

# Perspectives

## Teaching Legal Research and Writing

Vol. 29 | No. 1 | Spring 2021

### In This Issue

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**5** [Adding Genre Discovery to 1L Writing Instruction](#)

Genre discovery can enhance first-year legal writing instruction by developing students' skill in studying examples to discern how to write a type of document they have not previously encountered. Further, by focusing explicitly on the "rhetorical triangle" of audience, purpose, and persona, the genre discovery approach encourages students to reflect deliberately on these three aspects of the documents they create in choosing how to craft them. Professors interested in the genre discovery approach should consider adopting *The Complete Legal Writer* for their legal writing courses.

**9** [Creating and Administering a Live Client Interviewing Project for 1Ls: Benefits, Challenges, and Lessons Learned from COVID-19](#)

A curriculum offering repeated and sustained exposure to practical skills is critical to producing great lawyers. This Article details the steps in designing and administering a live client experience in the 1L year and discusses lessons learned during COVID-19 that could lead to further innovation that might better serve clients and the legal community.

**15** [Two's Company. Three's a Crowdsourcing Activity?](#)

Whether professors like it or not, technology is becoming an unavoidable aspect of the classroom. Students come to class with an expectation that technology will be used and a broad knowledge of how to use technology effectively. Law professors may not be comfortable using technology as a pedagogical tool, but technology can be used successfully to support pedagogical goals. In this Article, Professor Castello shares an example of how she used an idea from the tech world—crowd sourcing—to support her goal of incorporating social justice issues into a first-year Legal Writing class.

**19** [#ThisIsMe](#)

No matter what instruction in law schools may be after the pandemic—online, hybrid, or in person—using a #ThisIsMe assignment can help promote an inclusive learning space and enhance learning. Long after the course is over, students may remember this assignment more than any other because of the connections, community, and trust that it fosters.

**24** [Everything I Know About Lawyering I Learned from The Bluebook: Teaching Legal Skills by Teaching Citation](#)

Professors and law students often consider citation boring to teach and to learn. But when we examine the skills inherent in constructing precise, correct citations, we see magic: The rules of creating flawless citations are the rules of being a good lawyer. This Article explores five valuable lessons for law practice that can be found in the study of citation.

**27** [Writing for the Long and Short Run](#)

A reflection on the lessons learned from my experience as a runner and five ways I have applied those lessons to improve my legal writing classes.

## The Board

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*Perspectives: Teaching Legal Research and Writing* is published in the fall and spring of each year by Thomson Reuters.

### Why Write for *Perspectives*?

*Perspectives* is for anyone who teaches legal research or legal writing, broadly defined to include the first-year and advanced LRW courses, transactional drafting courses, academic support methodologies, and courses on the American Legal system for international lawyers—in law schools, libraries, courts, and law offices. *Perspectives* articles are short, readable, and explore a broad array of teaching theories, techniques, and tools. The idea can be large or small but if it provides a fresh and creative way to teach or learn about legal research or legal writing skills, *Perspectives* editors would like to publish it. Writing for *Perspectives* allows you to add to your resume and get published quickly while reaching the people who share your passion for this area of the law.

*Perspectives* appears twice yearly. Most articles average between 4,000 and 7,000 words and are lightly footnoted and highly readable. They may focus on curricular design, goals, teaching methods, assessments, etc.

### [Author Guidelines](#)

### In Our Next Issue

The next issue will be published in spring of 2022, if we receive enough articles to fill the issue. If you have ideas about how to teach either legal writing, broadly defined to include most types of law school writing, or legal research, broadly defined to include both introductory and advanced classes, please consider turning those ideas into an article for *Perspectives* that can be shared with our readers.

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## From the Editor in Chief

By Judith A. Rosenbaum

*Judy Rosenbaum is a Clinical Professor of Law at Northwestern University Pritzker School of Law and Editor in Chief of Perspectives since 2020.*

Over the summer, members of the *Perspectives* Editorial Board were busy reviewing and editing articles, many of which are in this issue. Assistant Editor in Chief Robin Boyle-Laisure and I were busy communicating with authors, and Managing Editor Brooke Bowman was busy making sure that work for this issue of *Perspectives* was spread out equally among all Editorial Board members and that authors and Board members alike were adhering to deadlines. We accomplished a great deal and I want to start this column by giving a huge thank you to everyone on the Board for their hard work. I would also like to thank the wonderful authors who submitted their articles to us. Some of those articles are in this issue and others will be in the next issue, which I hope will be out reasonably soon after this one. Of course, without that steady stream of articles, there would be no journal to publish.

Over the summer, as I watched and participated in the process of putting this issue together, I often fantasized about writing this column with the pandemic fading into the distance. Indeed, for a short time in July as more people received vaccines and the masks came off, albeit temporarily, that fantasy seemed like it would become reality. And then the Delta variant hit and the number of COVID-19 cases spiked again.

So, I'm writing in Fall 2021 as we are resuming in-person teaching, though for many of us with a mask. Many of us are conducting student conferences via Zoom. And we are still holding conferences and other meetings virtually or at best in a hybrid format, with some people in the room and some joining a virtual room. And I'm still fantasizing about writing an Editor's column with the pandemic in our rearview mirror.

But, as you will see with this issue, even though we did not try to create a themed issue on teaching during the pandemic, many of our authors had the pandemic on their minds, and it is what they wanted to write about. Although not all the articles in this issue are about pandemic teaching, some of the articles discuss what the authors learned from teaching during the pandemic that they want to bring forward to their classrooms when teaching returns to something like it used to be. Other articles are about how the authors had to pivot to try to maintain some semblance of pre-pandemic teaching and what those pivots bode for the future. The rest of the articles are, as *Perspectives* strives to do in each issue, about good teaching ideas that we hope will infuse our readers' teaching with a new spark.

This issue features six articles. I hope you enjoy reading them and learn as much from them as I have.

Professor Joseph Jackson tells us that every form of writing that we teach students—letters, memos, briefs—is a genre and that each genre has its own conventions of form, tone, and substance that readers expect to see. He suggests that students can learn to pull out the expectations for each genre and other genres that they have not yet learned by studying excellent examples of each genre.

Professors Rachel Croskery-Roberts and Ezra Ross describe the mandatory first year in-person interviewing program at the University of California, Irvine, and how they modified it during the pandemic, along with the lessons learned from those modifications.

Professor Rosa Castello describes how she required students to do both legal and non-legal research on disability rights and to create a website where they could post their research results and access that information on an ongoing basis.

“The . . . articles are, as *Perspectives* strives to do in each issue, about good teaching ideas that we hope will infuse our readers' teaching with a new spark.”

Professor Kathleen Elliott Vinson's article grew out of a desire to try to build community and trust in the virtual classroom being used for teaching during the pandemic. She describes an exercise in which she asked students to create a short video or PowerPoint presentation to share something about themselves in response to a series of questions or prompts that she provided to the class.

Professor Nyla Millar discusses how the precision required for proper citation translates into valuable lessons for law practice.

Professor Susan Greene discusses lessons she learned from running both before and during the pandemic and how those lessons apply to teaching.

All of these articles are an inspiration to our continuing resilience as teachers. This issue should be available for distribution sometime during the holidays. I would like to wish you all a peaceful, happy, and healthy holiday season. My fervent hope is that we will be meeting in person in the coming year.

“All of these articles are an inspiration to our continuing resilience as teachers.”

Cite as: Joseph S. Jackson, *Adding Genre Discovery to 1L Writing Instruction*, 29 Persps. \_\_\_ (2021).

# Adding Genre Discovery to 1L Writing Instruction

By Joseph S. Jackson

*Joseph S. Jackson is a Senior Legal Skills Professor at University of Florida Fredric G. Levin College of Law.*

Writing instruction for first-year law students has become more varied than it was in the past. Most schools still focus on objective writing in the first semester and persuasive writing in the second, but many have expanded the range of assignments given. First-semester assignments now often include informal email memos and client letters, in addition to formal office memos. The second semester now often includes demand letters and trial-level motion memoranda, as well as appellate briefs.

Modern 1L writing instruction thus introduces students to a variety of forms of legal communication. In some respects, these forms are very different from each other: a letter to a client is different in tone and substance than a demand letter to opposing counsel; an informal email memo is more casual in tone and far more succinct than a traditional office memo, and both differ markedly in tone and substance from a trial-level motion memorandum or an appellate brief. Professors can help students see the connection between these disparate forms by pointing to something they share: the underlying structure of the legal reasoning that is being presented. In laying out a legal argument, there is always a rule that drives the analysis, and the structure of the rule informs the organizational structure of the argument. Focusing students' attention on the rule-based nature of legal reasoning can help them "translate" the lessons they learn about one form of legal communication to other contexts.

But professors can do more to make their instruction on different forms of legal communication cohere. Rather than simply teaching students the conventions of a traditional office memo, email memo, or client letter, professors can help students understand that each of these forms of legal communication is a genre of writing, and that each

genre has conventions of form, tone, and substance that readers expect the writer to follow. Teaching students to distill these conventions by examining excellent examples of the genre gives students a lens through which they can view any form of legal communication, even a form they have never encountered before. This "genre discovery" approach thus teaches students to teach themselves how to tackle forms of legal communication that are not covered in their 1L writing courses.<sup>1</sup>

This Article proceeds as follows: Part I summarizes the genre discovery approach and lays out the analytical framework it uses to discern the conventions of any form of legal communication. Part II then concretely addresses the changes in instructional methodologies needed to adopt and implement the genre discovery approach.

## I. Genre Discovery: What's the Big Idea?

Different forms of legal writing have developed to fill needs in different contexts. Office memos convey the analysis of a legal issue to a more senior lawyer on the same team. Demand letters convey a request for action to an adverse party or that party's lawyer. Complaints invoke the jurisdiction of a court in connection with a legal dispute, set forth the factual and legal basis of the claim for judicial relief, and specify the relief requested. Judicial opinions convey a court's resolution of a legal dispute and lay out the court's analysis explaining its decision.

These contexts recur millions of times. Rather than reinvent the wheel, lawyers look at past examples to guide them in addressing the matter at hand. Conventions emerge as to the form a particular type of document should take. In some contexts, such as jury instructions or residential real estate sales

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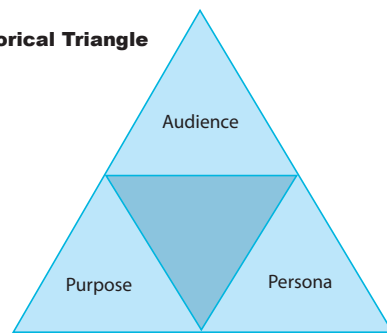
<sup>1</sup> ALEXA Z. CHEW & KATIE ROSE GUEST PRYAL, *THE COMPLETE LEGAL WRITER* xxiii (2d ed. 2020).

“Genre discovery regularizes the process of studying examples, asking the student to consider the examples from the perspectives of audience, purpose, and persona.”

contracts, officially approved templates exist that specify not only the form but also much of the content of the document to be drafted, with room for variation or individualized provisions in a particular case. But even where precisely applicable models do not exist, lawyers discern the general features or conventions of the type of document they wish to create by studying examples.

Genre discovery regularizes the process of studying examples, asking the student to consider the examples from the perspectives of audience, purpose, and persona. This “rhetorical triangle” of audience, purpose, and persona (see Figure 1)<sup>2</sup> bears significantly on the choices writers should make in order to make their writing effective in the situation at hand.<sup>3</sup>

Figure 1  
**The Rhetorical Triangle**



For example, consider the similarities and differences in audience, purpose, and persona between an office memo and a client letter. With regard to audience, both are addressed to an insider, someone on the same team, suggesting that a candid, unbiased presentation of the information to be conveyed is appropriate. But the office memo is addressed to a law-trained reader, who will expect formal citations to legal

authorities in support of the assertions made, both to confirm that the assertions are well supported and to enable the reader to read and evaluate the authorities for herself if she wishes to do so. In the context of a client letter, however, such citations may be unnecessary and unhelpful at best, if not downright confusing and counterproductive.<sup>4</sup>

With regard to purpose, both documents are intended to convey a legal analysis of the client’s situation (or some particular aspect of it), evaluating claims or defenses that might be made and informing the reader how a court or other decision-making authority would likely rule. However, in the office memo context, that purpose often extends to close analysis of finer points and distinctions that may be relevant in the client’s situation, whereas a client letter may focus more on the bigger picture, and less on the intricacies of the available legal arguments. Additionally, beyond conveying a legal analysis of the client’s situation, a client letter’s purpose usually includes advising the client and making recommendations for moving forward, and reassuring the client that the lawyer is ready, willing, and able to handle the matter at hand. These additional purposes generate further differences between the typical forms that office memos and client letters take.

Finally, with regard to persona, office memos and client letters each seek to convey that the writer is knowledgeable, reliable, thorough, and serious—in short, professional in his or her attention to the matter at hand. In both contexts, writers attempt to be clear and direct, take care to avoid grammatical and typographical mistakes, refrain from attempts at humor, and avoid a too-casual tone. However, office memos typically go further than client letters in conveying a respectful or deferential persona by adopting a more formal tone, avoiding contractions and colloquialisms. Client letters, by contrast, are somewhat less formal, conveying a friendlier persona to promote a better human connection with the client.

<sup>2</sup> *Id.* at 5.

<sup>3</sup> *Id.* at 5-8; see also ARISTOTLE, ON RHETORIC: A THEORY OF CIVIC DISCOURSE bk. 1, Ch. 2, 1356a. (George A. Kennedy trans., Oxford U. Press, 2d ed. 2007) (c. 350 B.C.E.). The “rhetorical triangle” of audience, purpose and persona exists in any situation in which the writer or speaker intends to communicate in a way that will effect change by altering the reader’s or hearer’s perspective. See Lloyd F. Bitzer, *The Rhetorical Situation*, 1 PHILOSOPHY & RHETORIC 1, 8 (1968) (“[P]roperly speaking, a rhetorical audience consists only of those persons who are capable of being influenced by discourse and of being mediators of change.”). All legal communication falls into this category.

<sup>4</sup> Wayne Schiess, *Writing for Your Audience: The Client*, MICH. BAR J., Jun. 2002, at 50, 50–52.

Professors implementing the genre discovery approach do not instruct students to adopt a more formal tone in their office memos than in their client letters. Rather, they ask students to examine examples of office memos and client letters and to notice the difference in tone. More specifically, professors first introduce students to the “rhetorical triangle” concepts of audience, purpose, and persona. They then ask students to examine examples of a particular type of legal document, to notice aspects that the examples share, and to consider how those shared aspects relate to the document’s audience and purpose and to the writer’s persona. Students thus not only learn the conventions of that particular type of document, but also gain practice in discerning conventions by examining examples. Instruction in this transferable skill is the essence of the genre discovery approach.

## II. Nuts and Bolts

Legal writing professors already use examples of well-written documents to guide students. For example, professors may teach students how to write a case summary for an office memo by explaining in class how to do it, pointing students to a good example students can use as a model, and telling students to write one. They then provide feedback on the students’ assignments, and perhaps further in-class instruction comparing and contrasting additional examples, some better than others. Professors ask the students to rewrite their case summaries, or to write additional ones, and provide further feedback. Through the process of writing, feedback, and further writing, students learn to frame their assertions more clearly and precisely, to assert their points more directly, and to follow established conventions regarding syntax, grammar, and citation of authorities.

Genre discovery does not supplant this instruction in core aspects of good legal writing. Rather, with regard to larger-scale, document-level concerns of substance, organization, and tone, it shifts some of the method of instruction from frontal transmission—professors telling students what the sections of an office memo are, or how to frame a Question Presented or Brief Answer—to a more inductive and interactive approach, asking

students to tease out from a set of examples how a Question Presented should be structured, or what information a Brief Answer should contain. Further, by asking students to consider how the common aspects of the examples relate to audience, purpose, and persona, the genre discovery approach encourages students to be conscious of these considerations in crafting the documents they write.

Adding genre discovery to 1L writing instruction thus requires only minor modifications to the teaching strategies and lesson plans professors currently use. First, professors need to introduce students to the idea that the different types of documents lawyers write in practice can be seen as “genres” of writing, with conventions of form, substance, and tone that can be discerned by deconstructing sample documents. Second, professors need to explain the “rhetorical triangle” of audience, purpose, and persona—concepts they may already cover in their instruction.<sup>5</sup> Finally, professors need to adjust their instructional methodologies at the discrete points in the semester when they first explain the basic conventions of office memos, client letters, and other document types covered in their 1L writing courses. At these junctures, instead of lecturing about the form, substance, and tone of the document type in question, professors should have students examine examples, and ask students to notice what the examples have in common. Through guided class discussion, the same points about the document type’s form, substance, and tone can then be elicited from the students. Thus, students still learn the same lessons about how

“Adding genre discovery to 1L writing instruction thus requires only minor modifications to the teaching strategies and lesson plans professors currently use.”

<sup>5</sup> See, e.g., Barbara P. Blumenfeld, *Rhetoric, Referential Communication, and the Novice Writer*, 9 LEGAL COMM. & RHETORIC 207 (2012) (noting that classical rhetoric is an “integral part of legal writing instruction at many law schools”); J. Christopher Rideout, *Ethos, Character, and Discoursal Self in Persuasive Legal Writing*, 21 LEGAL WRITING 19, 20 (2016) (noting that many contemporary legal writing textbooks emphasize the importance of *ethos*); Kristen K. Robbins-Tiscione, *A Call to Combine Rhetorical Theory and Practice in the Legal Writing Classroom*, 50 WASHBURN L.J. 319, 325 (2011) (suggesting that “classical rhetoric provides the most natural framework for teaching legal analysis and argument” and noting that her legal writing course “is structured around Aristotle’s canons of rhetoric”); Suzanne Rabe, Dir. Legal Writing, Univ. of Ariz. James E. Rogers College of Law, “From Aristotle to Martin Luther King: Using *Letter from Birmingham Jail* to Teach Aristotle’s Three Modes of Persuasion” presentation at Legal Writing Inst. conference (June 2006) (recommending a means of incorporating Aristotle’s rhetorical triangle in a legal writing course).

“As students first employ the genre discovery approach, professors can explicitly structure the students’ examination of the examples in question; as students gain experience with the approach, those supportive structures can be removed, and professors can frame their inquiries in a more open-ended way.”

to write an office memo, but they also develop their skill in figuring out from examples how to write any type of document that lawyers write.<sup>6</sup>

Professors interested in implementing the genre discovery approach in their legal writing courses should consider adopting *The Complete Legal Writer* by Alexa Z. Chew and Katie Rose Guest Pryal.<sup>7</sup> This textbook explains and utilizes the genre discovery approach, and provides multiple well-crafted examples of all of the document types typically covered in first-year legal writing courses, including office memos, email memos, client letters, demand letters, trial-level motions and supporting memoranda, and appellate briefs. Professors can supplement these examples with their own. If stylistic or formatting discrepancies exist between the professor’s examples and those in the textbook, professors can use them to highlight the importance of meeting a particular audience’s expectations and of following explicit instructions (such as court rules) that specify formatting requirements.<sup>8</sup>

Templates to guide students in examining the examples are included in the textbook, and supplementary exercises in the *Teacher’s Manual* provide a useful framework for in-class discussions.<sup>9</sup> Professors can adapt these materials to suit their own pedagogical goals and to ensure that students appreciate the points the professor wants to emphasize about the form, substance, and tone of a particular type of document. Of course, professors can also start from scratch, reverse-engineering their own templates and in-class exercises that—by asking the right questions—will elicit from

students the answers the professor wants them to find. In any event, professors will find it helpful to provide a more specific framework for the students’ examination of the examples than simply asking what the examples have in common. Here, as in other contexts, scaffolding can be used to enhance student learning. As students first employ the genre discovery approach, professors can explicitly structure the students’ examination of the examples in question; as students gain experience with the approach, those supportive structures can be removed, and professors can frame their inquiries in a more open-ended way.

In addition to its clear and helpful explanation of the genre discovery approach, *The Complete Legal Writer* offers a number of features that professors will find useful in facilitating student learning. The text is well written and easy to understand. Consistent fact patterns are used across chapters and document types, both minimizing the cognitive load as students learn new material and facilitating comparison of the different genres. Chapters on each document type are structured consistently, leading students to follow a consistent process in learning the conventions of a particular genre. The sample documents are well-crafted and exemplify the clear, direct writing style we seek from our students, and the textbook contains several chapters focusing explicitly on these core aspects of good legal writing. The book is comprehensive and can be used in both objective and persuasive legal writing courses. Finally, the book explicitly covers giving and receiving feedback, a topic often omitted from legal writing texts.

### III. Conclusion

Genre discovery can enhance first-year legal writing instruction by developing students’ skill in studying examples to figure out the best structure and style for a document they need to write—even if it is a type of document they have not previously encountered. Further, by focusing explicitly on the “rhetorical triangle” of audience, purpose, and persona, the genre discovery approach encourages students to reflect deliberately on these three aspects of the documents they create in choosing how to craft them. Professors interested in the genre discovery approach should consider adopting *The Complete Legal Writer* for their legal writing courses.

<sup>6</sup> In relying on a set of examples, rather than a single exemplary model, to illustrate the form a particular type of document should take, genre discovery also enhances students’ ability to critically evaluate the examples provided, and to make appropriate context-specific alterations in their own documents rather than blindly copying the language of a single model.

<sup>7</sup> ALEXA Z. CHEW & KATIE ROSE GUEST PRYAL, *THE COMPLETE LEGAL WRITER* (2d ed. 2020).

<sup>8</sup> The genre discovery approach thus prepares students to adapt to different stylistic preferences individual lawyers may have, and to any future changes in the conventions that apply to a particular type of document, rather than being locked into the approach preferred by their legal writing professor.

<sup>9</sup> See ALEXA Z. CHEW ET AL., *TEACHER’S MANUAL FOR THE COMPLETE LEGAL WRITER* (2d ed. 2020). A dedicated website provides additional resources for professors at <https://completelegalwriter.com/professor-resources>.



Cite as: Rachel Croskery-Roberts & Ezra Ross, *Creating and Administering a Live Interviewing Project for 1Ls: Benefits, Challenges, and Lessons Learned from COVID-19*, 29 Persps. \_\_\_ (2021).

# Creating and Administering a Live Interviewing Project for 1Ls: Benefits, Challenges, and Lessons Learned from COVID-19

By Rachel Croskery-Roberts and Ezra Ross

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A curriculum offering repeated and sustained exposure to practical skills is critical to producing great lawyers. We believe the most effective legal education would programmatically engage students in actual legal work across all three years of the curriculum. In the second and third years at most law schools, students often have client interaction through optional or mandatory clinics and pro bono work. More challenging, though, is identifying ways to engage students in the first year of law school, particularly given students' lack of legal knowledge at that point and the heavy 1L workload.

In this Article, we address steps to design and administer a live interviewing experience in the 1L year. We also discuss the key benefits and challenges of such a program. Finally, we conclude with lessons learned during COVID-19 that could lead to further innovation in better serving clients and the legal community.

## I. Logistics of the Interviewing Project

### A. Basic Structure and Content of the Project

The interviewing project has one basic structure, though individual Lawyering Skills faculty members have significant flexibility. At a minimum, we work to ensure all students receive instruction in client counseling and interviewing techniques. We also address issues of cultural competency. Most faculty members accomplish this through a two- or three-class unit that blends background lecture with model interviews and experiential components.

Simulated interviews may be freestanding or related to another substantive writing problem in the

course. For example, in one professor's recent open research memo assignment in the fall, students conducted research and analysis for a simulated retaliatory transfer case. Building on the students' existing knowledge of retaliation law, the interview simulation involved a new client with a potential retaliatory discharge claim. The professor divided students into two groups, with one group serving as clients and the other serving as attorneys. The attorneys received a shortened version of the facts and had to interview the client to discern what the critical facts were and whether to take the case. The professor met with each group separately prior to the simulation to provide guidance.<sup>1</sup>

Once students have gone through the lecture, modeling, and simulation components, they are assigned to a public interest or government organization. Through their assigned organization, they receive specific training and guidance. Training may occur at the law school or at the host organization. The larger organizations often choose to do organization-specific training at the law school in a presentation format with additional simulations. The presentations involve a range of information, from an introduction to the relevant law the students might encounter to a description of the unique needs of the organization's particular client base. To allow for this, we typically reserve one class on the 1L schedule for guest speakers from the various

<sup>1</sup> Other ways to introduce the process of interviewing a client earlier might involve video or live interviews of simulated clients in the writing projects students complete in their first year. See, e.g., Ian Gallagher, *Lights, Camera! Law School—Using Video Interviews to Enhance First-Semester Writing Assignments*, 23 PERSPS. 61, 61 (2014) (noting benefits as including “an early introduction to the client interviewing process” and “the opportunity to teach something more than just legal analysis and writing skills with legal-writing assignments”).

“A curriculum offering repeated and sustained exposure to practical skills is critical to producing great lawyers.”

organizations. Other organizations choose instead to have the training occur on the same day as the interviews. For example, Inland Counties Legal Services has created a Saturday clinic for our students where eight students and a professor or our program manager spend the entire day there, beginning with organization-specific training.

Prior to conducting their own interviews, students observe an attorney conducting an interview. This allows students to see how such an interview proceeds with a host organization's actual client and to ask questions of the attorney. This part of the project is fairly uniform across organizations, though some organizations pair students rather than having each individual student observe an interview.

Students then have the opportunity to conduct all or part of an interview under observation. Some organizations pair students for this aspect of the project, though many are individual interviews. At most organizations, attorneys are present in the background but not involved directly in the interview. At others (typically where the law is particularly complex and students may need help with follow-up questions), the attorney may also jump in with additional questions.

All students receive feedback from the observing attorney. Furthermore, many organizations require students to submit a very short case report or reflection. This area is probably the least uniform aspect of the program, as each organization has its own way of handling how it provides such feedback. For example, the Orange County Public Defender's office had students orally present the case to a group of attorneys and receive oral feedback from the group. In contrast, the Legal Aid Society of Orange County (now Community Legal Aid So Cal) had students prepare a short report and then meet one-on-one with the observing attorney for follow-up on a separate day.

Attorneys then fill out a brief form indicating that the student has completed all aspects of the project. There is an area for the attorney to provide additional feedback to us about the

program or the student's performance. Students return that form to our program manager.

### B. Timing

We have found that the best timing is to introduce the interviewing and counseling concepts sometime in the first semester, either in conjunction with the open memorandum (for professors who introduce the facts of the open memorandum through interviews) or in a freestanding unit toward the end of the semester. Trainings with organizations occur at the very end of the first semester or at the beginning of the second semester. The actual interviews are scheduled from roughly the first week of the second semester through the week before final exams, with each student typically going to the organization one or two times to complete the project.

### C. Grading

For two key reasons, we treat this as an ungraded check assignment. First, the lack of uniformity across organizations makes grading difficult. Furthermore, because the professor is not present for many aspects of the project, it would be unfair to grade a student on their performance.

## II. Benefits

The benefits of this program have been profound. First, students gain actual interaction with practicing attorneys and those in need of legal representation in the surrounding community. For example, students have worked with attorneys and advocates in evening and weekend pro bono clinics, reaching communities when and where they need representation. We have also sometimes been able to plug students in to the specific areas of law in which they have an interest or aptitude. To illustrate, in some years, we have been able to pair students who have a strong interest in criminal law with the Orange County Alternate Public Defender, allowing those students to work directly with an experienced criminal law attorney and to perform interviews in jails and courthouses. And students who have fluency in more than one language have been able to connect with organizations who have an acute need for their language skills,

“[T]he best timing is to introduce the interviewing and counseling concepts sometime in the first semester, either in conjunction with the open memorandum (for professors who introduce the facts of the open memorandum through interviews) or in a freestanding unit toward the end of the semester.”

occasionally leading to more long-term volunteer work or jobs in the local legal community.

Second, the project allows us to introduce and reinforce concepts that students often have little exposure to until they reach the clinics: engaging in client-centered lawyering and, relatedly, developing cross-cultural competency. Students are exposed to lives very different than their own. They see those seeking legal representation struggling simply to find reliable transportation to and from the interviews and/or having to bring children with them because they lack childcare. A number of students are surprised by the nonlegal work in problem solving for the pro bono organizations' clients just to get them to a space where they can access the legal help they need.

Third, the program allows students to begin developing strong ties to the local legal community from the beginning of their law school experience and to see what it is like actually working in the public interest. On more than one occasion, students have found their passion through this project, and more than a few have been hired for summer work after interacting with one of the organizations through the program. One participating organization relayed a story about a student who confessed to her supervising attorney that she did not have much interest in public interest work and planned to spend her career in the corporate legal world. This student enjoyed the work and was surprised to find that she was moved by the stories of the organization's clients. She ultimately decided to volunteer throughout law school at the organization, and the attorney for whom she worked was excited to see a lifelong love of public service ignited in this student.

In sum, maximizing opportunities to practice core competencies in law school throughout all three years of law school can only help to produce better lawyers who are more attuned to the needs of a wide variety of clients.<sup>2</sup>

<sup>2</sup> See, e.g., Ascanio Piomelli, *Cross-Cultural Lawyering by the Book: The Latest Clinical Texts and a Sketch of a Future Agenda*, 4 HASTINGS RACE & POVERTY L.J. 131, 162 (2006) (recognizing in the clinical context that “[o]nly . . . repeated opportunities to address, practice, and reflect upon [cultural issues], [are] likely to maximize student-lawyers’ competence”).

### III. Challenges

Before COVID-19 caused us to radically think about ways to adjust the program, there were challenges to creating and managing an innovative program of this size. Those challenges fall into three basic categories: (1) scalability as the 1L class size increased; (2) uniformity across organizations; and (3) management of such a large program. Nevertheless, on balance, we strongly feel that the opportunity for students is worth working through these challenges.

#### A. Scalability

To make a program like this work, you need strong community partners. We had that from the very beginning with two legal aid organizations and the Public Defender's Office. Thus, when we started as a nascent organization with only 60 1Ls, we were able to place all of our students with these three organizations, as each was willing to take on 15–30 students. As we grew, those three organizations took on more and more students. However, there was obviously no way for them to absorb all the 1Ls as we grew to 260 students in our largest year. To accomplish placing that many students, we worked with nearly ten organizations ranging from our original partners to government agencies like the California Labor Commission to additional general and specialized legal aid programs. One of the programs we now work with is the Elder Law and Disability Rights Center, which was cocreated by one of our graduates. Because the class size was unusually large that year, we also worked to partner with the law school's pro bono director to use some other placements through her office, allowing students to go as far as Tijuana for a border rights project. We also expanded to use an organization that provides phone interviews for those who cannot travel to the organization's offices. Cultivating partnerships with this many organizations takes work, but it pays dividends. It keeps faculty members in close communication with the local legal community, which helps us place students in jobs and allows us to keep a finger on the pulse of the ever-changing legal environment.

“On more than one occasion, students have found their passion through this project, and more than a few have been hired for summer work after interacting with one of the organizations through the program.”

“[T]he benefits outweigh any potential detriments. Students learn professionalism, and they learn client-centered lawyering.”

### B. Uniformity

The more organizations you involve in a project of this magnitude, the less uniform the experience will be for students. This is not just a matter of not knowing what organizations are doing, though keeping track of that is part of the management of the program. Rather, it is a function of creating true partnerships with each organization by serving the organization's needs, rather than merely demanding that they serve our students. We could not make this happen without wide-ranging community support. That means allowing organizations some flexibility in how they create the experience for our students. This variability means students placed at one organization may devote more time to their interview experience than students at a different organization. Furthermore, different attorneys have differing comfort levels with how much autonomy they give students when interviewing. As a result of these and other issues, a program like this will involve some student complaints. It is inevitable. But the benefits outweigh any potential detriments. Students learn professionalism, and they learn client-centered lawyering. Every student complaint (and they are remarkably rare) is an opportunity to teach.

### C. Management

Another challenge involves finding the time to manage a program like this along with all the other things Lawyering Skills professors are supposed to accomplish. We have been able to pull this off in part because of strong institutional support. When we began as a program, we had faculty assistants, but we had no program manager. A few years ago, we were given permission to have a full-time program manager who helps with administering this and other programs. The program functions largely through a partnership between the managing faculty member and the program manager.

The managing faculty member makes decisions about program structure and scope and maintains strong partnerships with attorneys at the various organizations. (Professor Croskery-Roberts was the managing faculty member from 2011–2020, and Professor Ross has been

the managing faculty member from 2020–2021. We will likely rotate this role on a more regular basis in the future.) The managing faculty member also works to cultivate new relationships with potential organizations and coordinates with our pro bono office where necessary.

Our program manager, Marisela Galindo, helps maintain those relationships and keep schedules, something we highly recommend to those considering a program such as this one. The program manager also handles assigning students to specific organizations, funneling student issues to appropriate people to handle those issues, and collecting forms to ensure students have completed the assignment. These are all things a professor's regular faculty assistant can (and did) do, but it is easier when the institution provides support for this as a dedicated job duty.

### IV. The Interviewing Project During COVID-19

The pandemic posed significant challenges to the interviewing project for the 2020–21 academic year. The public interest organizations, with which the interviewing project typically partnered, faced severe uncertainty. Unable to predict how the pandemic would impact their programs, most organizations could not commit in summer 2020 to any particular clinic nor estimate the number of interviews for spring 2021. Furthermore, the program's usual in-person interviews raised both safety risks and administrative issues that would conflict with the interviewing project's goals. For instance, some of the law school's students would not reside locally in 2020–21. Finally, first-year students in 2020–21 would be the first class to enter law school under completely remote circumstances. Requiring interviews for new law students confronting new, pandemic-related challenges raised additional concerns about how the interviewing project might proceed.

Ultimately, however, we decided to proceed with a live interviewing program despite the pandemic. Although we considered moving temporarily to a program of simulated interviewing exercises, doing so would not enable students to serve

the community—one of the primary purposes of the interviewing project. The pandemic magnified this consideration because the need for legal services has grown. For example, despite legal restrictions on eviction during the pandemic, COVID-19 has contributed to the unhousing of many California residents.<sup>3</sup>

Having committed to continuing the program during the pandemic, the law school adapted its usual process to the evolving public health situation. For example, we determined to use only remote, rather than in-person, interviews. Although some organizations could only offer in-person interviews, the law school decided that the health risks of in-person interviews outweighed the benefits.

#### V. Lessons from the Pandemic and the Future of the Program

Implementing the program during COVID-19 has raised a variety of day-to-day difficulties.<sup>4</sup> For example, some students have showed up to scheduled Zoom interviews to find no one else present. Other students have attended hours of trainings and observed multiple interviews only to learn that the individual scheduled for their own interviews had to cancel.

But running the program during the pandemic also presented benefits that could help shape the future of similar projects.

For example, Zoom interviews can potentially help, rather than disadvantage, indigent people and communities. Pro bono interviewees may lack reliable transportation or may not be able to

leave work long enough to attend an in-office interview. When an interview requires that the individual merely possess a phone or know someone with a phone, however, more people can conveniently participate in an interview. Relatedly, meeting attorneys and law students in person, and fielding highly detailed questions from them, can understandably cause anxiety. But remote interviews may mitigate that challenge; some interviewees this year have answered questions “cameras off” which can enhance privacy and may add to the comfort level of new interviewees.<sup>5</sup> These considerations suggest that Zoom or telephonic interviews may open up law school-provided legal services to more members of the community.

Remote interviews may offer benefits to students as well. As commentators have noted, clients in some practice areas increasingly demand highly cost-effective legal services.<sup>6</sup> Growing client demands and competition help explain the rise of outsourced and unbundled legal services, including alternative providers that eschew physical offices. The pandemic may accelerate the trend toward remote, out-of-office legal work.<sup>7</sup> In the context of these developments, the value of practicing remote interviewing rises. To be sure, remote interviewing poses challenges to rapport-building, especially with interviewees less familiar with the legal system. But such difficulties may help students grapple with the increasingly critical skill of polished and effective fact gathering through remote interviews.

“[D]ifficulties [of remote interviewing] may help students grapple with the increasingly critical skill of polished and effective fact gathering through remote interviews.”

<sup>5</sup> STEFAN KRIEGER & RICHARD NEUMANN, JR., *ESSENTIAL LAWYERING SKILLS* 90 (4th ed. 2011) (describing reducing anxiety as one of the primary purposes of an interview).

<sup>6</sup> Milton C. Regan, Jr. & Palmer Heenan, *Supply Chains and Porous Boundaries: The Disaggregation of Legal Services*, 78 *FORDHAM L. REV.* 2137 (2010) (describing the impacts of competition on the market for legal services).

<sup>7</sup> *Adapt or Fail: Industry Changes Law Firms Cannot Afford to Ignore*, ABA (Nov. 25, 2020), [https://www.americanbar.org/groups/law\\_practice/publications/techreport/2020/sponsored-mycase/](https://www.americanbar.org/groups/law_practice/publications/techreport/2020/sponsored-mycase/) (“Post-pandemic, remote work is here to stay—if only because employees will begin to demand that option. In fact, over half of the lawyers surveyed were unsure as to whether they would ever allow staff to return to practice in a physical office.”).

<sup>3</sup> Vivian Ho, *What Happened When California Tried to Fix its Homelessness Crisis as the Pandemic Arrived*, *GUARDIAN* (Dec. 31, 2020), <https://www.theguardian.com/us-news/2020/dec/31/california-homelessness-initiative-filtered-project-roomkey-pandemic>.

<sup>4</sup> Our observations originate from student feedback on their experiences and our own firsthand observations of interviews this semester. In addition, in 2020, one of the Authors conducted most of a pro bono matter, from initial interview to trial preparation to evidentiary hearing, over the phone. As commentators have noted, engaging in practice while teaching can help law professors appreciate the practice-oriented challenges facing students. Suzanne Rabé & Stephen A. Rosenbaum, *A “Sending Down” Sabbatical: The Benefits of Lawyering in the Legal Services Trenches*, 60 *J. LEGAL EDUC.* 296, 299 (2010).

“[T]he interviewing project may well provide an even more robust experience for students and better serve individuals and the legal community in the future.”

Finally, remote interviews may help expand the reach of interviewing programs. Remote interviewing capabilities can help law schools connect with new and physically distant public interest groups and their clients. Opening interviewing programs to more organizations could allow them to direct services where people need them most regardless of location. It could also help match students with the pro bono practice areas and individuals they care about most.<sup>8</sup>

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<sup>8</sup> Ian S. Weinstein et al., *Report of the Working Group on Representation Within Law School Settings*, 67 *FORDHAM L. REV.* 1861, 1865–66 (1999) (recommending students be allowed maximal choice in selecting pro bono projects).

## VI. Conclusion

A 1L interviewing project is difficult to plan and implement, but it is rewarding for the students, the school, and the local community. Although we are still evaluating the ways COVID-19 forced us to adapt, the interviewing project may well provide an even more robust experience for students and better serve individuals and the legal community in the future.

Cite as: Rosa Castello, *Two's Company. Three's a Crowdsourcing Activity?*, 29 Persps. \_\_\_\_ (2021).

## Two's Company. Three's a Crowdsourcing Activity?

By Rosa Castello

*Rosa Castello is a Professor of Legal Writing and Assistant Faculty Director of the Ronald H. Brown Center for Civil Rights at St. John's Law School.*

The start of a new school year has always excited me. As a student, it meant new supplies, new clothes, new opportunities. As a professor, I still like the newness each semester beginning brings. This past academic year brought a lot of newness with online teaching. It forced me to confront my fears and hesitations about using technology to achieve pedagogical goals and to embrace some of the exciting ways technology can be used to successfully achieve these goals.<sup>1</sup> One tool I adopted from the tech world this past year—that both supported my goal of incorporating social justice issues into the Legal Writing classroom and expanded my students' understanding about resources and client needs—was crowdsourcing.

### Teaching Goal: Incorporating Social Justice in the Legal Writing Classroom

One of my teaching goals every year, and particularly this year, is to incorporate social justice issues into my Legal Writing class.<sup>2</sup> This typically takes the form of assigning my students a discrimination problem involving gender, race, or age. We talk about these issues in class, creating safe spaces to strategize about them in the larger legal context and discuss how to be sensitive and culturally competent lawyers in speaking with, representing and writing about clients.

This spring, for the first time in my teaching career, I focused on the Americans with Disabilities Act (ADA). Half of my students represented the plaintiff, who was suing his employer for disability discrimination, and the other half represented the employer. At various points in the semester, we spoke about disability discrimination law in the larger context, but also more specifically about the plaintiff and his disability and “how to be persuasive.” I wanted the students to try to understand the plaintiff in a real sense and be sensitive and thoughtful about his legal and personal needs when writing about him as an individual with a disability. My objective was to expand the students' understanding about (1) individuals with disabilities more broadly and (2) the professional role of an attorney beyond the written legal analysis. For some students, this may have been unnecessary, and they could probably educate me. For others, this might have been their first time working with an individual with a disability, and it was those students whom I wanted to reach.

### Choosing Technology to Advance the Goal: Crowdsourcing

In the past, I've shared resources with my students about race, age, and gender discrimination. I've wanted them to appreciate the broader perspective of representing individuals, and not just the “law” as it relates to those individuals. For example, one spring when the plaintiff was a transgender woman, I shared with them resources about being an ally and supporting transgender individuals

“I wanted the students to try to understand the plaintiff in a real sense and be sensitive and thoughtful about his legal and personal needs when writing about him as an individual with a disability.”

<sup>1</sup> Paul L. Caron & Rafael Gely, *Taking Back the Law School Classroom: Using Technology to Foster Active Student Learning*, 54 J. LEGAL EDUC. 551, 567 (2004); Bari Courts & Jan Tucker, *USING TECHNOLOGY TO CREATE A DYNAMIC CLASSROOM EXPERIENCE*, 9 J. COLL. TEACHING & LEARNING 121, 122 (2012).

<sup>2</sup> See generally Sha-Shana Crichton, *Incorporating Social Justice into the 1L Legal Writing Course: A Tool for Empowering Students of Color and of Historically Marginalized Groups and Improving Learning*, 24 MICH. J. RACE & L. 251 (2019); Miki Felsenburg & Luellen Curry, *Incorporating Social Justice Issues into the LRW Classroom*, 11 PERSPS. 75 (2003).

“I wanted students to have the experience of their own research for the project but the value of continuing access to sources others provided as well. And then I thought about crowdsourcing.”

and respecting their preferences.<sup>3</sup> Searching for and then reading, considering, and compiling these sources is always a valuable experience for me.

As I started to research some sources to share with my students (in the little spare time I’ve had this year), it struck me that my students would benefit from that experience. Passively reading the resources I share (or possibly even ignoring them altogether) and talking about them as a class was not as valuable.<sup>4</sup> I want students to interact with the material and internalize it meaningfully.

I considered several options. One was to have students find and share a source as a group and do an oral presentation on it. For example, students might find the website for the National Disability Rights Network<sup>5</sup> and explain to the class what it is, the work it does, how it could be used as a resource, and one takeaway from the site they found valuable for their assignment.<sup>6</sup> Another option was to have students do the same thing in a written format, for example, on a discussion board or in a shared Google document. These approaches would make the sources available to the members of the class, and I could use the sources in the future. But I wanted the project to lead to something more tangible than these options would provide. I wanted students to have the experience of their own research for the project but the value of continuing access to sources others provided as well. And then I thought about crowdsourcing.

Crowdsourcing is “the practice of obtaining needed services, ideas, or content by soliciting contributions

from a large group of people and especially from the online community.”<sup>7</sup> The value of crowdsourcing lies in the idea that large groups of people can be smarter than a few individuals.<sup>8</sup> Businesses often use it to add capacity for quicker completion of jobs and to access expertise to power innovation.<sup>9</sup> And governments sometimes use it to engage citizens in lawmaking.<sup>10</sup> A familiar crowdsourcing example to many is Waze. Waze users report real-time traffic and road information on the navigation app, allowing users to help each other reach destinations.

Typically, to crowdsource a project, you need to design the job and write the instructions, choose a platform specific for the project, listen to the crowd, and assemble the work to create the final project. Some popular platforms include Kickstarter, GoFundMe, and SeedInvest.

### The Assignment

The “job” I designed was to create a place for individuals to access different resources about disability rights. The content of the site would be broad, so individuals working with clients with disabilities and individuals with disabilities themselves could come to the source and access different types of information depending on their needs. I created some broad suggested categories of information, such as “understanding your ADA rights,” “accommodating your employees with disabilities,” “COVID-specific issues for individuals with disabilities,” and “representing clients with disabilities.” But the instructions for the job explained that these categories were not exhaustive, and students should think creatively and broadly about what resources they might need

<sup>3</sup> See, e.g., *Supporting the Transgender People in Your Life: A Guide to Being a Good Ally*, NAT’L CTR. FOR TRANSGENDER EQUALITY, [https://transequality.org/sites/default/files/docs/resources/Ally-Guide-July-2016\\_0.pdf](https://transequality.org/sites/default/files/docs/resources/Ally-Guide-July-2016_0.pdf) (July 2016); Jean-Marie Navetta, *Guide to Being a Trans Ally*, PFLAG NAT’L, <https://pflag.org/sites/default/files/2020-Trans%20Ally%20Guide%20Revised.pdf> (2020); *Tips for Allies of Transgender People*, GLAAD, <https://www.glaad.org/transgender/allies> (last visited July 7, 2021).

<sup>4</sup> Gerald F. Hess, *Principle 3: Good Practice Encourages Active Learning*, 49 J. LEGAL EDUC. 401, 402 (1999) (“Researchers and leaders in postsecondary pedagogy agree that students learn better when they are actively involved in the learning process.”).

<sup>5</sup> <https://www.ndrn.org/about/ndrn-member-agencies/>

<sup>6</sup> In the end, with the crowdsourcing assignment, this is the information students provided individually, but they did it in a written format that could be collaboratively sourced and shared for future use.

<sup>7</sup> *Crowdsourcing*, MERRIAM-WEBSTER.COM, <https://www.merriam-webster.com/dictionary/crowdsourcing> (last visited July 7, 2021).

<sup>8</sup> Eugene Ivanov, *What Is Crowdsourcing, and How Can It Add Value to Your Enterprise?*, CROWDSOURCING WEEK (April 9, 2020), <https://crowdsourcingweek.com/blog/value-crowdsourcing-can-add-to-an-enterprise/> (last visited July 7, 2021).

<sup>9</sup> *Id.*

<sup>10</sup> See generally Sofia Ranchordas & Wim Voermans, *Crowdsourcing Legislation: New Ways of Engaging the Public*, 5 THEORY & PRAC. OF LEGIS. 1 (2017), <https://www.tandfonline.com/doi/pdf/10.1080/20508840.2017.1303224?needAccess=true>.



as attorneys or what resources their clients (both employers and clients with disabilities) might want.

I limited my “crowd” to my class.<sup>11</sup> To do this, I used the Discussion Board feature on Canvas. Every student had to post a site and write a few sentences about what the site was about and why they found it valuable or helpful. They then had to go to one of the sources a classmate had posted, read that source, and comment on that classmate’s post.

Then, I created a website using Google Sites where I categorized all the different resources and shared the links the students found. If I did this again, I would also include the students’ short descriptions of the resources they had contributed. I then shared the site with the students, and we talked about why attorneys should consult resources like this that are “beyond the law” and what value it had. The Google Site was a tangible representation of how much they had learned about legal research and disability rights over the semester.

### Takeaways

To tech or not to tech, that is the question. I thought there was a lot of value in using technology for a project like this. For the students, they got to do some research beyond the typical first-year legal research. And they had to share their research and their thoughts on the research of others. For me, I enjoyed getting to explore how to create a website using Google Sites. The students then had access to that website for this class and for future use as well.<sup>12</sup>

To create a successful crowdsourcing assignment, like any assignment, the directive (or “job”) must be clear and specific. For crowdsourcing, this would include not just the scope and substance of the assignment, but directions about the platform and how to share the information and what the final project should look like. For example, for this assignment, the substantive directions were to post a link to a resource for individuals with disabilities,

lawyers who represent them, or employers.

Students also had to summarize what the source was, how it could be used and by whom, and why they found it valuable for their brief writing assignment. They also had to read at least one other source a classmate posted and share similar thoughts on that source. Thus, we had a collection of resources and insights about those resources. But students would also need directions if they were going to create the final crowdsourcing project.

In the future, I plan to make creation of the website a collaborative effort done by the students. By having the students work on the Google Site, I won’t have to compile the information, and the students will get to make creative decisions about site design and the final product.

To do this, I will start the assignment early in the semester to give the students time to summarize the content and its importance in an accessible way for site users. This is where students will need clear directions about the platform they should use, how to share the information on that platform, and what the final project should look like. For example, for the final website I used Google Sites, which has different templates. Directions for what the final project should look like might include instructions on how to use Google Sites, what templates to consider, how to organize the content, and what content to include. I will also build in time for editing and reconfiguring, which I didn’t have time to do at the end of the semester when I created the site myself.<sup>13</sup> I expect that students will enjoy this chance to be more creative and use skills they may have already acquired before law school. These types of assignments can be confidence boosters for students who might be struggling with the new legal writing skills we are trying to teach them.

While I designed this assignment to achieve the goal discussed above, I think crowdsourcing could be used to advance many different goals.

“The Google Site was a tangible representation of how much they had learned about legal research and disability rights over the semester.”

<sup>11</sup> Admittedly, this is an adaptation of crowdsourcing because my “crowd” was a controlled group on a closed site rather than an open platform. But I did this intentionally for pedagogical reasons and privacy concerns.

<sup>12</sup> The site my class created is available here: <https://sites.google.com/view/resourcesforrepresentingclient/home>.

<sup>13</sup> I would still have ultimate control of the content to regulate any inaccuracies or inappropriate content.

“[T]he act of researching and analyzing sources beyond statutes and case opinions helps students think about research in a broader context and evaluate the authority and value of various resources.”

For example, the act of researching and analyzing sources beyond statutes and case opinions helps students think about research in a broader context and evaluate the authority and value of various resources. Students get a more expansive view of the tools and sources a lawyer can use. When they read online sources like legal blogs and government facts sheets, they also get exposure to different writing lawyers do and the purpose, content, and style of that writing.

I am still hesitant to use technology and worried about my limitations and the limitations of the technology itself to achieve pedagogical goals. But I've come to appreciate that some technology has a lot of value in the classroom and can be used successfully and effectively. I've also come to appreciate more fully the value of crowdsourcing because there was a lot of richness that resulted from having students share information and work collaboratively.

Cite as: Kathleen Elliott Vinson, #ThisIsMe, 29 PERSPS. \_\_\_\_ (2021).

# #ThisIsMe<sup>1</sup>

By Kathleen Elliott Vinson

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## I. Introduction

“Look out because here I come  
I’m marching on to the beat I drum  
I’m not scared to be seen  
I make no apologies,  
This is me.”<sup>2</sup>

Do you recognize these lyrics from the song, “This Is Me,” from the movie, *The Greatest Showman*? Do you start to tap your feet or sing along when you hear it? I play this song during the first class of my course.

## II. Why<sup>3</sup>

Teaching can be challenging under ordinary times; however, teaching during the COVID-19 pandemic was extraordinarily difficult, regardless of the mode of instruction.<sup>4</sup> While preparing to teach an online synchronous Legal Practice Skills course to first-year law students last year, I grappled with how I could foster connections, community, and trust with students I had never met before and would only interact with online. I was mindful of the mix of emotions students could be

experiencing, including stress, isolation, trauma, loss, racial injustice, and economic concerns. While I was an experienced teacher who had used a variety of techniques to connect with students at the outset of a course,<sup>5</sup> given the unprecedented times, I wanted to be even more intentional about developing connections, community, and trust. After all, “Never let a good crisis go to waste.”<sup>6</sup>

Connections, community, and trust are critical components to enhance student learning in law school courses, especially given the circumstances of the last year with extreme health and economic challenges related to a pandemic, the fight for racial justice, and continued political division.<sup>7</sup> Beyond these recent obstacles, students need to connect with other students in their class, their professors, and the course content.<sup>8</sup> Students need to be seen, heard, and included in their new law school community. They also need to trust their professors, themselves, and their fellow students and to experience a supportive learning environment where they can learn from their mistakes and feel comfortable asking questions.<sup>9</sup>

## III. How

Before the first day of the course, I required my students to complete a #ThisIsMe assignment.<sup>10</sup>

<sup>5</sup> Common ice breaker techniques in the first class include: having students introduce themselves or interview a classmate, asking students to share a fun fact about themselves or classmates, and having students complete student information sheets about their background, interests, and concerns, etc.

<sup>6</sup> See JARED DIAMOND, UPHEAVAL: TURNING POINTS FOR NATIONS IN CRISIS 1, 44 (2019) (quoting Winston Churchill).

<sup>7</sup> See Pope-Ruark, *supra* note 4.

<sup>8</sup> See Beth McMurtrie, *Teaching: What Students Want Their Professors to Know*, *Chronicle of Higher Education* (Sep. 24, 2020), available at <https://www.chronicle.com/newsletter/teaching/2020-09-24>.

<sup>9</sup> See Harmony Decosimo, *Professor Mom: The Pandemic’s Disruption of the Personal-Professional Divide in Legal Academia*, 25 *LEGAL WRITING* 1, 4 (2021) (noting trust has a positive impact on “productivity, engagement, and success”).

<sup>10</sup> My inspiration to incorporate this assignment came from colleagues who shared their ideas and experiences. See Andrele Brutus St. Val, Prof. of Legal Writing, Univ. of Pittsburgh School of Law, presentation at Legal Writing Institute One-Day Workshop (Dec. 4, 2020) (discussing engagement

<sup>1</sup> The title of this Essay is based on an exercise from Suffolk University’s Leadership Institute, conducted by Amit Mrig from Academic Impressions and Gary Meyer from Marquette University, in Spring 2021. Thanks to Edward Twohig for his assistance with this article.

<sup>2</sup> KEALA SETTLE, *THIS IS ME* (Atlantic Records 2017).

<sup>3</sup> See SIMON SINEK, *START WITH WHY: HOW GREAT LEADERS INSPIRE EVERYONE TO TAKE ACTION* (2011) (discussing inspiring leaders succeeding by focusing on ‘why’ not ‘what’).

<sup>4</sup> See Sherri Keene & Eun Han, *Community Building for Better Outcomes: Our Silver Lining from Teaching in a Pandemic*, 34 *SECOND DRAFT* 1 (2021) (explaining strategies for building community in virtual law school settings); Rebecca Pope-Ruark, *INSIDE HIGHER ED, Beating Pandemic Burnout*, <https://www.insidehighered.com/advice/2020/04/28/advice-faculty-help-them-avoid-burnout-during-pandemic-opinion> (Apr. 28, 2020) (providing advice for law faculty on recovering from virtual teaching burnout).

“Connections, community, and trust are critical components to enhance student learning in law school courses, especially given the circumstances of the last year with extreme health and economic challenges related to a pandemic, the fight for racial justice, and continued political division.”

“Whenever students receive an assignment, it can cause stress, so I encouraged students to have fun with the exercise and explained the assignment’s goal was to promote connections, community, and trust.”

The assignment asked students to create a short introduction video (maximum of two minutes) or a PowerPoint slide presentation (maximum of five slides) that would be shared with the class, answering questions or prompts about themselves that I provided them.<sup>11</sup> Creativity was encouraged.<sup>12</sup> My teaching assistant and I each posted a video or a PowerPoint answering the prompts to model an example, provide a template, and introduce ourselves to the students. The variety of possible questions or prompts is endless; below are some examples of questions or prompts, although I recommend only picking a few for students to answer:

- What is your name and what are your preferred pronouns?
- Where are you a local<sup>13</sup> or where did you grow up?
- What is your favorite place to travel or where is a place you would like to visit?
- What is your favorite movie, book, or binge-worthy series?
- What is your favorite food?
- What is something that makes you proud?
- Who is a leader you admire?
- What is something you value a great deal?

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strategies used by professors, such as introductory videos); Amit Mig, President, Academic Impressions & Gary Meyer, Prof. of Communication Studies & Senior Vice Provost for Faculty Affairs, Marquette University, presentation at Suffolk University Leadership Institute (Spring 2021) (requiring participants to complete a #ThisIsMe assignment).

<sup>11</sup> You could give students the choice to do a video or PowerPoint presentation, or you could direct students to all do the video or all do the PowerPoint presentation. Various technology could be used, such as Flipgrid or Miro for this assignment. See AALS Balance in Legal Education, *Wellness from Day One*, at 20:30–27:30 (webinar Jun. 3, 2021), [https://www.youtube.com/watch?v=XYn5v286Fa4&list=PLY1\\_uIKrHw\\_xO9YNcsiNNsZRyKckafjBQ&index=5](https://www.youtube.com/watch?v=XYn5v286Fa4&list=PLY1_uIKrHw_xO9YNcsiNNsZRyKckafjBQ&index=5) (Aric Short presenting on using Miro, an electronic whiteboard, for virtual student introductions).

<sup>12</sup> I created my video outside as a way to set a more informal tone and a respite from seeing me on a Zoom screen all semester.

<sup>13</sup> See Taiye Selasi, *Don't ask where I'm from, ask where I'm local*, TED (October 2014), [https://www.ted.com/talks/taiye\\_selasi\\_don\\_t\\_ask\\_where\\_i\\_m\\_from\\_ask\\_where\\_i\\_m\\_a\\_local](https://www.ted.com/talks/taiye_selasi_don_t_ask_where_i_m_from_ask_where_i_m_a_local) (explaining why to ask “where are you a local” instead of “where are you from”).

- What is something new you recently tried?
- What is a fond childhood memory?
- What is something that frightens you?
- What is something you like to do for fun?
- What is something you are good at?
- What is something you struggle with or find challenging?

Whenever students receive an assignment, it can cause stress, so I encouraged students to have fun with the exercise and explained the assignment’s goal was to promote connections, community, and trust. I reminded them that bloopers and mistakes were okay. I also noted how students may be surprised by how much they have in common with others, how much they will learn about themselves, and how it may spark their curiosity to learn more about others in their class.

After creating a video or PowerPoint slide presentation, I asked students to post it to the discussion board section of the course management platform, Blackboard, where it was visible to everyone in the class.<sup>14</sup> Then, students had to review at least two videos<sup>15</sup> or slides of others in the class and post a response, commenting on each of them. I gave them examples of appropriate responses, such as commenting on something you have in common, something you want to know more about, or some connections to the class or law school, such as: “Public speaking makes me nervous, too”; “That author is one of my favorites—have you read her latest novel?”; “Sounds like you enjoy cooking—do you have any favorite vegan

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<sup>14</sup> Course management platforms may allow the professor to choose whether students may watch other students’ videos or PowerPoint presentations before they upload their own. One benefit is students may find it helpful to watch others; however, one downside is repetition in student responses can occur if students look at other students’ assignments and replicate the same type of response—they all talk about cooking if one student uses that as an answer or they all talk about running, etc. You can set up the options to not allow students to see other students’ assignments until after a certain date.

<sup>15</sup> Depending on your class size, you could limit the number of responses required or ask them to respond to all of them. I asked them to respond to students who did not have any response yet to make sure all students got feedback. Although I limited the number of responses students were required to provide to two, many students responded to more and some responded to all of them.

recipes you could share?"; "How did you learn how to play poker so well?" My teaching assistant and I responded to every student's video or PowerPoint slide presentation. It was an easy way for me to remember the individual students and signal that I had reviewed their work, cared about them, and wanted to get to know them individually.

On the first day of class, as students entered class (signed on to the class Zoom), I played the song "This Is Me," thanked them for their efforts on the assignment, acknowledged their vulnerability and authenticity in sharing information about themselves with the class, and noted the breadth of responses while specifically referencing some unique responses.<sup>16</sup> You could take a few minutes in the first class and ask each student to share a few slides with the class that convey information that others may not know about them or find surprising.<sup>17</sup> Or you could ask a few students to do this in each class throughout the semester.

Finally, in the last class of the semester, I referenced the #ThisIsMe assignment and pointed out how our shared class experience with breakout rooms, peer review, and individual conferences had contributed to our getting to know each other better by the semester's end. It brought the class full circle and was a nice way to bookend the first and last class.

## IV. Benefits and Challenges

### A. Benefits

#### 1. Promotes wellness

Stress, burnout, anxiety, depression, feelings of isolation, alienation, imposter syndrome, or other mental health or well-being issues create barriers

<sup>16</sup> See Settle, *supra* note 1 ("and I'm marching on to the beat I drum, I'm not scared to be seen, I make no apologies, this is me"). In addition to the #ThisIsMe assignment, I also played music at the beginning of each class from a playlist created by a favorite song I asked each student to send me.

<sup>17</sup> If presenting online via Zoom, students could respond in the chat feature of Zoom to the slides.

to learning, and later on, to practicing law.<sup>18</sup> Student wellness is vital as lawyer well-being is a professional responsibility to clients.<sup>19</sup> While #ThisIsMe is not a panacea, it can promote student well-being and help create an inclusive learning space that maximizes their cognitive function. Students' answers to the prompts can remind them of their resilience, grit, accomplishments, relationships, and interests outside law school. Also, the introductions accomplished through the #ThisIsMe assignment may lessen the nerves of the first day of class and replace them with some excitement. It sets the tone for the class, focusing on students as individuals and valuing the whole person.

#### 2. Cultivates a common bond and trust

The assignment helps foster bonds among students in the class as they discover common ground. It also can enhance cultural competency as they hear about different student experiences, backgrounds, and cultures.<sup>20</sup> The professor, teaching assistant, and students demonstrate vulnerability in answering the questions or prompts about themselves and in viewing others' responses to their answers.<sup>21</sup> Students experience that people often connect more with weaknesses than strengths and that it takes courage to be vulnerable; vulnerability is a strength, not a weakness. Students also remember they

<sup>18</sup> See SHAILINI GEORGE, DOING WELL AND BEING WELL (2021); R. Lisle Baker, *Integrating Positive Psychology into Legal Education*, 48 SW. L. REV. 295, 297 (2019); Gill Corkindale, *Overcoming Imposter Syndrome*, HARV. BUS. REV., May 7, 2008, <https://hbr.org/2008/05/overcoming-imposter-syndrome> (imposter syndrome can be defined as a collection of feelings of inadequacy that persist despite evident success); Bree Buchanan & James Coyle et al., *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change: Creating a Movement to Improve Well-Being in the Legal Profession*, NAT'L TASK FORCE ON LAWYER WELL-BEING (2017), [https://www.americanbar.org/content/dam/aba/administrative/professional\\_responsibility/lawyer\\_well\\_being\\_report\\_final.pdf](https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/lawyer_well_being_report_final.pdf).

<sup>19</sup> See Janet Stearns & Ayat Nizam, ABA FOR LAW STUDENTS, *The Path to Reforming the ABA Standards to Promote Law Student Well-Being*, <https://abaforlawstudents.com/2021/04/22/path-to-reforming-aba-standards-to-promote-law-student-well-being/> (Apr. 22, 2021). In 2021, the Council proposed changes to Standard 508, which describes essential Student Services, to include "law student well-being resources." See *id.*

<sup>20</sup> For example, I don't have to ask students how to pronounce their names, as I can learn that from the video.

<sup>21</sup> See BRENE BROWN, DARE TO LEAD 1, 50 (2018) (noting vulnerability in front of others is most important dynamic for successful teams). Trust is not earned through grand gestures in big moments; trust is built in very small moments. *Id.* at 46-47.

“While #ThisIsMe is not a panacea, it can promote student well-being and help create an inclusive learning space that maximizes their cognitive function.”

are not one-dimensional and may have common interests or experiences outside of law school, which they often lose sight of when embroiled in studying and classes amid the semester.

Before the first class even occurs, the #ThisIsMe assignment builds rapport that continues to grow during the semester. I can continue to show an interest in my students during office hours or in class throughout the semester, by referencing specific responses of a student. I can also create assignments, hypos, or exercises during the course that build off of their responses. Finally, my letters of recommendation can be more personalized as the assignment helps me get to know them beyond their academic performance in my class.

### 3. Develops communication and self-reflection

The assignment requires self-reflection, communication skills, following directions, and meeting a deadline—skills students will need to apply throughout my course and in legal practice. While I aim to teach them core legal skills, emotional intelligence and connecting to others are essential skills for lawyers as well. This assignment gives them an opportunity to practice the interpersonal skills that are also needed to practice successfully.

### 4. Fosters creativity

Law students often don't feel like they can be creative; however, this exercise can be a creative outlet for students. The assignment is a safe space for students to highlight their personalities. It ignites curiosity and a sense of fun. In addition, because I encourage students to record the video once and not redo it even if they make a mistake, the assignment helps them to become more confident. They learn that they don't have to be perfect and that mistakes are part of the learning process.<sup>22</sup>

### 5. Sends a supportive message

This assignment signals to students that I care about them as individuals, that I will take the time to get to know them, and that I want them to get to know each other to develop support and

networking systems. In the law school setting of anonymous grading, the Socratic method, and large classes, students appreciate the individual aspect of this assignment and sense of humanity. Finally, by establishing connections, students are more likely to reach out to me or their fellow students for help when they need it during the semester.

## B. Challenges

### 1. Time

The amount of time the #ThisIsMe assignment takes from class varies. The assignment can be done entirely outside of class before the first class, during the first class, or during a few minutes at the beginning or end of numerous classes throughout the course. It does take time for students to complete the assignment, including creating the video or PowerPoint and responding to others. It also takes time for the professor to develop the assignment, including drafting the directions and questions or prompts, designing a template for the PowerPoint, creating the video or PowerPoint presentation, reviewing students' assignments, and responding. Being clear about the assignment's goals and how it connects to the course, as well as individually responding to student assignments, can prevent students from perceiving the assignment as busywork. Connections, community, and trust take time to develop but can be fostered in small ways.<sup>23</sup>

### 2. Comfort zone

The #ThisIsMe assignment may seem different than students' usual assignments for their first day of law school classes. In addition, they may not have ever completed an assignment like this before and may be surprised by how much self-reflection it requires. Students will face challenges throughout the course and law school that take them out of their comfort zone; this assignment may be the first but will not be the last. Getting students comfortable being uncomfortable at the outset of the course can help students succeed during the semester. Also, when they see their professor modeling

<sup>22</sup> Students could also save their videos with mistakes for a blooper reel that would be fun to include as well.

<sup>23</sup> See STEPHEN M. R. COVEY & REBECCA R. MERRILL, SPEED OF TRUST: THE ONE THING THAT CHANGES EVERYTHING 1, 52 (2018).

“In the law school setting of anonymous grading, the Socratic method, and large classes, students appreciate the individual aspect of this assignment and sense of humanity.”

vulnerability and authenticity, trust develops, and students see the efficacy of the assignment.

## V. Conclusion

In the future, no matter what the instruction in law schools may be—online, hybrid, or in person—using the #ThisIsMe assignment can help promote an

inclusive learning space and enhance learning. Long after the course is over, students may remember this assignment more than any other because of the connections, community, and trust that it fosters. “[Students] may forget what you said, but they will never forget how you made them feel.”<sup>24</sup>

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<sup>24</sup> See RICHARD L. EVANS, RICHARD EVANS’ QUOTE BOOK 244 (1971) (quoting Carl Buehner).

“Long after the course is over, students may remember this assignment more than any other because of the connections, community, and trust that it fosters.”

Cite as: Nyla E. Millar, *Everything I Know About Lawyering I Learned from The Bluebook: Teaching Legal Skills by Teaching Citation*, 29 PERSPS. \_\_\_ (2021).

## Everything I Know About Lawyering I Learned from *The Bluebook*: Teaching Legal Skills by Teaching Citation

By Nyla E. Millar

*Nyla E. Millar is an Assistant Professor of Law at Widener University Delaware Law School.*

I love teaching citation, almost as much as I love teaching and writing about grammar.<sup>1</sup> In the gray “it depends” world of law school and law practice, both subjects have refreshingly right-or-wrong answers and give students a break from the relative uncertainty of legal application. In most instances, a case citation is either correct or incorrect, and a particular semicolon use is either correct or incorrect. There is one “answer” to each citation or grammar question—unlike in legal analysis, when the writer is usually trying to reach a better conclusion or construct the better argument, with the expectation that there are multiple “right” answers.

While citation is a standard component of the first-year law school curriculum, it gets a bad rap—*teaching citation is boring*, professors lament; *the citation rules are confusing and nitpicky*, students complain.<sup>2</sup> But when we examine the skills inherent in constructing precise, correct citations, we see magic: The rules of creating flawless citations are the rules of being a good lawyer. By teaching citation—with the same passion and zeal we exude when teaching other topics—we impress upon students at least six valuable lessons for law practice.

<sup>1</sup> See generally N.E. Millar, *The Science of Successful Teaching: Incorporating Mind, Brain, and Education Research into the Legal Writing Course*, 63 ST. LOUIS L. REV. 373 (2019) (detailing how to teach basic writing skills, including grammar, in the legal writing course).

<sup>2</sup> See, e.g., Kris Franklin, “. . . See Erie.”: *Critical Study of Legal Authority*, 31 U. ARK. LITTLE ROCK L. REV. 109, 109 (2008) (“[E]verybody knows that everybody hates bluebooking.”).

### 1. Ask questions.

First, by teaching students to question *everything* in a citation, we are teaching them to question every assumption, every fact, and every argument. *Is this consistent with what I’ve read in the book? Are there other interpretations? Have I overlooked anything?*

Second, when I encourage students to always check Table 6 in *The Bluebook*<sup>3</sup> for abbreviated words in case names or review Rule 5 whenever they are quoting, they learn that they must examine carefully every part of their writing and compare their work with the authoritative source (more on that later). This attention to detail also improves students’ proofreading skills.

The practice of questioning everything applies to many aspects of law practice. In my upper-level writing course, which focuses on civil litigation and writing motions for summary judgment, students interview their client. While preparing for the interview, we talk about subjects such as implicit bias and cross-cultural communication. Students learn to challenge their assumptions and be mindful of their thoughts, beliefs, and even biases. Similarly, as students learn to question the defaults, assumptions, and biases in their citations, they learn critical lessons about how they see and interact with the written word and the world. They learn to question what they are doing, rather than act mindlessly and thoughtlessly, which is a good lesson applicable to all of our communications and work as lawyers.

<sup>3</sup> THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION (Columbia L. Rev. Ass’n et al. eds., 21st ed. 2020). Although I refer to *The Bluebook* throughout for the sake of simplicity, all of the lessons mentioned here are equally applicable to the ALWD Guide. See ALWD & CAROLYN V. WILLIAMS, ALWD GUIDE TO LEGAL CITATION (7th ed. 2021).

“[W]hen we examine the skills inherent in constructing precise, correct citations, we see magic: The rules of creating flawless citations are the rules of being a good lawyer.”



## 2. Seek answers in the authoritative source.

In addition to learning to ask a lot of questions, citation also teaches students where to find the appropriate answers. When we teach students that their citation manual is a reference, meant to be consulted frequently, we are encouraging them to go to the authoritative source each time. They should not guess or try to recall from memory, particularly in the early years of learning how to cite. Instead, students should use *The Bluebook* to find the correct rule each time.

Similarly, seeking out the most authoritative source, such as the court rules posted on the court's website or the original case instead of a secondary source's description of it, is a valuable lesson that can prevent inaccuracies in general legal research and law practice. Prioritizing the citation manual over other sources is akin to choosing to do the work of poring over case law instead of turning to Wikipedia or whatever pops up on Google.

In addition, armed with the lessons provided by their citation manual, students start to understand that consulting the source is not a bad thing—they aren't expected to memorize every rule, but instead they must know how to find the applicable rule and evaluate a particular source to determine if it is appropriate for the task at hand. As a result of this process, students learn that they will need to do the research and find the authoritative source repeatedly throughout their careers.

## 3. Become an efficient researcher.

Students must learn the value of *The Bluebook's* tools. Rather than flipping endlessly through the book or trying to recall everything from memory, the Index is a handy, detailed map to the various rules. Perhaps unaccustomed to using indices, students are often surprised at the level of detail in the Index and forget to start there. But rather than spend precious time reading Rule 10's twenty-three detailed pages, students can quickly find what they need by using the Index, as well as the Table of Contents and Quick Reference sections.

This lesson on efficient research holds important applicability to statutory and case research. Facing long, complex statutory text, students are best

positioned to research when they understand the tools, such as a statute's table of contents, index, and annotations. When researching case law, tools like Key Numbers and citing references help students and lawyers to be more efficient and effective in their research. By reinforcing the use of the citation manual's tools, we teach students to do smart, efficient research in general.

## 4. Use the tools of legal analysis and statutory interpretation.

Despite its comprehensiveness, a citation manual cannot answer every possible question. When faced with a situation that *The Bluebook* doesn't cover, students must reason by analogy. *Which rule covers a comparable situation? What is the most similar example I can find?* They also must delve into the purposes of the rules and the goals of the drafters. *What were the intentions of the drafters and which solution best honors those intentions?* Finally, students may examine the context of the rules to determine how to apply a particular rule—for example, locating not only the appropriate section of the citation manual, but also absorbing the surrounding rules. *What do the context, structure, and language of the rule and examples reveal about its overall purposes and applicability?*

Like analogical reasoning and statutory interpretation, citation offers students opportunities to flex their intellectual prowess. By encouraging them to search creatively for solutions to questions without obvious answers, we teach some of lawyering's most fundamental skills and inspire our students to use their analytical tools to find appropriate solutions to problems.

## 5. Precision matters.

I emphasize to my students that every character, punctuation mark, and underline or italic matters in citation because a small detail can transform a citation from correct to incorrect. Similarly, lawyers' precision—in quoting, drafting rule statements, using facts, proofreading, and everything else—matters a lot to our effectiveness and professionalism.

“When faced with a situation that *The Bluebook* doesn't cover, students must reason by analogy. Which rule covers a comparable situation? What is the most similar example I can find?”

The reporters are replete with examples of judges castigating lawyers for typographical and grammatical errors, poor research, and more.<sup>4</sup> Although some of these errors fall into the big-picture category—failing to include a key case, for example, or filing a frivolous document—many of these judicial admonishments also relate to precision and detail. So, in addition to teaching why the placement of a comma<sup>5</sup> or word choice<sup>6</sup> has ramifications for the substantive interpretation and application of law, it is important to teach that precision in citation can impact lawyers' credibility and reputation, as well as the overall quality of their drafting and other legal work. It is never too early, or too late, to teach students that attention to detail matters a lot.

<sup>4</sup> See, e.g., Douglas E. Abrams, *Mincing No Words: When the Court's Opinion Criticizes an Advocate's Writing*, J. MISSOURI BAR, Mar.-Apr. 2020, <https://news.mobar.org/mincing-no-words-when-the-courts-opinion-criticizes-an-advocates-writing/>; Franklin v. Pinnacle Ent., Inc., 289 F.R.D. 278, 290 (E.D. Mo. 2012), *modified in part*, No. 4:12-CV-307 CAS, 2013 WL 11235897 (E.D. Mo. Jan. 28, 2013) (“The lack of care that [the plaintiffs’ attorney] demonstrated in filing the First Amended Petition is part of a pattern that exists in most of the documents he has filed in this case, which are riddled with egregious typographical errors and basic grammatical errors such as a lack of subject-verb agreement.”).

<sup>5</sup> See, e.g., O'Connor v. Oakhurst Dairy, 851 F.3d 69, 70 (1st Cir. 2017) (“For want of a comma, we have this case.”).

<sup>6</sup> See, e.g., Smith v. United States, 508 U.S. 223, 228 (1993) (interpreting the word “use” in a federal statute).

## 6. Don't give up.

Finally, as noted above, citation offers students a reprieve from the in-between world of weighing, comparing, and contrasting—a break from the uncertainty of knowing whether they have reached the “right” answer on an exam. In citation, like grammar, there *is* almost always a right answer.

Because there is an objectively right answer, students must keep searching until they find it. Unlike legal analysis, where students may reach an uneasy “finished-but-not-certain” place, they can research and revise their citations until they are correct. Citation is all about the end result and, in that sense, more akin to multiple choice than essay writing. Citing is a (relatively) simple, but important, exercise in research and implementation of specific rules ending in a specific answer. It also helps to teach students perseverance as they work toward goals.

Thus, although we may not always love teaching citation and students may not always enjoy learning it, the skills and lessons inherent in constructing citations offer key learning moments for the practice of law. As law students turn again and again to their citation manual to create flawless citations, they learn the building blocks of professional, ethical, effective lawyering. Perhaps along the way, we will find a bit of appreciation—if not exactly love—for teaching and learning citation.

“As law students turn again and again to their citation manual to create flawless citations, they learn the building blocks of professional, ethical, effective lawyering.”

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## Writing for the Long and Short Run

By Susan Greene

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Running has long been a life necessity for me. It got me on my feet when a particularly dispiriting professional period brought me to my knees. It has been a link, ever more tenuous, to my father, a fellow runner, as he succumbed to Alzheimer's Disease. It has been a means to quiet my racing mind, when I feel that it might never stop, and only the rhythmic motion of my shoes hitting the pavement can quell its surge. It is moments like that when I seek to embody the best advice about running I have ever heard: *All you have to do is stay upright and keep going.*

Over the past year, amidst a pandemic that ravaged New York City, I laced up my running shoes and ran through Central Park. Every day. At times it felt defiant, at times it felt selfish. But still, I ran. I ran past the temporary hospital tents the day they overtook a grassy field upon which my children had only recently played. For months, as I ran by those tents and the misery they barely concealed, I breathed a prayer of gratitude for my own lungs, filling with air and propelling me forward. I eyed my fellow runners with suspicion and kinship, in about equal measure. At times I shrank from their warm breath, as I watched it appear in the cold air like a bloom of toxic algae and then vanish. But there was also camaraderie, murmurs of hello, nods in allegiance to the only other souls we might see outside of our homes that day. Running has been concrete and metaphorical. One of my dearest friends told me that the dawning of 2021 felt like coming to the end of a marathon, battered and broken, limping to the finish line and being told, "Congratulations! You did it! Amazing! Now do it again." I laughed so hard I cried at the truth of it.

Running parallels my life in just about every way imaginable. Below are five lessons that I have drawn from my running and applied to my teaching.

### 1. The Long and Short of It

A long run is my favorite. Over fifteen or sixteen miles, I can relax into a rhythm and allow two or more hours to unspool ahead of me. But every run cannot be a long run. Between commitments that prevent my multi-hour absences and a body that has now approached middle age, I have come to embrace shorter runs. They allow me to hit the pavement during an unexpected, midday break or to focus on speed in shorter intervals. They even make my long runs better, allowing me to run with bursts of speed when necessary.

In each semester, there is always one final, long writing assignment—a memo in the fall and a brief in the spring. But that is not the only kind of legal writing, and I would do my students a disservice to suggest that it is. Through both semesters, I assign several shorter exercises: research journals, email memos, individual pieces of longer assignments, to name a few. Though the grading load is heavy at times, there is so much for students to gain from this variety of writing assignments. For one, shorter assignments more closely mimic the pace of workflow in legal practice. For another, they allow students to focus on just one aspect of what they are learning and seek to perfect it. Finally, in the same way that my short runs make my long runs better, these shorter writing assignments allow my students to attack longer writing assignments more efficiently and effectively.

### 2. Eyes Up Feet Up! Bystanders Matter

Central Park's six-mile loop is the basis of each of my runs. It hugs the perimeter of the park, soaring high into the North Woods with hills that peak over Harlem and then dipping back down to a flat stretch towards midtown and the tourists who amble there. There is just one portion that I dread: Cat Hill. It is not the steepest hill (the North Woods claim that honor). Nor is it the longest (that honor goes to the final stretch I run as I head home). But Cat Hill erupts in the middle of an otherwise uninterrupted

“[S]horter assignments more closely mimic the pace of workflow in legal practice [and] they allow students to focus on just one aspect of what they are learning and seek to perfect it.”

“Added to my own comments, and, in some instances, a peer edit, that gives students a significant body of material to draw upon when I assign a rewrite of their work or even for future, unrelated writing”

span of flat pavement, surprising me with its ferocity every time. There is a sculpture of a cat, poised to pounce, just as the hill peaks. I glower at it as I pass.

A few years ago, as I ran the Shape Half Marathon through Central Park and I approached Cat Hill for the second time in that race, my mind rebelled and I feared my body would follow. With my nemesis looming, a disembodied voice floated towards me—“Eyes Up! Feet Up! Go!” I turned my head and saw a man shouting at me, tube socks emerging from his running shoes and snaking up his leg, a whistle dangling from his neck. In any other context, I would have been outraged by the exhortations of this possibly deranged, likely retired gym teacher. But when my exhausted frame faced the looming hill, I relaxed into this stranger’s demands and freed myself from the decision of whether to continue. He made it for me. I picked up my eyes, picked up my feet, powered through Cat Hill and finished that half marathon with a personal record.

I teach my students everything I can, but at some point, they must write on their own. At that point, I become a bystander. I cannot overemphasize the importance of that role. For many students, no matter how comfortable they are with the substance of the law or the organizational structure of IRAC, committing to a legal position overwhelms them. It is their Cat Hill. If I ask students to commit to an answer of “yes” or “no” in a memo, about half inevitably find some way to hedge with a “maybe.” Some of them find their way into my office first. At that point, I am the bystander. “Pick a side and go for it!” I say. “You can do this, you have everything you need, go for it!” I don’t have a whistle or tube socks,<sup>1</sup> but sometimes I feel like that gym teacher at the base of Cat Hill.

### 3. Recovery and Reflection

I love running. The unencumbered feeling of needing just my body and my shoes to travel a distance, the simplicity of achieving a goal by placing one foot in front of the other and not stopping. What I do not love, however, is the post-

run time. I prefer to jump back into my day. But I have learned the hard way<sup>2</sup> that what you do after a run (stretch, hydrate, eat, hydrate, stretch, and stretch) is as important as the run itself. It also helps me integrate my running to a greater degree into my life, so that it is not merely a siloed time of exercise. As I make choices about what I eat throughout the day or how I sit or how I move, I consider the impact on my running. Perhaps most importantly, I pause to reflect on what I have done and how I felt while I was doing it. I consider what I ate before I ran, how I slept before I ran, whether the weather factored into my performance. This list goes on.

I empathize with my many students who want to hand in an assignment and then forget it ever happened. But that would be a lost opportunity for them to integrate their hard work on an assignment into a larger process of writing. And after all, writing is iterative.

In many semesters, I ask my students to critique their own work. Sometimes this is a formal exercise, a written reflection that I ask students to bring to our conference, either answering questions that I pose or filling out a rubric that I have prepared for them. Other times I ask students simply to be prepared to discuss their work with me. In either case, the critique should address both the substantive aspects of the students’ writing and the process by which they accomplished it. Added to my own comments, and, in some instances, a peer edit, that gives students a significant body of material to draw upon when I assign a rewrite of their work or even for future, unrelated writing. I recently had the tremendously gratifying experience of conferencing with a student on an assignment and speaking hardly a word. As we sat down to conference, she started, “Professor, I know exactly what I did here . . .” and she went on for about ten minutes, critiquing her work and writing process with an admirable degree of specificity and insight.

<sup>2</sup> A nearly ruptured calf muscle, which sidelined me for a month. But if anything here has lit a spark in you to try running, don’t let my foolishness stop you. I committed the cardinal sin of failing to stretch after my runs. All the more egregious, because in addition to teaching legal writing, I am also a certified yoga teacher.

<sup>1</sup> Okay, I do, just not in my office.

Her comments were spot on. The opportunity to reflect on writing after completing it is essential.

And while writing may not be a physical exertion, nutrition is always essential. Up until the year 1 B.C.E.,<sup>3</sup> I regularly brought (mostly) healthy snacks to class, and particularly to classes in which students would be writing or revising independently. It always went over well.

#### 4. Focus on Just One Thing and Keep Moving Forward

Like many of us, I tend to hold tension in my neck and shoulders. When I run, I think about my shoulders. I try to keep them loose and relaxed. If my shoulders are tense, that is a signal that some other part of my body is not performing as it should, and a compensating rigidity has crept up my torso. If I were to think about every part of my body, the hundreds of tendons and muscles that must act in concert to keep me moving, I would be overwhelmed. So, I just think about my shoulders and keep going.

I have found that feedback on student writing is an art. Comment on too many things and students get overwhelmed. Comment on too little and they do not have enough guidance to move forward. I try to pick one focal point for the student and show the student how that one element winds its way through the writing such that strengthening it will strengthen the whole piece. Sometimes it takes a few passes of reading a submission to find a common thread and it often involves a lot of notes I scribble to myself that the student will never see. But eventually a common theme emerges from my own notes and, from that, a clear directive I can offer to the student. For example, I might say, “It seems like isolating and articulating the relevant issue was challenging in this brief.” Focusing on the issue is just one directive, but it strengthens every piece of the writing, from narrowing a rule synthesis to presenting rule explanations that are directed to the relevant issue (and not merely summaries of cases) to targeting the most critical facts in the analysis. Sometimes a single point of focus can carry the whole brief.

#### 5. This Is a Part of You, But It Does Not Define You

I have never thought of myself as an athlete. In high school, I joined the choir simply because it met once a week at the same time as my gym class and therefore excused my absence. Yet when I reach the end of a long run, I force myself to acknowledge that I am an athlete. I say the same to my students. “You may not think of yourself as legal writers, but you are. Look at this multi-issue brief you just wrote on a subject about which you knew nothing two months ago!”

Yet my running does not define me. When I hit a personal record, I still go home to a pile of laundry, lesson plans to create, and a hungry family. Likewise, when I hear the bitter February morning wind blow outside my darkened window and I pull my pillow over my face instead of donning my running gear, I am no less a person than I was the day before. I hope my students remember this as well. They are legal writers, but their successes or disappointments in my class or others do not define them.

“[F]eedback on student writing is an art. Comment on too many things and students get overwhelmed. Comment on too little and they do not have enough guidance to move forward.”

<sup>3</sup> “Before the COVID Era.” Put differently, 2019.

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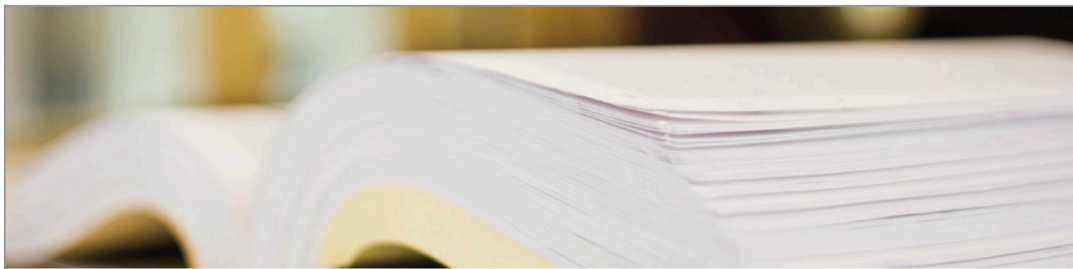


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