

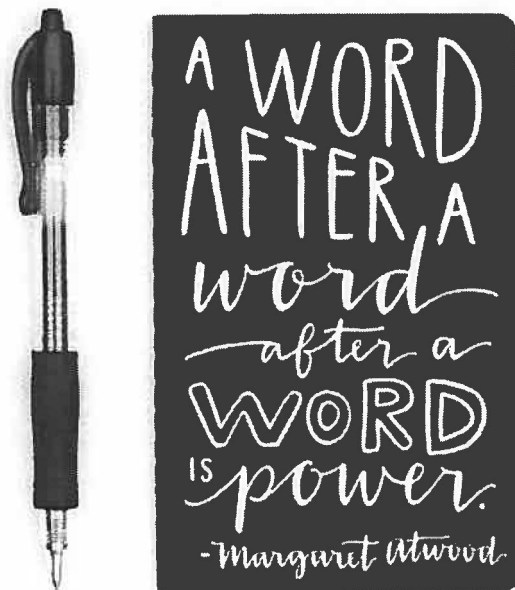
WORKBOOK FOR WRITING AND PUBLICATION

2024 AALS Workshop for New Law School Teachers

*Prepared for the Conference on Clinical Legal Education 2023
Scholarship Support Working Group
by*

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SCHOLARSHIP SUPPORT WORKING GROUP
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8. Brian Galle, Law Review Submission Process: A Guide for (and by) the Perplexed, Aug. 12, 2016, http://lawlibguides.luc.edu/ld.php?content_id=33791045
9. Scholarship Presentation Opportunities for Clinicians
10. Alyssa Dragnich & Rachel H. Smith, The Care and Feeding of Law Student Research Assistants, 25 Perspectives: Teaching Legal Research and Writing 101 (2017)

TEMPLATE: download from this website -- <http://www2.law.ucla.edu/volokh/writing/>

SAMPLE SCHOLARLY AGENDA: <http://www.law.columbia.edu/law-teaching/services-current-candidates/samples-scholarly-agenda-cvs>

ADDITIONAL RECOMMENDED RESOURCES:

1. David A. Rasch and Meehan Rasch, Overcoming Writer's Block and Procrastination for Attorneys, Law Students, and Law Professors, 43 New Mexico L. Rev. 193 (2013), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2272868
2. Nancy Levit, Scholarship Advice for New Law Professors in the Electronic Age, 16 Widener L.J. 947 (2007), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=939007
3. University of Washington, Writing for & Publishing in Law Reviews, <http://guides.lib.uw.edu/law/writinglawreview>
4. Orin Kerr, Tips on Placing Law Review Articles, <http://prawfsblawg.blogs.com/prawfsblawg/2014/10/tips-on-placing-law-review-articles.html>
5. Eugene Volokh, Writing an Abstract for a Law Review Article, <http://volokh.com/2010/02/08/writing-an-abstract-for-a-law-review-article/>
6. Mary Dudziak, How (not to) Write an Abstract, <http://legalhistoryblog.blogspot.com/2007/10/how-not-to-write-abstract.html>
7. Wiley, Search Engine Optimization For Authors, <https://www.wiley.com/legacy/wileyblackwell/pdf/SEOforAuthorsLINKSrev.pdf>

RECOMMENDED BOOKS ON SCHOLARLY WRITING:

1. Paul J. Silvia, How to Write a Lot (2007)
<https://www.amazon.com/How-Write-Lot-Practical-Productive/dp/1591477433>
2. Wendy Belcher, Writing your Journal Article in 12 Weeks (2009)
<https://www.amazon.com/Writing-Your-Journal-Twelve-Weeks/dp/141295701X/ref>
3. Robert Boice, Professors as Writers (1990)

- <https://www.amazon.com/Professors-Writers-Self-Help-Productive-Writing/dp/091350713X/ref>
4. Eugene Volokh, Academic Legal Writing (2007), excerpt here:
<http://www2.law.ucla.edu/volokh/writing/aextract.pdf>

SUBMISSION GUIDES:

1. Allen Rostron and Nancy Levit, Information for Submitting Articles to Law Reviews & Journals, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1019029
2. Bridget Crawford, Information for Submitting to Online Law Review Companions, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3341802
3. Washington & Lee Law Journals Database,
<https://managementtools4.wlu.edu/LawJournals/>

SUBMISSION WEBSITES:

1. Scholastica, <https://scholasticahq.com/>

Archetypal Legal Scholarship: A Field Guide

Martha Minow

It has been my pleasure to be a sounding board and advisor to many people who consider becoming law professors and yet it has not always been easy to introduce people considering their own research projects to reflect on how their ideas connect with the varieties of legal scholarship. One day I decided to write up a “field guide,” meant to be rather like the guides to birds that offer pictures and descriptions to assist the casual or serious birdwatcher. After sharing it and revising it, I have learned that this “guide” now travels underground and electronically, so I thought it time to give it an official publication, and the Journal’s editors kindly agreed. The explosion of interdisciplinary research in law contributes to the variety of legal scholarship. So does the contrast between “inside” and “outside” thinking in law schools where we try both to equip people for practice and effectiveness within existing institutions and for roles as critics, institutional reformers, and scholars who may explain and analyze in terms quite different from those in the minds of actors operating within existing legal systems. So here with an invitation for supplements, critiques, and revisions is my Archetypal Legal Scholarship: A Field Guide.

I. Doctrinal restatement, e.g., Robert Clark, *Corporate Law*,¹ Laurence Tribe, *Constitutional Law*,² Yoram Dinstein, *War, Aggression and Self-Defence*.³

- a. Organize and reorganize case law into coherent elements, categories, and concepts;
- b. Acknowledge distinction between settled and emerging law;
- c. Identify difference between majority and “preferred” or “better” practice—ideally with some explanation for the criteria to be used.

Martha Minow is the Dean and Jeremiah Smith, Jr. Professor at Harvard Law School where she has taught since 1981.

1. Robert Charles Clark, *Corporate Law* (Aspen Pub. 1986).
2. Laurence H. Tribe, *American Constitutional Law* (Foundation Press, 3d ed. 2000).
3. Yoram Dinstein, *War, Aggression and Self-Defence* (Cambridge Univ. Press, 5th ed. 2000).

II. Recasting project, e.g., Charles Reich, “The New Property;”⁴ L.L. Fuller & William R. Perdue, Jr., “Reliance Interest in Property;”⁵ Samuel D. Warren and Louis D. Brandeis, “The Right to Privacy;”⁶ Guido Calabresi & A. Douglas Melamed, “Property Rules, Liability Rules, and Inalienability: One View of the Cathedral.”⁷

- a. Gather more than one “line” of cases across doctrinal fields, categories, or historical developments, and show why they belong together or expose unjustified discrepancies;
- b. Offer a new framework or paradigm that can recognize past, present and future material.

III. Policy analysis, e.g., Elizabeth Bartholet, *Nobody's Children: Abuse and Neglect, Foster Drift, and the Alternative of Adoption*⁸; Jeff Sovern, “Opting in, Opting Out, or No Options At All: The Fight for Control of Personal Information;”⁹ Russell Korobkin, “Bounded Rationality and Unconscionability: A Behavioral Approach to Policing Form Contracts.”¹⁰ Roderick Hills, Jr., “Is Federalism Good for Localism? The Localist Case for Federalist Regimes;” William W. Fisher III, *Promises to Keep: Technology, Law, and the Future of Entertainment*.¹¹

- a. Usual structure: present a problem; canvass alternatives; propose an evaluative scheme or method; recommend preferred solution;
- b. Attribute problem to: distance between goal and implementation; conflict with a powerfully competing goal; the lack of fit between legal rules or practices when compared with changing social, economic, biological or technical circumstances; or mistaken assumptions as demonstrated by historical review, economic model, psychological research or evidence from other fields;
- c. Not a brief: include fair analysis of a range of alternatives and alternative criteria; offer useful analyses even for people who do not agree with the assumptions, methodology, or conclusion.

4. Charles Reich, The New Property, 73 Yale L.J. 733 (1964).
5. L.L. Fuller & William R. Perdue, Jr., Reliance Interest in Property, 46 Yale L.J. 52 (1936).
6. Samuel D. Warren & Louis D. Brandeis, The Right to Privacy, 4 Harv. L. Rev. 193 (1890).
7. Guido Calabresi & A. Douglas Melamed, Property Rules, Liability Rules, and Inalienability: One View of the Cathedral, 85 Harv. L. Rev. 1089 (1972).
8. Elizabeth Bartholet, *Nobody's Children: Abuse and Neglect, Foster Drift, and the Alternative of Adoption* (Beacon Press 2000).
9. Jeff Sovern, Opting in, Opting Out, or No Options At All: The Fight for Control of Personal Information, 74 Wash. L. Rev. 1033 (1999).
10. Russell Korobkin, Bounded Rationality and Unconscionability: A Behavioral Approach to Policing Form Contracts, 70 U. Chi. L. Rev. 1203 (2003).
11. William W. Fisher III, *Promises to Keep: Technology, Law, and the Future of Entertainment* (Stanford Law and Politics, 1st ed. 2004).

IV. Test a proposition about society or the economy or about human beings that is used by lawyers or assumed in legal sources, e.g., Robert Ellickson, *Order Without Law: How Neighbors Settle Disputes*;¹² Robert H. Mnookin and Lewis Kornhauser, “Bargaining in the Shadow of the Law;”¹³ Lucien Bebchuk and Alma Cohen, “The Costs of Entrenched Boards.”¹⁴

- a. Take a widely assumed or commonly known proposition familiar to lawyers or legal theorists;
- b. Undertake an empirical investigation about its validity or summarize and assess empirical work conducted by others or undertake model-building or summarize and apply model(s) developed by others;
- c. Digest the findings for legal audiences.

V. Study, explain, and assess legal institutions, systems, or institutional actors, e.g., Abram Chayes, “The Role of the Judge in Public Law Litigation;”¹⁵ Marc Galanter, “Why the ‘Haves’ Come out Ahead;”¹⁶ Richard Lempert, “A Classic at 25: Reflections of Galanter’s ‘Haves’ Article and Work It Has Inspired;”¹⁷ George L. Priest & Benjamin Klein, “The Selection of Disputes for Litigation;”¹⁸ Judith Resnik, “Managerial Judges;”¹⁹ Patricia Ewick & Susan Silbey, *The Common Place of Law: Stories From Everyday Life*;²⁰ David B. Wilkins & Mitu G. Gulati, “Reconceiving the Tournament of Lawyers: Tracking, Seeding, and Information Control in the Internal Labor Markets of Elite Law Firms.”²¹

- a. Offer historical, anthropological, sociological or economic analysis of the behavior of legal actors or institutions, often exposing complexity, gaps between theories and practice, dynamics, and layers of meaning

12. Robert Ellickson, *Order Without Law: How Neighbors Settle Disputes* (Harvard Univ. Press 1994).
13. Robert H. Mnookin & Lewis Kornhauser, *Bargaining in the Shadow of the Law*, 88 Yale L.J. 950 (1979).
14. Lucien Bebchuk & Alma Cohen, *The Costs of Entrenched Boards*, 78 J. Financial Economics 409 (2005).
15. Abram Chayes, *The Role of the Judge in Public Law Litigation*, 89 Harv. L. Rev. 1281 (1976).
16. Marc Galanter, *Why the “Haves” Come out Ahead*, Wis. L. Rev. 1974.
17. Richard Lempert, *A Classic at 25: Reflections of Galanter’s “Haves” Article and Work It Has Inspired*, 33 Law & Society Rev. 1099 (1999).
18. George L. Priest & Benjamin Klein, *The Selection of Disputes for Litigation*, 13 J. Legal Stud. 1 (1984).
19. Judith Resnik, *Managerial Judges*, 96 Harv. L. Rev. 374 (1982).
20. Patricia Ewick & Susan Silbey, *The Common Place of Law: Stories From Everyday Life* (Univ. of Chicago Press, 1st ed. 1998).
21. David B. Wilkins & Mitu G. Gulati, *Reconceiving the Tournament of Lawyers: Tracking, Seeding, and Information Control in the Internal Labor Markets of Elite Law Firms*, 84 Va. L. Rev. 1581 (1998).

- and effects;
- b. Use empirical or interpretive methods and/or models;
- c. Offer a normative assessment or agenda for further study.

VI. Critical projects, e.g., Duncan Kennedy, “Form and Substance in Private Law Adjudication;”²² Robert Cover, “Supreme Court—1982 Foreword: Nomos and Narrative;”²³ Kimberle Crenshaw, “Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law;”²⁴ David Shapiro, *Federalism: A Dialogue*.²⁵

- a. Expose unstated assumptions, patterns or results, internally inconsistent structures or other tensions within a body of law or legal practices or institutions;
- b. Highlight the tensions, contradictions or paradoxes behind the surface of law or legal practices; sometimes they are not resolved but instead try to link to larger psychological, social or philosophic difficulties and political or normative efforts.

VII. Comparative and historical inquiries, e.g., Mary Ann Glendon, *Abortion and Divorce in Western Law*;²⁶ Bruce H. Mann, *Republic of Debtors: Bankruptcy in the Age of American Independence*;²⁷ William Forbath, “The Shaping of the American Labor Movement.”²⁸

- a. Offer a rich description of an earlier era or contrasting legal regime;
- b. Satisfy the criteria within the fields of anthropology or history in use of sources, triangulation, and contextualization;
- c. Suggest how this study illuminates differences, choices, or continuities when compared with contemporary domestic practice.

22. Duncan Kennedy, Form and Substance in Private Law Adjudication, 89 Harv. L. Rev. 1685 (1976).

23. Robert Cover, Supreme Court—1982 Foreword: Nomos and Narrative, 97 Harv. L. Rev. 1 (1984).

24. Kimberle Crenshaw, Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law, 101 Harv. L. Rev. 1331 (1988).

25. David Shapiro, *Federalism: A Dialogue* (Northwestern Univ. Press, 1st ed. 1995).

26. Mary Ann Glendon, *Abortion and Divorce in Western Law* (Harvard Univ. Press 1989).

27. Bruce H. Mann, *Republic of Debtors: Bankruptcy in the Age of American Independence* (Harvard Univ. Press 2009).

28. William Forbath, The Shaping of the American Labor Movement, 102 Harv. L. Rev. 1109 (1989).

VII. Jurisprudence, philosophy of law, and connecting philosophy and law, e.g., Ronald Dworkin, *Law's Empire*;²⁹ Catherine MacKinnon, "Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence;"³⁰ Richard A. Posner, *The Problematics of Moral and Legal Theory*;³¹ Seanna Shiffrin, "Speech, Death, and Double Effect."³²

- a. Develop or elaborate a theory that tries to explain how all of law or chief portions of it hang together;
- b. Engage with alternative theories;
- c. Demonstrate the contribution this theory makes to a conceptual puzzle or set of doctrinal or practical problems;
- d. Advance view of justice or analysis of what norms law should pursue.

IX. Combinations, e.g., Cass Sunstein, "Interest Groups in American Public Law;"³³ Derrick Bell, Jr., "Brown v. Board of Education and the Interest-Convergence Dilemma;"³⁴ Lani Guinier, "The Triumph of Tokenism;"³⁵ Frank H. Easterbrook & Daniel R. Fischel, "Voting in Corporate Law;"³⁶ Ian Haney Lopez, *White by Law: The Legal Construction of Race*.³⁷

29. Ronald Dworkin, *Law's Empire* (Belknap Press of Harvard Univ. Press 1986).

30. Catherine MacKinnon, "Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence," 8 *Signs* 635 (1983).

31. Richard A. Posner, *The Problematics of Moral and Legal Theory* (Belknap Press of Harvard Univ. Press 2002).

32. Seanna Shiffrin, "Speech, Death, and Double Effect," 78 *NYU Law Review* 1135 (2003).

33. Cass Sunstein, "Interest Groups in American Public Law," 38 *Stan. L. Rev.* 29 (1985).

34. Derrick Bell, Jr., "Brown v. Board of Education and the Interest-Convergence Dilemma," 93 *Harv. L. Rev.* 518 (1980).

35. Lani Guinier, "The Triumph of Tokenism," 89 *Mich. L. Rev.* 1077 (1991).

36. Frank H. Easterbrook & Daniel R. Fischel, "Voting in Corporate Law," 26 *J. L. & Econ.* 395 (1983).

37. Ian Haney Lopez, *White by Law: The Legal Construction of Race* (NYU Press 1996, rev. ed. 2006).

Beginning Steps

- 1) Break your project into small (15-30 minutes), medium (30 minutes to 1.5 hours), and large (over 1.5 hours) tasks to help create a manageable writing and research schedule.
- 2) Conduct a “writing audit” to get a sense of all the writing projects on your plate and to help you prioritize which ones you want to work on first.
- 3) Construct a “writing pipeline” of your ideas, works in progress, works under review, works in press, and published pieces to see where your gaps are.
- 4) Brainstorm possible ideas for directions of your article or for multiple publications that might come out of your dataset.
- 5) Create a title of your article or write an abstract to help motivate you and keep you on track.
- 6) Make a list of who you might need to contact to move forward (this could be a writer that you are collaborating with, an expert at Suffolk in a method that you want to use, or a colleague that has experience writing in your area).

Productivity Tips

- 1) Write every day, even if just for 15 minutes at a time, to stay connected to your project
- 2) Write before you feel ready. Even getting down initial notes or an outline can help motivate you to keep working toward your writing goals. Remember, you can’t revise an empty page, so writing something is better than writing nothing.
- 3) Create concrete goals for yourself. Instead of just planning to write each day, set goals to write a certain number of words or pages. Or, if you are researching, outline what books, articles, or data sets you plan to read and take notes on each day.
- 4) Take breaks. It may seem antithetical to getting your work done, but don’t forget to take breaks to stretch or have a snack, especially when you are writing for long periods.
- 5) Pay attention to when you work best. Plan your writing time around your best time of day. In other words, if you are a morning person, don’t put off your writing until late at night.
- 6) Celebrate your accomplishments. If you finish a particularly hard section of writing or you complete your word count for the day, take the night off to watch a movie or go to dinner.

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Iowa City, IA.

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Publish, Don't Perish: Twelve Steps to Help Scholars Flourish

Tara Gray

New Mexico State University

Some faculty flourish as scholars, and these faculty differ from other faculty in important ways. This article offers twelve steps that faculty can take to flourish. These steps require not only faith in oneself, but also faith that trying new writing and time management strategies as well as getting help from colleagues will improve and transform our research.

Some faculty publish far more than others, and these faculty differ in important ways from other faculty. According to writing expert Robert Boice, these faculty set limits on lecture preparation time, limiting it to about half what other faculty spend. They are proactive in soliciting advice about both teaching and research from their colleagues. They are willing to share their writing in its formative stages. They write during more weeks of the semester, including the busiest weeks. They rarely write in binges (except for grant writing). And, they complain little about busyness; they seem more positive and less stressed about their jobs (Boice 1992:23).

Research shows that faculty can begin to be more productive like these writers and to publish more by taking certain steps. The foundation of these steps is faith: faith in ourselves as writers as well as faith in our ability to try new writing and time manage-

ment strategies, and to transform our writing based on help from others. To this end, this paper discusses twelve steps for writers:

1. Believe you have something to say.
2. Don't finish the literature review first: read as you write, and write as you read.
3. Organize your paper around paragraphs, that are themselves summarized by one key sentence.
4. Work on one project at a time--until you gain some momentum.
5. Become a manager of your time, not a victim of it.
6. Differentiate between the "urgent" and the important.
7. Set aside daily blocks of time to write, even half an hour.
8. Hold yourself accountable to a supportive partner.
9. Share early drafts with trusted colleagues.

10. Learn to accept and benefit from criticism.
11. Develop thick skin—really thick.
12. Kick It Out the Door and Make 'Em Say "No."

1. Believe you have something to say.

To be successful writers, we have to know when to play the "believing" game as opposed to the "doubting" game (Moxley 1997: 5-6): that is, we have to know when to revise our writing, but also when to refrain from revision. Of course, revision can be painful; you begin to find your stuff distasteful. This creates doubt. Waves of doubt—the conviction that everything you've done so far is rubbish. . . . The only help is a cheerful faith that more work will raise even this rubbish up to your newly acquired standards. (McCloskey 1985:196)

Indeed, revision requires a great deal of faith, a strong sense of self or "cheer and an irrational optimism" (McCloskey 1985:196). As writers we have to revise, which requires us to be self-critical; to write the first draft, however, we have to turn our internal critics off, or at least turn them down (Moxley 1992:29).

It is hard to turn our internal critics off because the perception persists that "too many" people are already writing and those who are not "have nothing to say." Indeed, we have been taught to be elitists, which is what keeps most writers from writing (Boice 1992:16). Sadly, this elitism is internalized by many "silent writers" themselves, who claim that "much of what gets published falls below their own standards" (Boice 1992:16). This is elitism at its worst—setting unrealistic standards that few can meet, including ourselves. Everyone who reads widely, "thinks" and teaches for a living has something to say. "Be selfish for a while about the little candle of creation you are tending, however poor it may seem beside the conflagrations of the giants" (McCloskey 1985:199-200). You

have something to say; just write it down.

Writing Strategies

2. Don't finish the literature review first: read as you write, and write as you read. Everybody knows that the literature review should be finished first. Many writers think they should read everything ever written before beginning to write (Moxley 1992:25), but it is not true:

Don't wait until the research is done to begin writing because writing is a way of thinking. Be writing all the time, working on a page or two here, a section there. (McCloskey 1985:196).

Writing is not only a way of thinking; it is a *superior* way because it can be revisited and revised. So don't try to finish the literature review first: read as you write, and write as you read.¹

3. Organize your paper around paragraphs that are themselves summarized by one key sentence. Everybody knows that organization is the curse of beginning writers, but scholars often forget that it is also our curse. When writing a first draft, try to organize each paragraph around one key sentence that summarizes the meaning of the paragraph—the one you would want saved if your computer were eating the paragraph a sentence at a time (Williams and Colomb 1990: 97-103). When revising the draft, find the key sentence in each paragraph and underline it.

¹ Incidentally, a literature review is never finished, and trying to finish it first will just slow you down. In fact, you may do better not to try to "finish" it at all, ever. I once tried to finish a literature review. I collected an entire file drawer full of articles, alphabetized by author. When I took my current job, I learned that my new department head, L. Thomas Winfree, had published a similar article that I had never read. In the number one journal in my field. My literature review was not really finished, and it never will be.

y; just write it down.

Strategies

With the literature review write, and write as you know. Many writers know that the literature review is finished first. Many writers would read everything ever written before writing (Moxley 1997: 13-14; Becker 1986: 104). But this is not true:

Until the research is done to use writing is a way of organizing all the time, working here, a section there. (Boice 1989:606).

Writing is only a way of thinking; because it can be revised, so don't try to finish the draft: read as you write, and

Organize your paper around paragraphs, each summarized by a key sentence.

Everybody knows that the curse of beginning writers is to forget that it is also our first draft, try to organize around one key sentence the meaning of the paragraph. You would want saved if your writing the paragraph a sentence. (Boice 1989:606). Williams and Colomb 1990: 104. In writing the draft, find the key sentence of the paragraph and underline it.

Literature review is never finished. If you finish it first will just slow you down. It is better not to try to "finish" a literature review. I have a drawer full of articles, alphabetized. I took my current job, I am a department head, L. Thomas wrote a similar article that I had never seen in my field. It is not really finished, and it

If you can't find a key sentence, the reader won't be able to find it either, and will judge your work as poorly organized. Once each paragraph has a key sentence, write them down in order. Now ask yourself, if I assembled all of these sentences into a list, would it make sense? (Booth, Colomb and Williams 1995:205-206). This list doesn't have to be elegant because it wasn't written to be read this way. However, if it doesn't make sense at all, work with it until it does. Then you will have written a paper that is organized around paragraphs, with each paragraph summarized by one key sentence.

4. Work on one project at a time—until you gain some momentum. The prolific writers encourage us to work on more than one project at a time, so that we will get enough perspective to see the problems with our work (Moxley 1997: 13-14; Becker 1986: 104). The prolific writers write this way so it is good advice: for them. However, there is nothing more frustrating than watching colleagues write one conference paper after another, but publish nothing. In my experience, learning to write is a little like learning to bowl. You wind up carefully and watch breathlessly as the ball rolls to the pins. For the gutter balls, you groan; for the spares and strikes, you cheer wildly. You bowl carefully for a while, rolling one ball at a time. After a while, you grow tired of bowling. You decide to try juggling, with each writing project serving as a ball in the air. Juggling is better and faster, but new scholars who try juggling may find that all their ideas fall to the floor. Work on one project at a time—for a while (Valian 1985).

Time Management Strategies

5. Become a manager of your time, not a victim of it. Faculty perceive ourselves

to be extremely busy. As a result, Boice (1987; 1989) surveyed faculty about their time spent working in at least five different institutions ranging from a four-year college to a doctoral-granting university. When 108 new faculty at a regional university were asked to estimate retroactively how much time per week they work, the average estimate was 58 hours per week, with half the time spent on research. However, when the same faculty were asked to keep records of their workweeks, they reported that they worked 31 hours per week, with 1.5 hours spent on research, including only half an hour spent writing (Boice 1989:606). Afterwards, most of the faculty were "forthright with admissions that they were not nearly as busy as they had supposed" (Boice 1992:17). They discovered that they rarely had days without some free period, which they usually used for a low-priority activity such as reading their mail or the newspaper or talking on the phone. You are not as busy as you think you are. (And neither am I.)

Many faculty, especially new ones, feel immersed in sixty-hour workweeks and the most stressful years of their lives. In fact, in the study mentioned above, 55 percent of the faculty surveyed answered "yes" to the question, "Is this the busiest year of your life?" (Boice 1989:606). These faculty do not feel in control of themselves or their careers (Boice 1992:18). Indeed, some of them may not be working nearly as hard as they think they are, but others may be well on their way to living up to the title of the excellent book, *Working Ourselves to Death* (Fassel 1990). They are all victims of their time, not managers of it. Sometimes these scholars compete for the "biggest victim" award (and sometimes I engage in the competition). Instead of seeing being "busy" as a status symbol, I am trying to see it as a way of staying victimized. Become a manager of your time, not a victim of it.

6. Differentiate between the "urgent" and the important. One way to become a manager of your time is to differentiate between the "urgent" and the important (Covey 1994:33). It has been said that life is composed of the urgent, the important and the trivial. We exhaust ourselves on the urgent, seek rest in the trivial and forget the important (author unknown). Important things move you closer to your goals; urgent things seem to need to be done right now, usually for someone else. Examples of the "urgent" include answering phone calls, visiting with someone who drops by, and responding to someone else's deadline. Even though it is often the urgent that make us feel useful and successful, focus on the important (Covey 1994:33).

For college faculty, teaching tends to take priority over research because it is both urgent and important: there are so many people and deadlines involved. In contrast, research is not as urgent: there are fewer people and deadlines involved. It is easy for procrastinators (which includes most people) to get caught up in the "busyness" of teaching every day, which leaves teachers feeling intense, impatient and overscheduled. These teachers leave research to occasional "binges" in which research is performed in marathon fashion to the exclusion of nearly everything else (Boice 1992:19):

There is no room, apparently, for another high priority task. High priority tasks, especially for procrastinators, require large blocks of time and undisrupted working conditions (i.e. binging) (Boice 1989:611).

Convince yourself that your research may not be urgent, but it is important.

7. Set aside daily blocks of time to write, even half an hour. Short blocks of time can greatly improve productivity. In one study, faculty who set aside daily half an hour blocks to write wrote or revised almost 64

pages of prose in a year, which was almost four times the productivity of the control group (17 pages) (Boice 1989:609). But, you say, "How can I accomplish anything in half an hour?" The way to get a quick start tomorrow is by writing today, by keeping the flame of your research alive all the time, by never "dropping the ball," but just setting it aside for one short day at a time. At the end of your writing time today, help yourself get started tomorrow by writing yourself a note about what you are going to do tomorrow so that you can think about it over night. Writing these notes to yourself may save you a half an hour of start-up time (McCloskey 1985:200). Of course, many faculty argue that they can only write effectively in large blocks of time; however, large blocks of time are hard to find (Boice 1989:608). When you wait for large blocks of time, first you'll wait for summer, then sabbatical, then retirement (Boice 1992:18). Don't wait: Set aside a (short) block of time today.

Seek Help from Others

8. Hold yourself accountable to a supportive partner. Just as the last several steps have encouraged us to substitute better time management for less time spent writing, the next few steps encourage us to substitute other people's time for our own (Boice 1996:89). Writing regularly is easier when you hold yourself accountable to a supportive partner. In the study discussed previously in which some faculty agreed to write an average of half an hour a day, another group agreed to accept biweekly visits from the experimenter during the blocks of time that they had agreed to write. This group wrote or revised 157 pages per year, which was more than twice as much as those who did not accept the visits (sixty-four pages) and more than nine times as much as the con-

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trols (seventeen pages) (Boice 1989:609). Therefore, you may want to hold yourself accountable to a supportive partner, and meet with that partner each week. At my home campus and elsewhere, I have directed a program that facilitates such partnerships.

9. Share early drafts with trusted colleagues. As writers, we are not effective as our own audiences. When we read our own stuff, we are not really reading, but reviewing what we were thinking at the time (Booth, Colomb and Williams 1995:202). Indeed, writing improves when we debunk the lone scholar myth in favor of the view that critical readers can improve our writing. Next, we must find these critics. When I was a new scholar, I thought the only appropriate critics were the experts I cited most heavily. I would work on an article for months and then send it to these experts with a cover letter explaining how their work had influenced mine. About half of these experts, all strangers to me, would respond to my letters, which made this an excellent way to get feedback on a near-finished product. However, relying on "the experts" had two important weaknesses—I didn't want to share early drafts with these folks and they understood what they read based on their own knowledge, rather than on the clarity of my writing. As a result, writers should also seek readers who are *not* experts in the area because they are more critical of the organization and other aspects of the writing (from a workshop with Joe Williams).

Choose readers who you know and trust so that you can ask them to read early drafts because early drafts are more likely to elicit comments and to benefit from them (Boice 1992: 29). Choose readers who can "treat early drafts as early" and not criticize them with the standards appropriate to finished products (Becker 1986: 16, 18). Finally, choose readers who are willing to read and respond to drafts quickly. When you send

papers out to others, put a time limit on it such as two weeks. In person, encourage readers by asking only for a "quick read." "Just run your eyes over it," I tell them, "and tell me the biggest problems you see." Another tactic I use, is "I'll show you mine [current working draft], if you show me yours." I say we will be done in an hour, and we usually are. Keep experimenting until you find trusted colleagues to read early drafts; the alternative is to send a draft directly to a journal—and wait four months for a reply.

10. Learn to accept and benefit from criticism. It is not easy to accept criticism of our work as writers, even if we know that in one sense, at least, the reader is always right:

Clarity is a social matter, not something to be decided unilaterally by the writer, because the reader...is sovereign. If she thinks something you write is unclear, then it is, by definition. There's no arguing (McCloskey 1985:191).

Indeed, the best writers must learn to accept the wisdom of their readers:

Listen to what your reader says *as though it were all true*. The way an owl eats a mouse. He takes it all in. He doesn't try to sort out the good parts from the bad. He trusts his organism to make use of what's good and get rid of what isn't (Elbow 1973:102-103).

It is difficult to accept criticism of one's work, but instead of reacting when someone criticizes it, ask for more information so you will be able to press the idea into service (Boice 1994:192-193). Ask leading questions such as, "Did I understand you to say..." or "How might I make a change that would help address that problem?" In this way, you will learn to swallow criticism whole, "the way an owl eats a mouse."

11. Develop thick skin—really thick.

Every scholar knows intuitively what research shows about sending your materials out for review, especially anonymous review: it takes thick skin. Indeed, reviewers focus on the negative making up to 37 criticisms per paper with eight the average, and “make only broad statements—if any—about the positive features of papers” (Fiske and Fogg 1990:592). Reviewers also offer very different criticisms of papers, which means they tend to disagree on whether to publish the paper or not:

In the typical case, two reviews of the same paper had no critical point in common. ...As a consequence, their recommendations about editorial decisions showed hardly any agreement (Fiske and Fogg 1990:591).

Because reviewers routinely disagree on whether or not to publish a paper, we can only conclude that the reviewers are often wrong about their overall assessment.

It is easy then to conclude that the specific criticisms of reviewers are equally useless. However, researchers who examined the quality of scholarly reviews “were impressed by the amount of time and effort that reviewers put into their work” (Fiske and Fogg 1990:592). Even more importantly, however, the reviewers gave good advice:

Reviewers did not overtly disagree on particular points. Instead, they wrote about different topics; each making points that were appropriate and accurate....In instances in which we consulted the original manuscript, we found no reviewer criticism with which we disagreed....It was very uncommon for an editor to indicate disagreement with a point made by a reviewer. (Fiske and Fogg 1990:591; 597).

The readers may always be right in the sense that if the writer makes a specific change based on a reader’s suggestion, it will almost always be a improvement.

I learned this lesson the hard way. On one of the first articles I ever wrote, I spent

100 hours *per page* and made the changes suggested by five well-known scholars. This had been my only project for a couple of years, and I finally thought it was ready to go. The sole reviewer wrote back, and the criticism began with the acknowledgments in which I thanked the scholars for their “comments”:

Didn’t any of them [these scholars] criticize the paper? Hard to believe! Did you ignore the criticisms?

There was more to follow, all of it written in red ink half an inch high:

This is a very badly prepared piece of work....This is a very poorly done paper....There are myriad other problems that plague this paper....This paper is so badly written that few persons will have the patience to try to make sense of it

I knew just what to do with this kind of review. I cried. Then I remembered that *five* readers liked it, and *one* did not. I decided to address the reviewer’s concerns quickly, spending only four hours, which was a small part of the time spent on the paper, less than one-half of one percent. I fired the paper off to an equally good journal, where it was accepted *without revision*. Looking back, it would have been easy to assume that the specific suggestions were as useless as the overall assessment of the piece. Despite the offensive tone of the overall assessment, the specific criticisms were excellent: my paper had serious organizational problems, and this reader knew it.

As a result, scholars do well to “solicit as much criticism as possible. In a peculiar way, criticism looses its venom when taken in large dosages” (Moxley 1997:16). Know that one reader will criticize the literature review, while another will find fault with the organization, and yet another will challenge

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changes in response to each of these read-
ers, you will improve the paper and reduce
the chance that other readers will find fault
with it. Think of each specific criticism raised
as a hole in a dam that should be plugged
(Lakein 1973); once plugged, other readers
will like the piece better too. Also know that
you must develop thick skin because "You
can't please all of the readers all of the time,"
and ask yourself, "Why should I be the one
who dies trying?"

**12. Kick It Out the Door and Make
'Em Say "No."** Before you can mail your
paper, you have to decide what journal to send
it to. Before deciding, learn how the journals
are ranked in your discipline. This informa-
tion is usually available in an issue of the "edu-
cation" journal in your field; for example, *The
Journal of Economic Education* or *Journal
of Criminal Justice Education*. Selecting jour-
nals with this information in mind helps you
when you go up for tenure or promotion be-
cause you can then show that the journals you
chose were respectable. Next, contact a few
editors of journals you are considering, tell
them about your paper, and ask them how well
it "fits" the mission of the journal. Based on
the interest the editors express, choose a jour-
nal to send it to, and preferably, choose a
backup journal.

But you say, "My paper is not really
done. It could be better." That's true today
and it will be true ten years from now. It's
tough to know when "enough is enough." To
find the balance between "making it better
and getting it done" (Becker 1986: 122). Tell
yourself that you've written it. Trusted col-
leagues have read it. You've responded to
their criticisms--it's time to "Kick It Out the
Door" (Becker 1986: 121). As my colleague
Larry Mays puts it: "Don't make it a Life-
time Project." Artists are encouraged not to
over-paint a picture, and bury a good idea in
a muddy mess (Becker 1986: 131). And so

it is for writers: don't bury a good idea in a
muddy mess.

Don't worry; if your writing needs
more work, you'll get another chance. Many
articles are rejected, and only fifteen percent
are accepted without revision (Mullins 1977
as cited in Fox 1985:29). Anonymous re-
viewers are not known for being over-kind.
Even when the comments sting, however, it
is important to revise and resubmit the pa-
per because 85 percent of these papers are
accepted (Henson 1997: 784). Nonetheless,
many writers acknowledge that they do not
resubmit after receiving a revise and resub-
mit from a journal and one journal editor
reported that the number of re-submissions
hovers around zero (Henson 1997: 784). The
failure to revise-and-resubmit is one of the
worst mistakes a scholar can make, which
means that some writers need to develop
thicker skin. Remember that your job is to
write it and mail it. (And rewrite it and re-
mail it.) The reviewer's job is to tell you if it
will embarrass you publicly. You have done
your job, so make 'em do theirs:

Kick it Out the Door
—And—
Make 'Em Say "No."

Working the Steps

Like anyone in recovery, writers have
to work the steps—not once or twice, but
over and over again for a lifetime. Believe
you have something to say. Don't finish the
literature review first; read as you write and
write as you read. Organize your paper
around paragraphs that are themselves sum-
marized by a key sentence. Work on one
project at a time—until you gain some mo-
mentum. Become a manager of your time,
not a victim of it. Differentiate between the
"urgent" and the important. Set aside time

to write daily. Hold yourself accountable to a supportive partner. Share early drafts with trusted colleagues. Swallow criticism whole. Develop thick skin. Kick it Out the Door and Make 'Em Say No.

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Writing Schedules That Work if You Work 'em (from Kelly Stone, author of *LIVING WRITE: The Secret to Bringing Your Craft Into Your Daily Life*. <http://www.norulesjustwrite.com/addicted-to-writing-kelly-stone-part-2/>)

Schedule #1: The Early Morning Writer

This schedule involves getting up before dawn and writing for a few hours before the others in the household get up or before you have to leave for work or to tend to your other duties.

TIP: If you are concerned about your ability to suddenly get up before dawn, start slow. Set your alarm clock backwards in five-minute increments each morning over the course of two weeks. Even though you'll only have a few minutes to write for the first few days, practice getting up as soon as the alarm rings and go straight to your desk and start writing. After moving your rising time backward by five minutes for two weeks, you'll be getting up about an hour earlier. Keep pushing the alarm back until you are getting in the amount of time you want to write.

Schedule #2: The After-Hours Writer

Some people feel more creative after midnight. If that's you, this may be your writing schedule.

TIP: You may forget to *start* writing. Set an alarm to remind you when it's time to get to your desk and begin.

Schedule #3: The Office Writer (Before Work and After Work)

Take your laptop or notebook to a park, coffee shop, or library close to your office and write for an hour or two before the work day begins and after it ends.

TIP: Create an "office on the go" in a portable bag to ensure that you will have all your material with you.

Schedule #4: The Blitz Writer

The Blitz Writer schedules herself to write for long periods of time but less frequently. It's an effective strategy for those who prefer to work in longer, more intense spurts, and those who cannot fit writing into their daily routine. This writer writes in a minimum of 4 hour blocks of time and up to 12 hour blocks of time. For most people, this will be on weekends, days off from work, and/or holidays.

TIP: A Blitz writer has to make up for time lost during the week. Plan ahead so that you will have everything that you need within easy access, such as research notes, paper, printer cartridges, highlighters, food and snacks, coffee or tea, bottled water, pens or pencils, and any other supplies you use when writing. What you *don't* want on that day of Blitz writing is to have to leave your desk to go out and get something.

Schedule #5: The Mini-Blocks-of-Time Writer

Writing for 10-15 minutes at various intervals during the day, usually in between other tasks. Get an egg timer and set it for 10-15 minutes, then write non-stop during your mini-block of time.

TIP: Actively look for 10-15 minute blocks of time in your daily schedule. You will discover that there are blocks of time that you weren't previously aware of that you can use for writing: scrutinize your schedule for these "pockets" of time and use them to write.

Schedule #6: The Commuting Writer

If you take public transportation, this is writing on your commute. You can write as well as doing the following activities:

- Print out pages of your work-in-progress and edit them
- Jot down plot points for a novel or short story
- Draft an article or organize your research
- Brainstorm ideas
- Write a poem
- Create character composites by making notes of other commuters' clothing, hairstyles, and snippets of conversation
- Organize a database of agents, editors, or magazine markets to submit your work to

Schedule #7: The Any-Opportunity or Combo Writer

Writing whenever the opportunity presents itself, for however long is possible. This schedule requires that you keep your WIP handy at all times and that you pounce on every possibility to write that becomes available. You cannot let a single writing moment pass.

TIP: Plan ahead as much as possible. If a block of time opens up suddenly later in the week that you hadn't expected, mark it immediately as time to write. If an appointment cancels, use that hour to write. If you finish chores quicker than you thought you would on the weekend, spend the extra time writing.

Erika K. Wilson
Summer Plan 2016

Step #1: Identify Your Goals

Summer Writing/Research Goals:

1. Initial Edits to Reverse Passing
2. Final Edits to Blurred Lines
3. Second Round Edits to The New School Seg
4. Begin Draft of Destructive Localism

Summer Case Work Goals:

1. Draft and File Title VII Complaint in MDT
2. Expand Case Referral Sites for Civil Rights Cases

Summer Personal Goals:

1. Train for Sep VA Beach Rock 'n Roll half marathon
2. DC House

Step #2: Plan

MONTH	DATE	WRITING/RESEARCH TASKS	PERSONAL TASKS
MAY			-
	16-20	<ul style="list-style-type: none"> - Reverse Passing Edits <ul style="list-style-type: none"> o Finish reviewing acting white (MT) o Edits to sections I and II (Wed-Th) - Destructive Localism <ul style="list-style-type: none"> o Literature Review (Fri) 	<ul style="list-style-type: none"> - Log 15 miles worth of runs (half marathon)
	24-27	<ul style="list-style-type: none"> - Reverse Passing Edits <ul style="list-style-type: none"> o Edits to sections III and IV (M-F) ▪ Literature review on transracialism (W) 	<ul style="list-style-type: none"> - Log 16 miles worth of runs (half marathon) - Make arrangements to see DC house(s)

		<ul style="list-style-type: none"> ▪ Send to Khaled no later than 5/27!!! - Destructive Localism (Fri) <ul style="list-style-type: none"> ○ Literature Review 	
	30-3	<ul style="list-style-type: none"> - Begin Outlining Intro Destructive Localism (Mon-Wed) - The New School Seg (Thurs-Fri) <ul style="list-style-type: none"> ○ Focus on Section IV 	<ul style="list-style-type: none"> - Log 17 miles worth of runs (half marathon) - Finalize arrangements for DC House - Malc Summer Camp
JUNE			
	6-10	<ul style="list-style-type: none"> - The New School Seg <ul style="list-style-type: none"> ○ Edits Focus on Section IV cont.. (Mon-Wed) ○ Present in preparation for Yale junior faculty forum to Audre. Michelle Alexander, Patience, ect... - Finish Outline for Destructive Localism (Thurs-Fri) <ul style="list-style-type: none"> ○ Send to reader on or before June 10, 2016 	<ul style="list-style-type: none"> - Trip to Beach Lighthouse with the MCHD kids - Log 20 miles worth of runs (half marathon prep)

		<ul style="list-style-type: none"> - Begin Edits to Blurred Lines once received back from Wash U Editors (should be June 6, 2016) 	
	13-17	<ul style="list-style-type: none"> - The New School Seg <ul style="list-style-type: none"> o Edits Focus on Section III (Mon-Wed) o Refine presentation for Yale junior faculty forum (Mon-Thurs) o Present to Kim, Derek, Osi, et al (Thurs or Friday) - Send Final Edits of Blurred Lines to Wash U journal editors 	<ul style="list-style-type: none"> - Log 22 miles worth of runs (half marathon prep)
	20-24	<ul style="list-style-type: none"> - The New School Seg <ul style="list-style-type: none"> o Present at UNC faculty workshop (20th) o Refine presentation based on comments @ faculty workshop - Final (and minor) edits to Reverse Passing - Send Reverse Passing to UCLA Law Review editors (June 23rd) 	<ul style="list-style-type: none"> - Log 25 miles worth of runs (half marathon prep) - Trip to NYC for the weekend to visit Kathryn, Catherine, and Anita - Prep for move into DC house

		<ul style="list-style-type: none"> - Read and prepare questions for other presenters' papers at forum 	
	27-1	<ul style="list-style-type: none"> - Yale Junior Faculty Forum 	<ul style="list-style-type: none"> - Travel to New Haven - Don't Forget to RUN. Try to get in at least 2-3 miles per day.
JULY	4-8	<ul style="list-style-type: none"> - Lutie Conference July 6-10 and writing retreat - Prepare to present Destructive Localism draft - At writing retreat <ul style="list-style-type: none"> o finalize edits to the New School Segregation o summarize and think through comments received from reader on Destructive Localism 	<ul style="list-style-type: none"> - Travel to Iowa law school - Don't Forget to Run. Try to get in 2-3 miles per day. - Move into DC house (should get there on the 1st).
	11-15	<ul style="list-style-type: none"> - First draft of The New School Seg due to Cornell Law Review Editors - Urban School Council Event July 14-15 <ul style="list-style-type: none"> o Review Gentrification and Public Schools Piece 	<ul style="list-style-type: none"> - Travel to Charlotte - Long Run of at least 10 miles - Shorter runs during the week

		<ul style="list-style-type: none"> o Literature review for updates on court litigation o Finalize presentation and practice presentation 	
	18-22	<ul style="list-style-type: none"> - Vacation Week!! (If I make it after all the stuff I have going on, whew). - File Title VII Complaint for MDT 	<ul style="list-style-type: none"> - Long Run of at least 11 miles -
	25-29	<ul style="list-style-type: none"> - Begin leisure background reading for new class prep - Work on Destructive Localism 	<ul style="list-style-type: none"> - Long Run of at least 12 miles
August			
	1-5	<ul style="list-style-type: none"> - Class and Case prep 	<ul style="list-style-type: none"> - Long Run of at least 14 miles
	8-12	<ul style="list-style-type: none"> - Class and Case prep 	<ul style="list-style-type: none"> - Simulated 13.1 mile race

June 2024 (United States)

Sun	Mon	Tue	Wed	Thu	Fri	Sat
26	27 • Memorial Day	28	29	30	31	1
2	3	4	5	6	7	8
9	10	11	12	13	14 Flag Day	15
16 Father's Day	17	18	19 • Juneteenth	20	21	22
23	24	25	26	27	28	29
30	1	2	3	4 • Independence Day	5	6

July 2024 (United States)

August 2024

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Sun	Mon	Tue	Wed	Thu	Fri	Sat
30	1	2	3	4 Independence Day	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31	1	2	3

August 2024 (United States)

Sun	Mon	Tue	Wed	Thu	Fri	Sat
28	29	30	31	1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31



Summer Writing Strategies

Michele Gilman



Write Daily

- Robert Boice study
- 3 groups over 10 weeks
 - Group 1: wrote occasionally in big blocks of time; in one year they wrote an average of **17 pages**
 - Group 2: wrote daily and kept a record of their writing; they averaged **64 pages**
 - Group 3: wrote daily, kept a daily record, and held themselves accountable to someone weekly; this group's average was **157 pages**



Research...but not too much

- A week to read and marinate
 - Then, an article a day
 - Or, as necessary for the section you are writing
 - You don't need to read everything
 - Talk to librarians about research project
 - Consider hiring research assistants
- If you aren't writing, you aren't writing.**

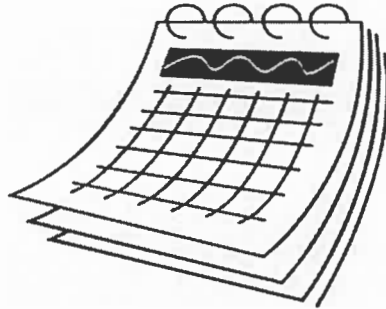


Be organized

- Talk to library about reference managers, ie., the software you use to handle references, full-text documents, and citations while writing --
 - Endnote
 - Mendeley
 - Zotero/Juris-M
 - Powernotes



Draft a writing plan



Create a writing retreat

- Pomodoro technique
 - Create a list of activities
 - 25 minutes on, no distractions
 - 5 minute break
 - Repeat...





Put words on paper...NOW

- Write the introduction
- Generate an outline with headings
- Use a law review template
- Write the background/problem description
- Put boring parts in the footnotes



Writer's block=Not a thing

- *I don't believe in writer's block. I think writer's block is just a myth that was invented by people who either don't want to work or people who aren't ready to get an idea down on paper. So if I can't write, if I'm stuck, it's because I'm trying to figure something out. The other thing is my husband, who is a doctor, goes to work every single day, and he doesn't get 'doctor's block'. He doesn't just say, "I don't have any idea what this patient has, and I'm just gonna go home and lie on the couch and stare at the ceiling and eat popcorn." Which is what writers do. It's like we have this built-in 'Get Out of Jail Free' card going called Writer's Block. But if you work, you just work, and sooner or later, you'll get through it."*

– Ann Patchett



Make yourself accountable

- Find a peer accountability partner or group
- Work with a senior writing "coach"
- Sign up to present your work at workshops and conferences (and brown bags)



Resist distractions

- Students do not need immediate responses
- Clients (usually) do not need immediate responses
- Avoid Facebook, Twitter, etc.
 - Self-control; Freedom; Anti-Social; FocusWriter; WriteRoom; StayFocusd



Reward yourself for writing



The Law Review Submission Process: A Guide for (and by) the Perplexed

Brian Galle*

Aug. 12, 2016

No one really understands the law review publication process. I certainly don't. But I do have opinions. Some of them are even informed by data. It's said that the Great Bird Redyip has once again stretched his wings and is swooping low over the pool of submissions, plucking up wriggling manuscripts to deliver to his screaming 3L chicks. So let's answer some questions.

Q: Um, Redyip? WTH?

A: A joke by Orin Kerr that has taken on a life and twitter feed of its own. We think the point of the joke was something like, "The ways of student editors are no more or less mysterious than those of an imaginary quasi-native American mythos." Anyway, Redyip is the bird whose flight announces the beginning of each law review submission season.

Q: Ooookay. So, is this Q&A going to be serious, or are you just going to tell weird law professor in-jokes?

A: Probably some of both, honestly. Hey, this is a pretty long document. Let's throw in a table of contents here.

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* brian.galle@georgetown.edu. Prof. Galle once expedited from the number 300 journal all the way to the top. This is a provisional document. Please feel free to e-mail me to suggest more questions or better answers.

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The Basics

Q: Since you brought it up, when exactly is the best time to submit?

A: This is a complicated question. Can you break it up into smaller, more manageable bits?

Q: Sure. First, when do journals actually consider submissions?

A: I'll assume if you've found this page you are aware that there are two seasons for submissions, spring and fall. In general, the spring season runs from February to early April, while the fall season runs from August to September. You can get some aggregate data on when journals open and close [here](#). But each journal has its own esoteric variations on what its staff consider the start and end of submission season. For example, UCLA usually starts reading in January, while USC is quite late, sometimes not making initial offers until well into March.

Q: It seems like the fall season is kind of short.

A: Yes, the fall sucks. It is short, no one really knows when it starts, there is less overlap among journals in when they are reading (I'll explain why that matters when we get to expedites), and many journals have relatively few slots or are even full. [My analysis](#) of submission data suggests that only about a third of acceptances happen in the fall.

Q: So how can I tell when the particular journal I want to submit to is open?

A: Often, you can't. In theory, there are a few places to look. Each journal's web page may (but usually doesn't) have a useful statement about when they will consider submissions. Often these statements are obviously old and haven't been updated (e.g., a top 10 journal I won't name at this moment has a web page that says that they are "now accepting" submissions for last year's volume). Other are uselessly vague, as in "we will begin considering submissions in August." There is [a useful document](#) compiled by Allen Rostron and Nancy Levit each year, based on available web data, that summarizes what those web sites can tell us about submission dates.

Expresso and Scholastica, the submission services, also give some hints about journal status. But they are only hints. If a journal is "closed" and you can't send it a submission, most of the time this means

they are not making offers. But the fact that you can click on it doesn't mean that they are making offers. Many journals do not bother to close submissions when they are done reading for a cycle. This is one of my favorite things. <sarcasm emoji here>

The "submission angsting" thread on prawnsblawg also collects reports from other hapless authors about their submission experiences. I don't recommend scrolling through the comments, unless you really enjoy the suffering of others. But the spreadsheet at the top will give you useful data points on whether other people have gotten offers, rejections, or news that a journal is full.

Q: Well, is there any downside to submitting too early?

A: No one really knows for sure. Espresso uses an e-mail interface in which unread submissions accumulate in the journal's inbox. Scholastica has a similar chronological feed, in which older submissions will disappear off the bottom of the screen (unless the editor thinks to scroll down). I suspect that it is more difficult to get the attention of an editor if one is somewhere at the bottom of the pile.

Another risk of submitting early in a cycle relates to how the expedite process works. More on that later.

Q: Let's back up. What are these Espresso and Scholastica thingies?

A: Really? Wow, ok. These are websites that will take your manuscript (along with accompanying documents, such as c.v. and cover letter) and batch-submit it to many journals at once. They charge a fee for this service (around \$3 per journal for espresso, \$5 for scholastica), which ordinarily is covered by your home institution (if you work at one, and you appear on that institution's list of covered subscribers). Some schools will put you on their list if you are an alum on the teaching market; talk to your friendly neighborhood "alumni in law teaching" committee rep.

If you are short of funds, you can usually submit by e-mail as well, though journals say they don't like it. See the Rostron & Levit document for a collection of which journals consider e-mail submissions.

You should also be aware that the "flagship" journals at Harvard, Stanford, and Yale do not accept submissions via either service; you have to go through their respective proprietary web sites to submit. Don't forget they expect anonymous submissions.

Q: Hi. I just arrived from Mars/Poland/a Ph.D. program in comparative linguistics, and for some reason I want to submit to a law journal. Tell me about the editors who will be deciding what to publish. I assume this is all done by exclusive submissions and peer review, like the rest of academia?

A: <Weeps>

A: But in all seriousness, peer review also has lots of problems. I'm not here to opine on which system is better. Some law journals do have at least some elements of peer review; see the special topics section later for more on that.

Strategy: Timing and Expedites

Q: How do I decide which journals to submit to, and when? I've heard some people talk about "playing the game." I assume this isn't about that David Fincher movie?

A: Another complicated one. Let's start small. Ask me about expedites.

Q: Ok. Can you explain what expedited review is?

A: Most law journals permit simultaneous submissions. In the event you receive an offer from one journal, the custom is to then contact other journals and inform them of your competing offer. Typically, the offering journal provides a deadline for you to decide whether to accept their offer. By convention, journals with more market power (i.e., higher-ranked journals) typically offer less time, though a few have recently signed on to an agreement that they will provide authors at least a week to decide. A typical deadline for journals ranked between 20-ish and 50-ish is one week; many journals of lower rank will offer two weeks. Columbia gives you one hour (note: it is still possible, with very elaborate planning, to successfully obtain another offer in that one-hour window – I've done it. We'll cover this in special topics).

In any event, this deadline is usually a shorter period than other journals typically take to make a decision. So what you do is you inform the other journals that your offer comes with a deadline, and you ask them to try to reach a decision by then. Expresso and Scholastica each have standardized systems for sending these requests to multiple journals at once.

Q: Does requesting expedited review affect my chances of getting an offer at another journal?

A: Yes, without question. Journals use expedite requests as a screening device to identify which articles should be given priority attention. If this seems outrageous—and it is—consider that the average journal has 5-7 articles editors and receives around 3,500 submissions per year. My experience is that mid-tier journals are especially likely to rely on expedites to focus their attention (or, perhaps, are so swamped by the volume of requests they receive that they can do no more than respond to expedites). At top-20 journals you have something like a 50% chance of getting read at some point in the submission cycle without an expedite request. At a journal between 20 and 40, I would put those odds at closer to zero. It's a strange process.

The quality of the journal from which you expedite may also affect your odds. The offering journal sends a signal to the time-constrained editor about how seriously to consider your manuscript.

Q: So I don't necessarily want to request expedited review at Yale after my offer at the Poughkeepsie Journal of Bridge Law?

A: Correct. This is "the game." The game is that one first submits to a very large number of journals. After receiving an initial offer, one then send requests for expedited review to journals that you prefer to the offering journal, but which are not far, far, higher ranked than the offering journal. A typical heuristic is to expedite to the next 50 or so higher-ranked journals. One then hopes for another offer from that grouping, and then sends news of the two offers to the next 50. And so on, potentially.

Some journals don't like the game, and have persuaded Scholastica to refuse to allow expedited review requests if the author is expediting to more than, say, 20 journals. (Duke is an example here). My opinion is that this is hypocrisy; it is the journal's own refusal to consider articles without expedited review, and use of the quality of the offering journal as screen, that forces us to play the game. But you've been warned.

Q: It sounds like that could take a while. What happens if time runs out on my existing offer before I get any other offers?

A: Well, you should be happy. Many people, including me, have sent out articles and gotten no offers from anyone. You'll be a published author. People will find your piece on westlaw or google scholar. That is a great and rare thing. Congratulations.

Still, you may wish to press on for various reasons, which we will consider in a bit. What you do in that case is ask for an extension. This is an awkward dance. It can feel quite a bit like telling your high school friend that you will take her to the prom, but only if that cute girl in your bio class who you've never talked to says no. Keep in mind, though, that these transactions are routine, and students know the deal. Be fair, honest, and above-board, and they will not complain.

A common extension period is one week, at least among journals that offer at least that long of a deadline. In some cases, you might also have specific information from a journal about when they hope to have a decision (for example, many journals will say things like, "We can review your article, but won't reach a decision until 10 days from now,") and you might ask for an extension until that day.

Q: What if I just go radio silent for an extra day or two?

No, that isn't cool. Deadlines are a form of hardball, it's true. But they also are a necessary part of the journal's planning process. Your failure to stick to the terms of the agreement has downstream effects on other authors, who may themselves be on deadlines from yet other journals. If you are waiting to hear from another journal, and have good reasons to believe that a reply is imminent, you should be up-front with the offering journal. Often, editors will be willing to extend even more time if you make clear that you are waiting only for one or two decisions to come in.

Q: Can I pile up offers just to extend my deadline?

A: Opinions will differ on this, but I don't think it's a best practice. Again, the process of considering your manuscript takes time and attention from students, and that in turn costs opportunities for fellow authors. For those reasons, I would typically avoid asking for expedited review from journals that are close substitutes for the offering journal.

Q: Should I expect to hear back from the journals where I request expedited review?

A: Sadly, no. Many student editors appear to take the view that you should understand that silence is tantamount to rejection. That is not to say that your piece was actually read and rejected. Usually, you will never know if the editors actually saw the manuscript or not. Remember back there when I was weeping?

Q: So, I had a deadline from Journal X on Sunday. Journal Y claimed they would reach a decision by Sunday. It's Sunday night and I've heard nothing from Journal Y. What should I do?

A: Again, sadly, this is indeed a frequently-asked question. Number one is to be forthright with Journal X. Once more, remember that there is someone just like you who is hoping that Journal X will offer them your slot as soon as you turn it down. My experience is that the offering journal editors are pretty understanding and will be willing to wait for Journal Y. They may ask that you withdraw from all other

journals, though. Then, a polite and professional follow-up e-mail, and if necessary phone call, to Journal Y is in order.

Quite often you still will get no response until a day or two later, whereupon you will receive the standard-form rejection. It's a tough biz.

Q: A journal told me that they would do a "board review" two days after my deadline expires. Should I turn down the offer in hand?

A: Again, you should first ask for an extension. If the offering journal is reluctant, you might offer to limit the number of expedite requests you send out.

If that fails, it's probably best to take the offer. Board reviews are a good sign but no guarantee of an offer. At most journals, the decision about whether to extend an offer requires a vote of all the members of the articles board (or whatever equivalent jargon the journal uses). Some journals require super-majority or even unanimous vote. Typically, the board review is the second or third stage of a process that begins with a screening read by a single articles editor (or perhaps two such reads, maybe with the first by a 2L). So getting a board review means that you have one or two of the four+ votes needed to get an offer. At the average journal, board reads produce offers something like one time in five. If you're up against an inflexible deadline, you should certainly ask the editor who communicated the existence of the board read about their ratio of board reads to offers (this may also give you some hints about the editor's own views of your prospects, though I have tended to find a lot of optimism bias / salesmanship...).

Q: You mentioned earlier that expediting has some connection to when you should submit your article. Can you explain that now? What's the best time for me to submit my article?

A: In order for "the game" to work, there must be an adequate volume of journals reading manuscripts at the same time. Otherwise, you may draw an offer from a journal that would be low on your list of preferences, and then never get consideration elsewhere within your deadline. On the other hand, if you are submitting at the same time as everyone else, there is a danger that your submission will get lost in a tidal wave of expedite requests. These considerations imply that the "shoulder season," just off-peak, that may be as good or better than peak submission period.

Take a look again at [the Scholastica data](#) to get a sense of when most people are submitting and asking for expedites. You might aim for perhaps just a week before or after the peak of the curves. Since expediting takes a while, it may be better to aim for the early side in the Fall, which is usually fairly short. Submitting Sept. 1 is probably later than ideal. I usually send out in batches in the Fall as journals open.

Of course, your situation may vary. If you would be content with a mid-tier publication, you often can do better in fairly quiet stretches, such as in July, when there will be relatively little competition and you will get more attention from those journals that are operating (though figuring out which those are is hit or miss).

Q: Should I submit to all the journals at once, or in stages?

A: Some people do like to wait before submitting to top journals. I guess the theory is that they would like to have the signal of an expedite from a good journal before a screening editor looks at the piece. I don't think this practice actually accomplishes anything, since the importance of the offering journal is

relatively modest, whereas giving top-tier journal editors more opportunity to look at your piece is important. Once more, though, no one really knows.

Decisions, Decisions

Q: So all of this seems to assume that I have a really strong preference for some journals over others. Why? Do people really care about journal rankings?

A: I've argued before that law review rankings are a little bit useful. Still, it is important to know what you want from your placement before you decide how to use a ranking system. Are you on the entry-level market? If so, you care about how the hiring committees and faculties you hope to interest will see your placement. This is tough, because it's guesswork. Want readers? The same. Want tenure at your existing school? Your task is easier; you can just ask your P&T committee what's important to them.

In general, while an article's quality is important, so is its placement. Even those of us who say that quality is everything *to us* often believe that our less-enlightened colleagues rely on placement as a heuristic for quality, and the opinion of the less-enlightened is relevant to whether a person will contribute to the reputation of our school.

Having said all that, rankings are at best a fuzzy indicator. You should absolutely not obsess about whether Journal X is ranked three places higher or lower than Journal Y, because that difference will matter zero to anyone.

Q: U.S. News rankings or Washington & Lee rankings?

A: U.S. News peer reputation score.

Q: Really? People don't care about Washington & Lee?

A: I mean, W&L itself has several different rankings systems. Who could possibly keep track of which journal is ranked where in which ranking?

Q: Journal Y has U.S. News peer ranking of 90, but a W&L ranking of 30. Journal X has a U.S. news peer ranking of 50, but a W & L ranking of 80. Which should I pick?

A: Journal X. But both are solid placements and you shouldn't get too worked up about it.

Ok, in fairness, there are a few journals whose W&L rankings persistently run ahead of the school's reputation. Mostly these are journals at schools that used to be much higher ranked (BC, Wisconsin, and William & Mary come to mind). I think most experienced academics are aware that these journals are a bit better than their school's current U.S. News standing.

Also, it would be good for journal editors' incentives if the law professoriate cared about W&L (or other, better-constructed) rankings, since that would give them motivation to maximize some (highly imperfect) measure of quality. But I assume you are asking me these questions because you want a job, not because you want to make law journals better.

Q: What about specialty journals? I've heard that the rule of thumb is that you add 20 to the U.S. news ranking of the school. Or maybe 50. I don't know. W&L?

A: Rankings are like money. They're worth something because other people think they're worth something. So again, choosing between a specialty journal and a general-interest journal is largely a question of your audiences and what they value.

Specialty journals are an excellent way to reach a specialized audience. Scholars in that field will often have a sense of specialty-journal hierarchy, and you should consult them if you're considering competing offers.

My sense is that many specialists have an inflated sense of their own specialty journals, however. For example, I think the Virginia Tax Review is a pretty good placement. I have heard international law scholars say that placing with Harvard's international-law journal is almost as good as placing in the Harvard Law Review. Let me be blunt. That is absurd. For most purposes, specialty placements are not as valuable as general-interest journal placements, and a 40- or 50-place discount seems closer to my sense of the difference than 20. Certainly, I would never take a VTR placement over, say, the Emory Law Journal. But this can vary by field and by journal. This is an instance where W&L rankings can give you some helpful guidance. While I think it would be inadvisable to publish in, say, the Stanford JOLT over the Washington Law Review, JOLT's excellent W&L ranking does make it worth considering when compared to, say, the Florida Law Review.

There is probably a premium for the very top specialty journals. I might put outlets such as the Yale Journal on Regulation in or close to the top 20, while some Columbia or Virginia journals, say, are probably best measured by adding 50 or more.

When in doubt, a good way to assess a journal is to look at who has published there in the last few years. Is that a company you'd like to keep?

There are also flagship-type specialty journals that present special considerations. Some journals enjoy such a wide readership, and have published so many leaders in the field, that they always represent at least a good fallback option, and some are affirmatively really excellent placements. The Supreme Court Review, the Admin. Law Review, the Journal of Corporations Law, and the Tax Law Review are examples here. Notably, two of those are peer reviewed, which makes a big difference.

Q: Can I turn down an offer from a journal, and just hold onto my article until the next submission season?

A: You can, but you probably shouldn't. Not to pummel this particular deceased equine for too much longer, but your submission takes scarce time and resources away from many other people, including your peers. In general, I think it is hard to defend a practice of submitting to a journal whose offer you would never consider accepting.

This is not to say you need only submit to journals whose offer you would accept enthusiastically. Journal editors understand the game. Some know that they have only a slender chance of getting you to accept an offer. If they opt to devote their time to your manuscript anyway, that is their choice. This logic only holds, though, if there is a real possibility that you might accept—a possibility that, in my opinion, you essentially promise when you submit the manuscript.

To be honest, I find "the game" itself problematic. I usually try not to play; the first time I send out an article, I'll only submit to journals I really would be happy to publish with. Sometimes it's meant I had nowhere to sit when the music stopped. That's a luxury of tenure, of course.

Failure Is Temporary

Q: So, I listened to you and only submitted to journals I wanted to publish with, and then I didn't get any offers. Thanks, doofus. Now what?

A: You wait. Ideally, you take the opportunity to workshop and refine. You might also try to seek out feedback from student editors, particularly if you had a close board vote. It's rare to get any feedback, and even rarer to get any that is useful (a typical comment I hear is "half of us liked Section IV, and half of us didn't like it"). Sometimes it happens, though!

It is perfectly acceptable to resubmit an article to a journal that considered it before, even if that journal rejected the article, and even if you are submitting to the same editorial board (that is, resubmitting in the fall after a spring strikeout). If your piece is good, many editors will be grateful for a second chance to consider it, perhaps in a situation when they have a little more time to engage. And journals know that the snap reaction of the first screening reader who dinged your ms. last time isn't always the best assessment of the piece.

For these reasons, I tend to favor a cover letter that is up-front about the fact that the article is a re-submission. Indeed, you can highlight the editorial improvements you've made since the last go-round, which is particularly useful for journals that might have taken the piece to a full-board read before (Harvard used to explicitly ask for this on their web page).

Q: Do I have to change the title of my article when I re-submit it?

A: No. Like I said, I don't think there is any reason to conceal the fact that you submitted this piece before, and we should favor honesty and fair dealing in our interactions with students. Still, missing out on a publication offer is a good opportunity to reflect honestly about the piece. It's tempting to just grumble about the student editing process, but sometimes the signals the market sends us are a bit meaningful. Be open to the possibility that there are things you could have explained better, counter-arguments you didn't convincingly rebut. The title is part of that. Ask friends for title suggestions. An awkward title lives on your c.v. forever...

Q: Do I have to wait until the next submission season to re-submit?

A: There is no crystal-clear norm here, but probably so. My view is that it is probably contrary to implicit rules of the game to submit the same piece, without any major edits, in the same cycle. If you can manage a major revision—not just tweaks here and there—and still get the piece back out before the season is over, that is probably ok. Again, though, I think it is incumbent on authors in that situation to be forthright that that is what they are doing. Submitting repeatedly under new titles in order to play "screening editor roulette" wastes the journal's resources in a way the journal likely wouldn't consent to. And what do you think will happen if you get to a board review, and the first screener who dinged you realizes what you did?

Presentation and Formatting: Sweating the Small Stuff

Q: Do I need a colon in my title?

A: No, but without one you will be drummed out of the academy in shame.

Seriously, titles matter. A good title gets you a little extra notice (or, in my case, placement in a journal way, way better than the article deserves). A bad title is a bit like showing up to a business-casual event

in a t-shirt. After you've been in the academy long enough, you will usually be able to recognize a student note by its awkward title. There are title norms and fads that are hard to describe succinctly but which one develops a feel for. Ask academic friends or mentors about your title.

Q: Is there really "letterhead bias"?

A: Probably, but what are you going to do about it? Not to get too Rumsfeldian on you, but do the best you can with what you've got.

Q: Why do *expresso* and *scholastica* ask me for my c.v.?

A: Because journal editors look at it. Many editors have said to me that the c.v. matters. Editors are more receptive to "I've seen a mistake in this literature that no one else has ever seen" claims when the author is someone who's written in the field successfully, or at least had impressive practice experience there.

So spend a few minutes considering whether the c.v. you've used for finding a law job makes sense as the c.v. you send to editors. You might, for example, move up your list of publications, and highlight the most relevant experience for your submission. You might omit your college clubs (unless they are awesome, like Quiz Bowl National Champion). Senior folks, please feel free to leave off presentations and media appearances that are more than, oh, five years old. The ten-page c.v. just gets you eye rolls.

Q: How important is the abstract?

A: Really, really important. Like, probably the only thing half or more of the people who look at your manuscript will see important (that includes other law professors, by the way). A lot of people have a tendency to write their abstract last, the day before they send out the piece, when they are tired and really impatient to get it out. This is a mistake. My advice is to spend more time per word on the abstract than any other part of the article. It should sell the piece, contextualize it, and summarize it. Oh, and it should be short. 750 words is an op-ed, not an abstract. Economists make do with 150 words, max! 400 or so is probably the absolute longest you should consider.

Q: Should I bother with a cover letter?

A: Not much. The way that *expresso* and *scholastica* are set up, editors have to click separately on your cover letter to see it. I gather that they rarely do so, since the letter rarely adds anything to the abstract (which they can see without clicking). The cover letter now is useful primarily for telling the editors how many words the piece is, how to get in touch with you, and any special circumstances (such as that you are granting exclusive review or whatnot).

Q: Are word limits important?

A: Hard to say. I'll confess that I have spent a lot of time trying to squeeze some manuscripts down to 25,000 words. But consider that most journals view themselves as having a limited number of pages in each volume, due to staff time constraints. The longer your piece, the greater the opportunity cost for the journal if they accept. So slimming down makes it easier for the journal to say yes.

Q: Do I have to use the law review style template?

A: I never have. Maybe that means you'll have a competitive advantage if you do.

Q: I left lots of footnotes and pincites blank. Does anyone care about that?

A: Probably. Were you on a journal? Was there anything you liked less than having to find an author's pincites for her? In the 2,000-page book written in medieval French?

You want to minimize the reasons for a journal to reject your manuscript. Do you want to add "might not be ready to go into editing when we want" to the list?

After the Offer

Q: I accepted an offer of publication.

A: Congratulations!

Q: Now I have this author-agreement thingy. Should I sign this?

A: Happily, nearly all law journals are close to open access, in the sense that you are usually free to repost even a final published version as long as you provide a full citation. Beyond that, to be honest, I probably have never read the fine print of my author agreements with law journals, and so I may not be the best authority on this one. I gather that they vary considerably in rights of second publication, among other factors. I also understand, however, that often these points are negotiable. Don't feel you have to walk away from an offer if you don't like the author agreement.

Q: They want me to publish in issue 6, but I want to publish sooner. What to do?

A: Well, after you've accepted the offer, probably not a lot except ask nicely. But if timing is important to you, it certainly can be something you bargain over while the offer is open. Again, keep in mind that most journals are perfectly happy if you post your manuscript prior to publication, so there is not really much downside to publishing in a later issue.

Publishing in Top Journals

Q: I'd really like to publish in one of the top 20 or 25 –ranked journals. Anything special I should know?

A: It's tough. Remember, 3500 submissions. The average journal publishes something like ten articles. So you're talking about 200 out of 3500. Don't be disappointed. Many people have excellent careers without publishing in so-called top journals.

Q: Yeah, yeah. Come on, out with it.

A: I don't think there's a magic formula. Write something that excites you, and try to bring readers who don't share your commitments to a place where they can appreciate what is moving for you about the project. It's probably fair to say that top journals are relatively less likely to publish work whose primary focus is on a particular doctrinal controversy, unless that work deals with a major topic of public interest.

Q: On other words, write something good. Thanks, that's helpful. Ok, well, is there anything in particular that is different about the process at the most selective journals?

A: Sure. One difference is that these journals are a lot more likely to notify authors about board reviews in advance. In other words, you will get an e-mail from the journal saying something like, "We plan to bring your article up for consideration at the next meeting of our articles board on Feb. 29."

Please confirm that your article is still available for publication, and let us know if you have any deadlines that would expire before that date.”

Q: Do you always get a board review notification in advance?

A: No, but it's more common for these journals. Sometimes, an editor will mention that there was a board review in a rejection letter. Sometimes, there's just an offer out of the blue. It's hard to guess what fraction of board reviews one hears about, since by definition you don't know what you don't know.

Q: Does knowing about a board review do anything useful, or does it just give you a day and time on which to focus your anxiety?

A: It's a useful data point when negotiating over and deciding about expedite deadlines, as I've mentioned. Remember that most board reviews fail to produce offers.

Some people, including me, will sometimes “shop” board reviews as though they were offers. That is, one writes to a few other journals and mentions that there is an upcoming board review. My theory is that this gives the rival journals more time to read the piece, if they're interested. It's worked for me once or twice. I have seen editors on [prawfsblawg](http://prawfsblawg.com) say that they think it is kind of “desperate,” though, and usually if I get any response it's a slightly sarcastic e-mail that says, “thanks, get back to us when you have real news.” I happen to think this is unfortunate, because as I said I don't like to “play the game,” and I think shopping board reviews is a fairer alternative to shopping offers from journals I don't really want to publish with. But admittedly, on the list of things about this system that need fixing, this is pretty low down on the list.

Q: Should I bother submitting exclusively to Harvard, Stanford, Yale, or Chicago?

A: There does seem to be some benefit. When I've used the exclusive submission option, I almost always get an actual response from the journal—in other words, I get a rejection, instead of silence. In a couple of instances, I have gotten an e-mail from the journal editor when the exclusive period expired asking me for more exclusive time. So it seems to help to get the piece read.

The process at Harvard is also genuinely lengthy, and often I have had to just give up on asking them for expedited review—because it is hopeless, but also because they just say it will take too long. Yale and Stanford say that they also have long processes, but I've never really had much problem getting them to respond to an expedite.

Having said that, given the likelihood of success, the benefits of exclusive review are pretty small relative to the other considerations that go into the timing of your submission elsewhere. Typically what I will do is grant one of these journals an exclusive when my manuscript is ready very early in the cycle, and I'm going to hold off on general submission for a few weeks anyway.

Q: What's the process like at Harvard, Yale, and Stanford?

A: With the disclaimer that a lot of this is second-hand, here's what I know. Harvard has several layers of screeners. An article that gets past the screens then advances to a review by the articles board. Both screening reads and the articles board read are anonymous; one articles editor will know the author's contact information but isn't supposed to disclose it. The articles board read may be preceded by or followed by a peer review request. The peer review turnaround time is short, usually a week or less, and is often just in the form of an e-mail. The article is in theory anonymous even for the peer reviewer,

but in practice most readers know the work of their peers well enough to guess (and there's always ssrn). Following the articles board, there is a vote by the full membership of the law review. Harvard faculty get a "float" directly to the articles board stage, as is typical at most schools with an articles board process.

Stanford and Yale are similar, but don't have a full-member vote. Peer review seems to happen about half the time for articles that get to board review.

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Clinical Law Review workshop http://www.law.nyu.edu/journals/clinicallawreview	Every September, proposals due in June
AALS Conference on Clinical Legal Education, Works in Progress http://aals.org/events_calendar.php	Every spring
Albany and New England Law Schools Scholarship and Teaching Development Workshop	Annual conference, alternatives between Albany and Boston every year
Regional Scholarship Workshops – Mid-Atlantic Clinical Theory Workshop; New York Clinical Theory Workshops at New York Law School	Throughout the year
Regional Clinical Conferences – these conferences usually include a works-in-progress component	Varies
ClassCrits http://classcrits.wordpress.com/about/	Every fall
SALT (Society of American Law Teachers) conference http://www.saltlaw.org/	Usually in the fall
SEALS conference (Southeastern Association of Law Schools) http://sealslawschools.org/	Every summer in Florida
Law and Society http://www.lawandsociety.org/	Every spring
LATCrit http://www.latcrit.org/index/	Hosts biennial conferences
Lutie Lytle Black Women Law Faculty Workshop	Every summer in July, alternates between law schools
John Langston Mercer Writing Workshop for Black Male Professors	Every summer, alternates between law schools
GAJE – Global Alliance for Justice Education http://www.gaje.org/	Usually every other year; Intl location; season varies

Mid-Atlantic People of Color Legal Scholarship Conference	Annual
Mid-Atlantic Junior Faculty Forum	Varies
Mid-Atlantic Clinical Theory Workshop	Monthly
Northeast People of Color (NEPOC) Legal Scholarship Conference	Annual
Scholarly workshops at your home school	Varies
Substantive conferences in your area – eg., Immigration professors, Tax Professors, and other substantive groups host scholarly meetings – get on listserves to stay up to date	Varies
Lists of upcoming conferences and call for papers: http://www.legalscholarshipblog.com/ ; https://www.aals.org/events/upcoming-symposia-member-schools/	Varies

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The Care and Feeding of Law Student Research Assistants

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The Care and Feeding of Law Student Research Assistants¹

By Alyssa Dragnich and Rachel H. Smith

Alyssa Dragnich is an Associate Clinical Professor of Law at the Sandra Day O'Connor School of Law at Arizona State University in Phoenix, Ariz., and Rachel H. Smith is an Assistant Professor of Legal Writing at St. John's University School of Law in Queens, N.Y.

Hiring, training, managing, and mentoring research assistants can be highly gratifying. When it works well, the relationship between a professor and a research assistant (RA) can be a distillation of all the best parts of teaching legal writing. It benefits professor and student. It results in a bond of friendship and collegiality. It produces useful and thoughtful work.

But it can also go horribly wrong. The relationship can be a waste of student and professor time and energy. The professor can feel burdened, rather than assisted. The student can feel confused and underappreciated. As any professor knows who has had an RA flame out, taking months of time and energy with her,² the relationship has to be handled with care.

The professor-RA relationship requires the professor to act not just as a teacher, but as an employer or supervisor. The mutual dependence that arises in a successful RA relationship—the professor relies on the RA and trusts her, while the RA learns skills that will be useful in law school and the workplace—means working as an RA is invaluable preparation for a career as a lawyer. By using principles of smart management, a professor can simultaneously provide an educational opportunity for a law student and

make greater progress in her scholarship and teaching materials than she otherwise might. This article discusses best practices for hiring, training, managing, and mentoring RAs.

Hiring: Choose the right student for the job, not just the student with the highest grade.

In many cases, hiring a former student as an RA is a wise decision. As Rachel Stabler, Professor of Legal Writing at the University of Miami School of Law, notes, “A resume tells an incomplete story. When I hire an RA, I want to hire someone who has a good work ethic. It’s hard to get a sense of work ethic by looking at a resume alone because grades alone don’t indicate work ethic; some of the hardest working students I’ve taught have had mid- to low-range grades. But by hiring a student you’ve already taught, you already know what quality of work you can expect.”

She also explains that a personality fit between professor and RA is essential: “The other thing I’m looking for is an RA who I know I get along with and is comfortable with me. That way, the student will feel free to follow up if I’ve done a poor job explaining my request or if the student encounters troubles along the way. Because I find these to be important qualities for an RA, I prefer to hire students I already know.”

One approach some professors take to hiring an RA is to simply offer the position to the student who received the highest grade in legal writing. This student is certainly capable of doing excellent work as an RA.³ But the student with the highest grade will often be a student who also does well in other

¹ No research assistants were harmed in the writing of this article.

² One author had an RA leave a summer’s worth of research in the trunk of his car as it sat in long-term parking at the airport for a month.

³ We have noticed that these high-achieving students are sometimes more likely to have accepted old-fashioned ideas about the status of legal writing and legal writing professors. A student who on some level assimilates that legal writing and its professors are less important than other law school topics and faculty may devote less time or mental energy when working as a legal writing RA.

“By using principles of smart management, a professor can simultaneously provide an educational opportunity for a law student and make greater progress in her scholarship ...”

classes. This student typically has many opportunities in law school to expand her skills and fill out her resume. She will be on law review, she will participate in moot court, she will have an internship and work for a clinic, possibly even simultaneously. Hiring this student will give another accolade to a student likely to have many. And it may result in an RA who has so many tugs on her time and attention that she cannot devote much energy or focus to her work as your RA.

A more holistic hiring approach that seeks to hire the student with the most potential for the position will result in RAs with more to offer and more to gain.⁴ So instead of hiring based on grades alone, we recommend considering a combination of the following:

1. which student will have the most time, energy, and enthusiasm to devote to the position;
2. which student will be easiest to work with on a personal level;
3. which student brings life experience or nonlegal skills to the position that will be of value; and
4. which student might benefit the most from the position.

Legal writing professors are perhaps unique among law professors⁵ in that we often hire RAs for two very different purposes: 1) in the more traditional vein to assist with our scholarship and 2) to assist us in developing new legal writing problems and “beta testing” new materials.⁶

Because legal writing professors often ask RAs to do more than academic research, we need students with more diverse skill sets and aptitudes than traditional law school RAs. Thus, a student with mixed, middling, or even poor law school grades

may have much to offer as a legal writing RA. And because these students may not have as many opportunities as students at the top of the class, they are often especially grateful to be selected and willing to devote extraordinary amounts of time and effort to the professor’s requests.

For example, a legal writing professor who hires an RA to beta test a new problem may be better served by a student who performed near the middle or bottom of the class because such a student will be able to provide the professor more accurate feedback about how the majority of students will understand the problem.⁷ And a legal writing professor who is developing a new problem may find an RA with a strong creative streak more helpful in fleshing out fictional characters, events, and documents, even if that student didn’t receive a high grade in legal writing. A professor who needs an RA to create elaborate exhibits for an appellate record might consider applicants’ knowledge of Adobe and other graphic design programs. If the professor is seeking assistance with a more traditional law review article, she may value a high grade in the legal writing course or experience on a law journal. That professor may also look for an RA with a background in the field, or at least one who is strongly interested in the topic.⁸

Finally, professors should be aware of the gender and race of the RAs they hire. Perhaps without realizing it, a professor may default to hiring students who remind the professor of themselves. If this is not questioned,

“Because legal writing professors often ask RAs to do more than academic research, we need students with more diverse skill sets and aptitudes than traditional law school RAs.”

⁴ Kelly Studer, *The 70% Principle for the Perfect Hiring Fit* (Aug. 18, 2014), LinkedIn, <https://www.linkedin.com/pulse/20140818172532-4666885-the-70-principle-for-the-perfect-hiring-fit>.

⁵ Suzanne E. Rowe, *Effective Research Assistance and Scholarly Production in Legal Writing*, 3 LEGAL COMM. & RHETORIC: JALWD 192, 192 (2006).

⁶ Some legal writing professors may also use teaching assistants, who are responsible for interacting with first-year legal writing students.

⁷ Similarly, Carrie Sperling and Susan Shapcott recommend hiring as teaching assistants the students who make the most dramatic improvement, rather than those who are naturally the strongest writers. “When hiring teaching assistants, professors might focus on students who have overcome early difficulties in their writing. Hiring teaching assistants based on how much their writing improved over the course of a year demonstrates that we value the learning process rather than some innate ability that certain students possess. Teaching assistants who overcame perceived failures will also have good stories to tell the incoming students about their own struggles and how they refocused their efforts to eventually succeed.” Carrie Sperling & Susan Shapcott, *Fixing Students’ Fixed Mindsets: Paving the Way for Meaningful Assessment*, 18 LEGAL WRITING: J. LEGAL WRITING INST. 39, 82-83 (2012).

⁸ Harriet Richman and Steve Windsor, *Faculty Services: Librarian-Supervised Students as Research Assistants in the Law Library*, 91 LAW. LIBR. J. 279, 284 (1999).

the professor may hire a disproportionate number of students of one race or gender.

Training: Be explicit about your expectations.

A professor may need to invest significant time in training an RA. Working as an RA may be the first time a human being is actually relying on the student to complete any kind of legal work. Some RAs may not realize that the professor will need to use their work product and will depend on it to be accurate. We have had RAs who at first viewed their RA assignments like ungraded class assignments, thinking of them more for their own benefit than as something that needed to be useful to the professor.

The professor should work to be explicit about her expectations. After hiring an RA, the professor should schedule a face-to-face meeting to discuss the goals and timeline for the project. The professor should put the project in context for the RA and explain her goal: Is she preparing a law review article, a conference presentation, or a legal writing problem? The professor should also let the RA know the broad schedule for the project: Is the goal to use this new problem in the fall semester, or to submit a final version of an article in February?

Taking the time to explain the project's background will not only help your RA be more effective, but it will also make the RA feel a sense of connection with the work.⁹ Brian Goldenberg, who worked as an RA for three different professors while in law school, says, "I really appreciated when the professor took the time to give me an overview of their project and how my assignments fit into the big picture. It helped guide my research, and it made me feel like I was making a tangible contribution to the project."

Because being an RA may be a student's first legal job (or even her first professional job of any kind), the professor should spell out her professionalism expectations as part of training a new RA. For example, the professor may want to specify that the student should notify the professor in advance if she anticipates missing a deadline. We like to provide

students with two reference books before they start working. Both are quick and fun reads that provide practical advice for junior attorneys and are largely applicable to RAs: *The Curmudgeon's Guide to Practicing Law* by Mark Herrmann and *The Legal Writing Survival Guide* by Rachel H. Smith.¹⁰ This provides RAs with a more thorough review of professionalism expectations without the professor having to mention each individually.

Managing: Make assignments meaningful and hold RAs accountable.

The best advice for working with an RA is to provide instruction and be clear about what you want from the RA. As we know from our classes, "[s]tudents produce better results when they know exactly what is expected."¹¹ Kathleen Elliot Vinson, Professor of Legal Writing and Director of Legal Writing, Research, and Written Advocacy at Suffolk University Law School, advises professors to be "be specific regarding what you are asking the RA to do, when the deadline is, what format you want it in, etc."¹²

The professor should know what type of work product she wants and be precise in describing it to the student.¹³ Some assignments might call for an emailed summary of a student's research results, while for others a quick verbal update will suffice, and for some projects, the professor may want a formal memo.

As part of training, the professor should consider giving the student an example of past RA work product. If the RA is asked to summarize a number of opinions, the professor could provide her with a summary that another RA wrote on a different topic. If the professor doesn't have any past work to

¹⁰ Rachel doesn't assign her own book (too modest!) but Alyssa does.

¹¹ Rowe, *supra* note 5, at 194.

¹² We are often surprised by the exquisite detail that RAs require when presenting them with new assignments. For example, one author spent twenty minutes describing the substance of the research she wanted her RA to do. The student was nodding and taking notes. And at the end of this description, the RA asked, "so I would be using Westlaw for this?"

¹³ Rowe, *supra* note 5, at 195.

⁹ Rodd Wagner and James K. Harter, 12: THE ELEMENTS OF GREAT MANAGING 109 (The Gallup Organization 2006).

“Because being an RA may be a student's first legal job (or even her first professional job of any kind), the professor should spell out her professionalism expectations as part of training a new RA.”

offer, she could draft a summary herself of a sample case. At each step, the clearer the professor is about her expectations, the more likely it is that the RA's work product will match those expectations.

The professor must remember that an RA's legal research skills will likely still be fairly basic. Most law students have never written a law review article—many haven't even read one. And they certainly have not created a legal writing problem before. But this inexperience doesn't mean that RAs should be given only simplistic tasks. Professors should strive to make students' tasks meaningful and substantive where possible. This does not mean that no administrative or less interesting tasks should be assigned—after all, part of an RA's role is to take some of that load off the professor's shoulders—but the best RA relationships consist of more than menial tasks.¹⁴ Brian Goldenberg says, "I learned a lot about writing when professors included me in their writing processes. It was helpful to see how different professors approach writing, and how they would work an idea up from a sketchy outline to a finished product. I also enjoyed editing for my professors. I learned a lot about style just from seeing which of my suggested edits my professors incorporated into the final product and which ones they rejected."

Depending on personality and working style, professors may choose how closely they wish to manage their RAs. Some may be eager to work closely and frequently with students, while others may want to give students more freedom. Both approaches can work well, as long as the professor is clear about her expectations and deadlines.¹⁵ All humans work better with specific deadlines. And professors should make sure students understand when a deadline is somewhat flexible and when it is firm.

¹⁴ Some professors believe that "busy work" such as photocopying and compiling notebooks is not appropriate for a RA; others feel that if the professor would herself otherwise be doing these tasks, then freeing up that time is valuable. Rowe, *supra* n.5, at 194. In fact, the RA may even enjoy some "easier mental lifting as a break" between more challenging tasks. *Id.* Of course, an RA should not be turned into solely an administrative assistant.

¹⁵ Rowe, *supra* note 5, at 196.

When one of the authors first hired an RA, she knew he was also interning with a federal judge. She tried not to set deadlines for him, reasoning that he knew his schedule best and because he was very responsible, she thought he should be allowed the greatest freedom. However, she was surprised when the RA told her he *wanted* her to set deadlines for him: it helped him to prioritize his work. In her attempt to be nice, she was actually doing him a disservice.

Christina Frohock, Professor of Legal Writing at the University of Miami School of Law, allows her RAs to work quite independently: "I look for students who are smart, self-sufficient, and self-motivated. I tell my RAs on the first day: I don't care where you work or when you work; I only care that you finish your work. So I don't insist that they work during certain hours of the day or that they stay on campus or that they appear at a finger's snap. I trust that they are doing good work, wherever they are. Our working relationship is based on mutual respect: I give them space, and they give me their completed assignments. Then we meet periodically (usually over lunch—my treat)."

A professor may want to schedule a standing meeting with her RA, or at least a regular email check-in. Suzanne Rowe writes that a "surprising benefit" of scheduling regular meetings with RAs is a reduction in the number of drop-by visits to the professor's office, thus reducing the number of interruptions and allowing the professor to be more productive.¹⁶ Setting regular check-ins will also make sure that both the professor and the RA stay on pace, and that if the RA is veering off on the wrong track, the professor can redirect her before too much time is wasted.

Mentoring: Provide and solicit feedback.

Serving as an RA should prove beneficial to the student as well as the professor, beyond whatever small salary or academic credit the school offers. Being an RA provides an opportunity for a student to work closely with a professor, in contrast to

¹⁶ Rowe, *supra* note 5, at 193.

"All humans work better with specific deadlines."

“We know that students learn best when they receive frequent, formative assessment, and this is also true in the workplace. Professors should be candid about problems and generous with praise.”

large law school classes. The professor can write a stronger letter of recommendation for the student, and in many cases, the position evolves into a mentoring relationship. In most cases, working as an RA strengthens and refines a student's research skills,¹⁷ both serving as a resume enhancer and as a benefit to their future professional careers.

For the student to get the full benefit of being an RA, the professor should provide substantive feedback, in a timely fashion, throughout the RA's term. We know that students learn best when they receive frequent, formative assessment, and this is also true in the workplace. Professors should be candid about problems and generous with praise.¹⁸ A professor should tell her RA what she is doing well and what she would like her to change. If the RA's work product is written, provide feedback on the writing style as well as the substance. In order to provide a meaningful educational experience for the RA, useful feedback is essential.

The professor should take care to respond to an RA's communications quickly. Particularly over the summer months, a professor may be juggling several projects, and she may not be ready to review an RA's work product at the precise moment it is submitted. However, not reviewing work product in a timely manner can send a wrong message that the work is not important or valued. Responding promptly tells the RA that she and her work are important to you,¹⁹ even if the professor does not have time to do a thorough review of the material at that time.

The professor should also provide feedback to the RA on professional behavior, if needed.²⁰ If an RA's work or behavior is not what the professor expects, the professor should resist the temptation to just redo the work herself or shift tasks to another assistant. She should instead embrace the teaching opportunity and prepare students for their post-law-school careers, if necessary. “Whether you are comfortable with the

label or not, you are the ‘boss’ and you must act like one.”²¹ A failure to correct problems as they arise is “not only bad for your projects, classes, and career,” but also fails to teach the RA what acceptable workplace behavior and work product is, which could comprise her future career.²²

Anne Mullins, Assistant Professor of Law at the University of North Dakota School of Law, says that “[w]orking with an RA provides a rich opportunity to intentionally teach some of the things that are critical to success in the workplace but frequently not taught in traditional law school classes—things like project management, teamwork, and handling workplace challenges. I start the relationship by putting the experience in a growth mindset context: I do not expect perfection; I expect professionalism, diligence, integrity, and accountability. I'd much rather the student navigate his first missed deadline with me than at the law firm over the summer. When the RA faces a challenge, like a missed deadline, it gives me an opportunity to encourage the RA to think about the situation and how he handled it, and to guide the RA on how to more effectively handle the situation in the future. Small interventions like this create more reflective lawyers, and more reflective lawyers are happier and more effective lawyers.” And among all these “teachable moments,” don't forget to offer plentiful praise as well. Praise costs nothing but is highly significant to the RA, meaning that she is likely to work even harder for you in the future.²³

The professor should make clear to the RAs that she also seeks their feedback.²⁴ If they are testing a new legal writing problem, the professor needs to know which aspects they found confusing or unclear, if they ran into difficulty with the research, or if the word limit seemed unreasonable. If they are conducting research for scholarship, the professor wants to know quickly if they are finding no results,

¹⁷ Richman, *supra* note 8, at 288.

¹⁸ Victor Lipman, *THE TYPE B MANAGER: LEADING SUCCESSFULLY IN A TYPE A WORLD* 56 (Prentice Hall Press 2015).

¹⁹ *Id.* at 68-69.

²⁰ Rowe, *supra* note 5, at 196-97.

²¹ David D. Perlmutter, *Supervising Your Graduate Assistants*, *The Chronicle of Higher Education* (June 19, 2008), <http://chronicle.com/article/Supervising-Your-Graduate/45859>.

²² *Id.*

²³ Lipman, *supra* note 18, at 84.

²⁴ Rowe, *supra* note 5, at 196.

if they find a new case that might radically affect the theory of the article, and so on. Professors should be clear that they want to have a two-way dialogue.²⁵

Finally, we encourage professors to take an interest in their RAs as people.²⁶ When the professor and RA work well together and a mentoring relationship develops, it benefits both professor and RA. And a professor and RA who share details about their lives beyond work can develop a meaningful professional friendship.

Conclusion

The relationship between a professor and an RA offers both the professor and the student an incredible opportunity for personal and

professional growth. “[A] good assistant, one who really helps advance your teaching and research, is valuable to almost an immeasurable degree.”²⁷ But RAs require careful training and attention. Very few law students instinctively know how to be an excellent RA. It is part of our role as teachers and mentors to show them.

²⁵ Employees appreciate when their opinions are valued, and they will produce better work product as a result. Wagner & Harter, *supra* note 9, at 91-107.

²⁶ Michael Hunter Schwartz, Gerald F. Hess & Sophie M. Sparrow, *WHAT THE BEST LAW TEACHERS DO* 93-95 (2013).

²⁷ Perlmutter, *supra* note 21.

“The relationship between a professor and an RA offers both the professor and the student an incredible opportunity for personal and professional growth.”

Micro Essay

What topic isn't taught in law school but should be? **TYPOGRAPHY**. It's 2017, yet many legal documents look like the paragraph you're reading -- like a high-school essay prepared on a typewriter in 1967. Outdated formatting conventions use more paper than necessary, make on-screen reading tedious, and inhibit clear communication. That's too bad. Legal documents could apply modern typographic principles, and legal-writing professors could teach them. It might be as simple as a short module in the 1L course or as ambitious as an advanced writing class that thoroughly covers typography. Either way, we can do this.

Wayne Schiess, Senior Lecturer, University of Texas School of Law, Austin, Tex.

THE 4 STAGES of WRITING

Wow. My writing
really sucks.



Hey, I'm not so
bad after all.



Wow, this writing
is **BRILLIANT!**
I ROCK!



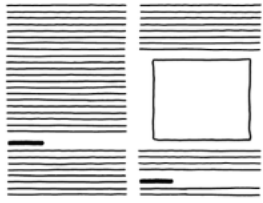
Wow. My writing
really sucks.
Sigh...



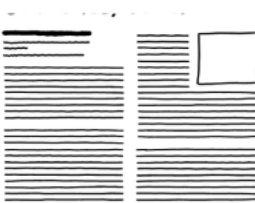
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TYPES OF LAW PAPER

THERE'S THIS NEW TECHNOLOGY THAT WILL TOTALLY CHANGE SOMETHING



THESE CIRCUIT COURTS SORT OF DISAGREE, AND THIS WILL GET CITED IF SCOTUS GRANTS CERT



MY COLLEAGUE IS WRONG AND I CAN FINALLY PROVE IT



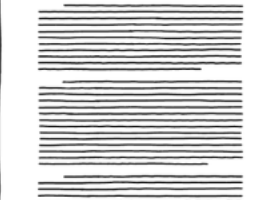
THE [5TH / 9TH] CIRCUIT IS AT IT AGAIN



I HAD MY SUMMER RAS DO A 50 STATE SURVEY



WHAT IF WE JUST ADOPTED ROMAN LAW FOR SOME REASON



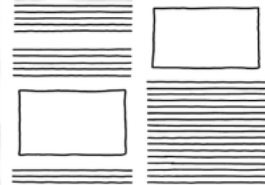
THIS TASK I HAD TO DO ANYWAY TURNED OUT TO BE HARD ENOUGH FOR ITS OWN PAPER



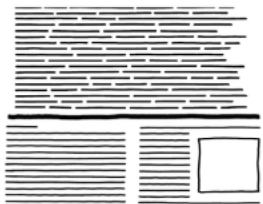
I HAVE TENURE, SO I AM GOING TO PUBLISH BASICALLY THE SAME PAPER I'VE PUBLISHED EVERY YEAR SINCE GETTING TENURE



CHECK OUT THIS WEIRD THING ONE OF US SAW WHILE TALKING TO A REAL PRACTITIONER



MAYBE WE SHOULDN'T LOCK PEOPLE UP FOREVER, AND I KNOW YOU'RE GOING TO SAY NO, BUT...



SOME THOUGHTS ON HOW EVERYONE ELSE IS BAD AT RESEARCH



I ENCOUNTERED HARDSHIP AND THINK I HAVE SOME INSIGHT

