittgenstein: How To Play Games With Words* (1988).

4 After I submitted my LWI draft here but before publication, Carol Tyler Fox did indeed publish an article arguing for the value of teaching Bloom's Taxonomy to law students. I agree with Scott Fruehwald that Tyler Fox's article is great. However, my sense is that many law students will not welcome more terms to learn, even if the terms will improve their metacognition. This reluctance will be increased because Bloom's Taxonomy comprises non-legal terms. On the other hand, Tyler Fox's article and Bloom's Taxonomy will be highly beneficial to teachers. *See* Carol Tyler Fox, *Introducing Law Students to Bloom's Taxonomy*, The Law Teacher (Spring 2012), and Scott Fruehwald, *Introducing Bloom's Taxonomy*, Legal Skills Prof Blog (May 9, 2012) http://lawprofessors.typepad.com/legal_skills/.

5 Gerald Graff & Cathy Birkenstein, *They Say/I Say: The Moves That Matter in Persuasive Writing* (2007). Other articles that use the term "moves" include Tamsin Haggis, *What Have We Been Thinking Of? A Critical Overview of 40 Years of Student Learning Research in Higher Education*, *in* 34 Stud. Higher Educ. 377-90 (2009). In the legal realm, see Pierre Schlag, *Formalism and Realism in Ruins (Mapping the Logics of Collapse)*, 95 Iowa L. Rev. 195 (2009).

6 Natalie Tarenko, *The Metaphor of Grammar: Relating Grammar Study to Content Study*, The Second Draft (Fall 2008).

Using Sea Sponges, Boomerangs, and Sewing Kits to Teach Ethics and Professionalism in the Legal Writing Classroom

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

The sea sponge makes its appearance in a group exercise titled "Cautionary Tales." The students are divided into groups; each group receives a copy of an article or judicial opinion that addresses a mistake in ethics or professionalism made by an attorney in writing or filing a document.[1] Students read the article or opinion in class and then have a chance to tell the other students about what they read, including the answers to the following questions. First, what was the attorney's mistake? Second, what were the consequences of the mistake? Third, was information about the mistake published, and, if so, where?

One group receives an article that reports on a motion to grant bond that was removed from the record because the line spacing and font size were incorrect; the attorney would have to re-file the document, all the while his client was a "wreck of a man" in prison.[2] The sea sponge appears in an article about an attorney who filed a document without reviewing it after a spell check changed the term "sua sponte" into "sea sponge" at least five times in his brief.[3] Through these articles and the ensuing discussion, students learn about the importance of diligence in writing and submitting court documents; they also see how an attorney's lapse in diligence can be detrimental not only to that attorney, but also to his client.

The judicial opinions also provide valuable lessons in ethics. For example, one opinion addresses an attorney who condensed the statement of facts prepared by someone else and, without examining the substance, filed it with the court; when the court discovered that the brief contained a misrepresentation about the "crucial issue" in the case, it issued a show cause order for the attorney to explain why he should not be disciplined for the misrepresentation.[4] This opinion, which also discusses the importance of disclosing adverse authority, demonstrates the importance of diligence and leads to a class discussion about the expectation that attorneys will be candid with the court.

The boomerang and sewing kit make their appearance in the spring semester, when oral argument is a required component of the course. Because many students dread public speaking, they can benefit from the opportunity to practice speaking in front of others. In an effort to provide them with this needed practice, I incorporate an idea Kathleen Miller wrote about in this very publication.[5] Each week, class starts with two students doing the "Grab Bag." Each student pulls an item from the bag (without peeking) and then talks about it for ninety seconds. The twist is that the student must incorporate concepts of ethics or professionalism at some point while speaking. After each student speaks, the class is invited to give constructive feedback about the student's performance.

Because every student is required to participate, the Grab Bag requires twenty objects that could feasibly be connected to ethics or professionalism. Before an object is placed in the bag, I put myself in the student's shoes. "If I were the student, how would I make that connection?" The bag ends up containing a variety of objects, both from home (such as a remote control for a DVD player and a candle) and from the office (such as a paperweight and a stapler).

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

2 uan A. Lozano, *Jail Has Reduced Allen Stanford To A Depressed, Half-Blind, 'Wreck Of A Man,' Says Lawyer*, Associated Press Financial Wire (May 18, 2010).

3 Mike McKee, *'Sea Sponge' Sabotages Spell Check in Danser Filing*, The Recorder (California) (Online), Feb. 28, 2006.

4 In re Greenberg, 104 A.2d 46 (N.J. 1954).

5 Kathleen Miller, *Talking Turkey*, The Second Draft, August 2005, at 17-18.

Some connections are easy to predict. The student who pulls the clock quite predictably speaks about how an attorney must show up to court hearings and client meetings on time and submit court documents on time. A boomerang becomes a lesson on how an attorney should always act professionally and treat opposing counsel with respect because unethical behavior and lack of civility always come back around.

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

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

Although the main point of the Grab Bag is to give students practice speaking in front of others and thinking on their feet, it has the added benefit of teaching students about the importance of ethics and professionalism. Because this exercise is conducted at the beginning of every class during the semester, it communicates to students that attorneys may confront ethical and professionalism issues more frequently than students might expect. Moreover, the exercise not only engages students in active thinking about the many different ethical dimensions of practicing law, it also helps students learn how to be respectful while giving and receiving feedback. Through these two exercises, and the lessons that can be derived from sea sponges, boomerangs, and sewing kits, students begin to understand the many dimensions of ethics and professionalism that attorneys face when communicating with the court, their clients, and other attorneys. ■

Religious Shunning and the Beam in the Lawyer's Eye[1]

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Some LRW professors design assignments so that students begin learning fundamental legal skills in the context of issues of particular interest to the professor – what Sue Liemer calls "teaching the law you love."[2] Recent articles have explained how this might work when applied to such varying matters as multiculturalism or transactional practice.[3] But exposing LRW students to diversity of religious belief does not appear to have found as much traction, at least in the literature. This essay describes one attempt to design a problem that grounds students in just such a larger firmament, while not distracting students (or the professor) from the paramount aim of any LRW course: introducing fundamental skills of legal analysis, communication, and research.

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

1 The reference comes from Matthew 7:3 (KJV): "And why beholdest thou the mote that is in thy brother's eye, but considerest not the beam that is in thine own eye?"

2 Susan P. Liemer, *Many Birds, One Stone: Teaching the Law You Love, In Legal Writing Class*, 53 J. Legal. Educ. 284 (2003).

3 *E.g.*, Johanna K.P. Dennis, *Ensuring a Multicultural Educational Experience in Legal Education: Start with the Legal Writing Classroom*, 16 Tex. Wesleyan L. Rev. 613 (2010); Wayne Schiess et al., *Teaching Transactional Skills in First-Year Writing Courses*, 10 Tenn. J. Bus. L. 53 (2009).

The Assignment

I created a closed memo assignment to achieve these goals. The facts were loosely based on a local case.[4] A parishioner was "slain in the spirit" at a prayer rally, striking her head on the floor when she collapsed. The pastor refused to reimburse her medical expenses, insinuating that she was faking her injuries. Angered, she began telling friends that she might leave the church. The pastor privately confronted her, ordering her to stop "sowing the seeds of discord." The next Sunday, his sermon emphasized bible verses about the same topic, warning that parishioners who failed to adhere to church discipline risked being shunned. He did not identify her, but she claimed that he constantly looked at her throughout the sermon. Finally, after a heated phone call with the pastor where she told him she was leaving, she discovered that he had sent a letter to all parishioners claiming that she had violated several church precepts, had refused correction, and accordingly should be shunned by all parishioners until she repented. Her friends were apologetic but firm: they could no longer interact with her. Forced to seek out a new church, and upset at losing her spiritual and social community, she sued the church and pastor for intentional infliction of emotional distress.

Substantive Legal Analysis Posed by the Assignment

The assignment asked the students to analyze only whether the conduct was "outrageous," an IIED requirement. Outrageousness is measured against a malleable standard: Would a reasonable person, hearing of the conduct, exclaim "outrageous!" Put another way, does the conduct go beyond the bounds of decency so that a civilized community would consider it utterly intolerable?[5]

Thus, students needed to determine what a trial judge would likely conclude about how a reasonable person would react to the conduct. Learning how to assess reasonableness is, of course, a challenge for all students learning about tort law. But the inquiry takes on particular salience when the conduct may well seem odd or irrational to students who lack experience with the relevant religious traditions. I wanted students to put aside their initial reactions along the lines of "that sounds crazy!" and explore more deeply whether a religious or cultural practice, no matter how unusual or even offensive it may seem to those who do not share the religion's beliefs, crosses the line to actionable tortious conduct.

4 The case eventually made its way to the Michigan Supreme Court. *Dadd v. Mount Hope Church & Int'l Outreach Ministries*, 780 N.W.2d 763 (Mich. 2010).

5 *See* Restatement (Second) of Torts § 46, cmt. d.

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

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

A similarly fruitful dialogue arose in the context of "peculiar susceptibility to emotional distress." Is there anything specific about religious belief that might give rise to viable arguments under this factor? Or do the Restatement and caselaw seem to suggest that this factor is only satisfied by identifiable physical and mental conditions, as opposed to particular beliefs?[6]

6 At times, I had to rein in class discussions that took us a bit far afield into constitutional matters like freedom of speech and religion, such as whether judicial oversight of religious practices might amount to impermissible meddling in internal religious affairs. Should I re-use this problem, it might not be as easy to dodge these sorts of issues given the Supreme Court's recent decision in *Snyder v. Phelps*, 131 S. Ct. 1207 (2011).

Understanding Client Motivations and Client Counseling

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

With this in mind, I was able to use the assignment to introduce students to other aspects of legal practice, such as client counseling. The client has lost something she values highly: her longstanding membership in a supportive religious community. Finding a new church is not the same thing as choosing a new bank or cellular provider; her religious beliefs are a fundamental part of who she is. She does not question the church's doctrine of shunning, and considers it an essential way to help believers stay on the "right path." But she also believes the way she was shunned was deeply unfair. The students and I were able to explore how these client-centered concerns might affect the lawyer's attempts to not simply analyze the law and provide dispassionate advice, but to take on the more fulfilling role of counselor, allowing him to advise the client on matters not limited to purely legal.[7]

Going Forward

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

7 *See* Model Rule of Professional Conduct 2.1.

Program News & Accomplishments

Program News

Chicago Kent
As many of you know, around 1981 Chicago Kent began the Visiting Assistant Professor Program as one method of staffing its three-year Legal Writing Program. The VAPs, outstanding graduates of excellent law schools, most of whom have had valuable practice experience as well, were hired to teach the 1L Legal Writing I and II courses, plus at least one other course, for a contractual period of 2-4 years. They were provided student teaching assistants for their Legal Writing classes (we have TAs for all first year required courses), given financial and staff research assistance, and the opportunity for summer teaching. They also were able to take advantage of the faculty's weekly workshops to receive input on scholarly articles they were working on. The faculty then gave the VAPs assistance for finding tenure track positions at other law schools. The VAPs thus joined a cadre of about 8 full-time Legal Writing Professors on long-term contracts, who helped train them in teaching Legal Writing, and enabled the school to maintain reasonable size sections. Over the years, we have had some 50 or so "graduates/alums" of the VAP program who gained positions at law schools throughout the country, ranging from Howard, Stetson, Alabama, John Marshall, St. Louis U, Brooklyn, Tulsa, Cumberland, Indiana, Northern Illinois, Southern Illinois, Florida State, Gonzaga, Detroit Mercy, William and Mary, Memphis, Florida Coastal, and many others. The late Tom Blackwell, at Appalachian, was a former VAP. This year, three VAPs, who have been with us for 2-3 years, are now in the process of moving on to tenure-track positions at other schools. However, Co-Directors **Mary Rose Strubbe** and **Susan Adams** have worked very hard in attracting and recruiting three new stars to be, so watch for further announcements about: **Todd Haugh**, who comes to us from his position as a Supreme Court Fellow; **Vinay Harpalani**, who comes to us from Seattle University School of Law, where he currently is the Korematsu Teaching Fellow; and **Valerie Guttmann Koch**, who comes to Chicago Kent from the New York State Task Force for Life and the Law.

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

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

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

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

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

Hiring and Promotion

Chicago-Kent College of Law
See Chicago-Kent Program News.

Concordia University School of Law
Tenielle Fordyce-Ruff joins as a Director of Legal Research and Writing Program.

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

Sue Payne, who has taught Basics of Contract Drafting and directed the 1L Contract Drafting Module at Northwestern for seven years, will be moving to Emory Law School this fall. She has accepted the position of Executive Director of the Transactional Law and Practice Center and Professor in the Practice of Law.

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

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

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

conflict in the constitutions of majority-Muslim nations and the United States. Professor Varol's academic articles have appeared or are forthcoming in the Harvard International Law Journal, Iowa Law Review, Missouri Law Review, Texas International Law Journal, and Vanderbilt Journal of Transnational Law. He has taught Criminal Procedure and Legal Writing I and II at Chicago-Kent.

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

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

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

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

Seattle University School of Law
Anne Enquist has become the new Director of the Legal Writing Program after serving as an Associate Director of the program for many years. **Laurel Currie Oates** has resumed full-time teaching, including her work internationally. **Mary Nicol Bowman** joins **Chris Rideout** as Associate Directors of the Legal Writing Program.

Stetson Law
Kirsten Davis was promoted to Professor of Law. In May, she graduated from Arizona State University Hugh Downs School of Human Communication with a Doctor of Philosophy degree.

Kelly Feeley was promoted to Professor of Legal Skills and was granted tenure.

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

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

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

Cristina D. Lockwood promoted to Associate Professor.

Deborah P. Paruch was granted tenure.

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

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

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

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

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

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

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

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

Western New England University School of Law welcomes **Patrica Newcombe,** Associate Dean for Library and Information Resources, who has joined the Legal Research and Writing Faculty in teaching first year LRW during the 2012-2013 academic year.

Myra Orlen was promoted to Associate Professor of Legal Research and Writing. She has also been appointed the Assistant Dean for Academic Success.

Publications, Presentations and Accomplishments

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

Lori Bannai of Seattle University School of Law testified on February 29 before the Senate Judiciary Committee in Washington, D.C. on the Due Process Guarantee Act, legislation introduced in response to the provisions of the National Defense Authorization Act, that could be used to authorize the indefinite military detention of individuals suspected of terrorist activities.

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

Deirdre M. Bowen of Seattle University School of Law published *Meeting across the River: Why Affirmative Action Needs both Class and Race,* 88 Den. U. L. Rev. 751 (2011); *Calling Your Bluff: How Defense Attorneys Adapt to Increased Formalization in Plea Bargaining* in VOICES from Criminal Justice (Copes & Pogrebin eds. 2011); *American Skin: Dispensing with Colorblindness and Critical Mass* 72 U. Pitt. L. Rev. (forthcoming 2012); *Going Beyond the Casebook in the Family Law Classroom* in Vulnerable Populations and Transformative Law Teaching: A Critical Reader. (Raquel Aldana, Steven Bender, Olympia Duhart, Michele Benedetto Neitz, Angela Onwuachi-Willig, Hari Osofsky, and Hazel Weiser eds., 2012); *Visibly Invisible* in Presumed Incompetent (Angela Harris & Carmen Gonzales eds., forthcoming 2012).

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

Donna Bain Butler of American University Washington College of Law published *Essential Legal Skills: Legal Writing From an Academic Perspective,* Russian Law: Theory And Practice, No.1 (2012); presented "Content-Based Pedagogy in a Second Language (L2) Research Writing Course" at the Meeting on English Language Teaching (MELT) at École de Langues at the University of Quebec at Montreal (UQAM), Quebec, Canada (April 27, 2012); was a Fulbright Specialist Program Grant Recipient: was appointed as Faculty of Modern Languages, Institute of Law, Public Administration and Safety at Udmurt State University in Russia.

Charles Calleros of Sandra Day O'Connor College of Law at Arizona State University presented at the 2012 Second Annual Western Regional Legal Writing Conference on "Email Memos in Context and in a First-Semester Final Exam"; spent his spring break in Hong Kong, coaching a student team in the Vis (East) International Commercial Arbitration Moot. On April 20-21, he made presentations on teaching and working with a diverse student body to the faculty, adjunct faculty, and staff of the College of Law at Loyola Univ. New Orleans. On May 14, he presented a morning-long workshop on using examinations for teaching and assessment to the faculty of Southern Univ. Law Center in Baton Rouge at its faculty retreat. In mid-June, he taught a week-long mini-course at the Univ. of Paris Rene Descartes on Common Law Legal Method and Introduction to Comparative Contract Law and International Conflict of Laws.

Susan Chesler of Sandra Day O'Connor College of Law at Arizona State University presented "Developing Students' Profession Identity through Legal Writing Pedagogy" at the 2012 Rocky Mountain Legal Writing Conference (with **Kimberly Holst** and **Carrie Sperling**); "Not Your Average Cup of Joe: Scholarship Beyond the Traditional Law Review" at the 2012 Legal Writing Institute Conference (with **Anna Hemingway** and **Tamara Herrera**).

Scott Childs, see Mary Garvey Algero.

Beth Cohen, Director of the Legal Research and Writing Program and Associate Dean of Academic Affairs at Western New England Law School, coordinated the National Brief Writing Competition for the Board of Scribes – the American Society of Legal Writers; served as Moderator at the Difficult Claims Workshop at the American Bar Association Forum on Client Protection held in conjunction with the 38th ABA National Conference on Professional Responsibility in Boston, June 2012; published *A Name of One's Own: The Spousal Permission Requirement and the Persistence of Patriarchy*, 45 Suffolk U. L. Rev. (forthcoming 2012); serves as a representative from Western New England Law School in the Alliance for Experiential Learning in Law which will hold its inaugural conference at Northeastern University School of Law in October, 2012. She served on a working group appointed by the Massachusetts Supreme Judicial Court to consider how to help new lawyers deal with difficult issues that can generate complaints to the Board of Bar Overseers. The committee recommendations led to the Court proposing SJC Rule 3:16, which if adopted would require all attorneys admitted to the Massachusetts bar to take a "Practicing with Professionalism" course within 18 months of their admission to the bar. The course would address a variety of issues, including law office management, professionalism and civility, professional ethics, the bar discipline system and how to managing the attorney-client relationship.

Cara L. Cunningham of The University of Detroit Mercy School of Law was invited to present "Managing, Meeting & Exceeding Law School Community Expectations in Renovation," at the American Bar Association, Bricks, Bytes & Continuous Renovations Conference, (San Diego, California 2012).

Janet Dickson of Seattle University School of Law published *Persuasion in Statutory Analysis,* 7 BahÇeşhir U. L. Fac. L. J., Nos. 83-84 (2011); presented on "The Foundations and Practice of Civility in the Legal Profession," Robert's Fund, April 26 - May 5, 2012, Sovana, Italy.

Olympia Duhart, of Nova Southeastern University's Shepard Broad Law Center, published *PTSD and Women Warriors: Causes, Controls and a Congressional Cure*, 18 Cardozo J. of L. & Gender 327 (2012); *Cluster Introduction for Education and Pedagogy on Identity and Instruction,* 48 California W. L. Rev. 453 (2012). She has contributed posts to the SALTLAW Blog -- "A Long Overdue Letter of Condolence" and "Teachers as Students: How to Make It Work" -- both available at http://www.saltlaw.org/blog/. She recently presented at the 7th Biennial Central States Legal Writing Conference (with **Joseph Hnylka**) and the 2nd Annual Captial Area Legal Writing Conference (with **Hugh Mundy**). She also served as an organizer and presenter at "Breaking In: How to Become a Law Professor or Law School Administrator" held at The John Marshall Law School. She is an elected member of the Board of Governors for the Society of American Law Teachers. In addition, Professor Duhart received the law center's "Professor of the Year" award. In April, she was appointed Director of the Lawyering Skills and Values Program at Nova.

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

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

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

The Long View of Local 1330's Challenge to Management Rights and Plant Closings, 7 Unbound 55 (2011).

Stephanie Roberts Hartung, see Carrie Sperling.

Anna Hemingway, see Susan Chesler.

Karen M. Henning of The University of Detroit Mercy School of Law published *The Failure of Absolute Immunity under* Imbler*: Providing a Reasoned Approach to Claims of Prosecutorial Immunity* 48 Gonz. L. Rev. (forthcoming 2012), and Pretrial Criminal Advocacy, (forthcoming 2012) with Peter J. Henning & Leonid Feller.

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

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

Kimberly Holst of Sandra Day O'Connor College of Law at Arizona State University was elected as Secretary of the AALS Section on Legal Writing, Research, and Reasoning at the January 2012 conference where she also presented a poster on "The One-Click Classroom Makeover." In March 2012, she presented on "Teaching Mediation Skills in Practice" at the Global Skills VII Conference in Costa Rico. In addition, she was conference co-chair and presented at the 2012 Rocky Mountain Legal Writing Conference (with **Susan Chesler** and **Carrie Sperling**) on "Developing Students' Professional Identity through Legal Writing Pedagogy"; she also presented a poster at the 2012 Legal Writing Institute conference on "Exposing the Gears that Put Transfer in Motion." Kimberly was recently elected a member of the Legal Writing Institute's Journal Editorial Board.

Joseph Hnylka, see Olympia Duhart.

Jeanne Kaiser of Western New England University School of Law published *Victimized Twice: The Reasonable Efforts Requirement in Child Protection Cases When Parents Have a Mental Illness,* 11 Whittier J. of Child and Fam. Advoc. 3 (Fall 2011).

Alison Kehner, see Heather Baum.

Joe Kimble of Thomas M. Cooley Law School published Writing for Dollars, Writing to Please: The Case for Plain Language in Business, Government, and Law (2012). Among other things, it summarizes fifty studies on the benefits of plain language for everyone-readers, writers, businesses, and government agencies. More than a dozen of the studies involve legal documents.

Aaron R. Kirk of Emory Law School gave a poster presentation at the LWI conference "Elevator Pitches, the Partitio, and the Summary of the Argument: Making the Most of an Under-appreciated Section of the Appellate Brief."

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

Cristina D. Lockwood of The University of Detroit Mercy School of Law Presented with **Deborah P. Paruch**, "'Be Careful What You Wish For': The Challenges Confronting Legal Writing Directors and Professors on Tenure-Track Status" at the 2012 Rocky Mountain Legal Writing Conference.

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

Karin Mika of the Cleveland-Marshall College of Law published *The Benefit of Adopting Comprehensive Standards of Monitoring Employee Technology Use in the Workplace*, 65 Cornell J. of Indus. & Lab. Rel. (forthcoming 2012).

Christine Mooney, see Heather Baum.

Samantha Moppett of Suffolk University Law School, published, *Think It, Draft It, Post It: Creating Legal Poster Presentations,* 18 Legal Writing: J. Legal Writing Inst. (forthcoming Fall 2012); *Control-Alt-Incomplete? Using Technology to Assess "Digital Natives,"* 11 Chi.-Kent J. Intell. Prop. L. 294 (2012) and presented on this article at the Twelfth Annual Rocky Mountain Regional Legal Writing Conference, Sandra Day O'Connor College of Law, Arizona State University College of Law, Tempe, Arizona (March 2012).

Hugh Mundy, see Olympia Duhart.

Michael D. Murray, Valparaiso University School of Law, published *The Great Recession and the Rhetorical Canons of Law and Economics*, 45 Loy. L. Rev. (forthcoming 2012); *After the Great Recession: Law and Economics Topics of Invention and Arrangement and Tropes of Style*, 46 Loy. L. Rev. (forthcoming 2012); *The Ethics of Intellectual Property: An Ethical Approach to Copyright and Right of Publicity Law*, in Nat'l Center for Prof. & Res. Ethics CORE Encyclopedia (forthcoming 2012); *What is Transformative? An Explanatory Synthesis of the Convergence of Transformation and Predominant Purpose in Copyright Fair Use Law*, 11 Chi.-Kent J. Intell. Prop. (2012); presented "The Promise (and Pitfalls) of Parentheticals" at the LWI Biennial National Conference, Palm Desert, CA, June 1, 2012; "Synthesis: Civilian and Common Law Rhetoric and Legal Discourse" at the Global Legal Skills Conference VII, San Jose, Costa Rica, March 12, 2012; "Pura Vida Publishing of Legal Books" at the Global Legal Skills Conference VII, San Jose, Costa Rica, March 12, 2012; "Synthesis and the Civilian Lawyer: Common Law Legal Analysis for Civilian-Trained Lawyers" at the Annual Meeting of the Association of American Law Schools Conference, Washington D.C., January 7, 2012.

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

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

Deborah P. Paruch of The University of Detroit Mercy School of Law published *Silencing the Victims in Child Sexual Abuse Prosecutions: The Confrontation Clause and Children's Hearsay Statements Before and After Michigan v. Bryant*, 28 Touro L. Rev. 85 (2012); presented with **Cristina D. Lockwood**, "'Be Careful What You Wish For': The Challenges Confronting Legal Writing Directors and Professors on Tenure-Track Status" (2012 Rocky Mountain Legal Writing Conference).

Timothy Pinto, see Kathleen Elliott Vinson.

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

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

Sarah Ricks of Rutgers-Camden, visiting at U. Penn Law School for 2012-13, was appointed co-chair of the Section 1983 Subcommittee of the Civil Rights Litigation Committee of the American Bar Association. In May 2012, she guest lectured on comparative approaches to prisoner litigation and other topics at a university in Madrid, Spain, and presented "Four Ways to Incorporate Public Interest Work & Practice Skills into the Curriculum" at the LWI national conference. In March, she presented "A Casebook Designed to Integrate the Teaching of Skills and Doctrine: Current Issues in Constitutional Litigation: A Context and Practice Casebook" at the Inaugural Conference of the Center for Excellence in Law Teaching (Albany Law School). At the AALS Conference in January 2012, she presented to the Section on Pro Bono and Public Service Opportunities "Teaching Research, Writing, Collaboration, and Professional Communication Through Service Learning and Pro Bono Programs." She delivered the keynote address in June at the Empire State Legal Writing Conference (SUNY

Buffalo), where she led an ALWD Scholars' Forum. She co-authored Federal Legal Research (Suzanne Rowe ed., 2012) and the Teachers' Manual. She was appointed to the Executive Committee of the Yale Law School Association. Her book Current Issues in Constitutional Litigation: A Context and Practice Casebook (2011) (with **Evelyn Tenenbaum**) was an American Constitution Society Book Talk selection and has been reviewed in The Law Teacher, Circuits Split blog, Adjunct Law Professor blog, and the Rutgers Journal of Law & Public Policy. In May 2012, she taught in the international relations and criminal justice programs at a university in Spain and was appointed to the Executive Committee of the Yale Law School Association.

J. Christopher Rideout of Seattle University School of Law published "*Tom Holdych: A Tribute," in In Memory of Professor Thomas J. Holdych*, 35 Seattle U. L. Rev. (2012); presented a paper *Voice, Self, and Tonal Cues in Legal Discourse*, at the annual convention of the Modern Language Association on January 6, 2012. The session was sponsored by the International Society for the Study of Narrative.

Mary Ann Robinson, see Heather Baum.

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

Suzanne E. Rowe, see Mary Garvey Algero.

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

Jean Sbarge, see Heather Baum.

Kirsten Schimpff of Seattle University School of Law published *Rule 3.8, the Jencks Act, and How the ABA Created a Conflict Between Ethics and Law on Prosecutorial Disclosure*, 61 Am. U. L. Rev. (forthcoming 2012).

Spencer L. Simons, see Mary Garvey Algero.

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

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

Denis Stearns of Seattle University School of Law published *Discovering Brevity (in Discovery)*, 30 KCBA Bar Bull., No. 6, 1 (February, 2012); *Deadly Cantaloupes: A View from the Ivory Tower,* Food Safety News (October 31, 2011), http://www.foodsafetynews.com/2011/10/deadly-cantaloupes-a-view-from-the-ivory-tower/; *Of Recycled Buns, Food Safety in China, and the Jabberwocky of Political Debate,* Food Safety News (May 11, 2011), http://www.foodsafetynews.com/2011/05/of-recycled-buns-food-safety-in-china-the-jabberwocky/.

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

Evelyn Tenenbaum, see Sarah Ricks.

Kathleen Elliott Vinson of Suffolk University Law School published *Social Networking in the Medical Community* in Social Media and Medicine (2012); presented "Contemporary Issues on Gender and the Law," at the Southeastern Association of Law Schools Conference, Florida (July 2012); "The Use of Checklists as "Cognitive Nets" and "Pause Points" for the Complexity of Legal Analysis," at the The Legal Writing Institute, Palm Springs, CA (May 2012) (co presented with **Jennifer Romig**, **Timothy Pinto**, **Nancy Vettorello**); "Hovering Too Close: The Ramifications of Helicopter Parenting in Higher Education," at the Suffolk University Center for Teaching Excellence (March 2012); "Productive Work Habits for Writing Competitions and Getting Published," at the Student Scholarship panel, Suffolk University Law School, Boston, MA (March 2012); "Teaching Legal Research Through Communication, Cooperation, and Collaboration," at the Harvard Law School Teaching Showcase, Boston, MA (January 2012); "In the New Millennium, What are the Best Practices in Legal Writing, Reasoning and Research?," at the American Association of Law Schools Annual Meeting, Washington, D.C. (January 2012) (co-moderator).

Eric Voigt of Faulkner University published *A Company's Voluntary Refund Program for Consumers Can Be a Fair and Efficient Alternative to a Class Action*, 31 Rev. Litig. 617 (2012); presented "Show Your Answers: Using Flash Cards and eClicker to Engage Students Through Friendly Competition" at the Summer 2012 Institute for Law Teaching and Learning Conference.

Libby White, see Heather Baum.

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