

Scholarship Guides: Journals, Passports, Roadmaps

Saturday, July 24, 2004

10:15-11:45 Concurrent Session

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**July 2004 Legal Writing Institute Conference
Seattle, WA**

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I. Introduction

II. Exploring the three research approaches

A. Scholarship based on empirical research (research involving collection and analysis of data and information)

1. Introduction to category

- a. Define

From Lee Epstein & Gary King, *The Rules of Inference*, 69 U. Chi. L. Rev. 1, 2-3 (2002):

The word “empirical” denotes evidence about the world based on observation or experience. That evidence can be numerical (quantitative) or nonnumerical (qualitative); neither is any more “empirical” than the other. What makes research empirical is that it is based on observations of the world — in other words, data, which is just a term for facts about the world. These facts may be historical or contemporary, or based on legislation or case law, the results of interviews or surveys, or the outcomes of secondary archival research or primary data collection. Data can be precise or vague, relatively certain or very uncertain, directly observed or indirect proxies, and they can be anthropological, interpretive, sociological, economic, legal, political, biological, physical, or natural. As long as the facts have something to do with the world, they are data, and as long as research involves data that is observed or desired, it is empirical.

- b. Trends and cautions
- c. Overview of subcategories
 - i. Means of collecting
 - ii. Means of analyzing and interpreting

2. Means of collecting data and information

- a. interviews and focus groups
 - i. Define
 - ii. Examples

Anne Enquist, Critiquing Law Students’ Writing: What the Students Say is Effective, 2 Leg. Writing 145 (1996)

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

- b. questionnaires and surveys
 - i. Define
 - ii. Examples

Anne Enquist, Critiquing and Evaluating Law Students' Writing: Advice from Thirty-Five Experts, 22 Seattle U. L. Rev. 1119 (1999)

Kristin B. Gerdy, Continuing Development: A Snapshot of Legal Research and Writing Programs through the Lens of the 2002 LWI and ALWD Survey, 9 Leg. Writing 227 (2003)

Jo Anne Durako, 1999 Survey Results, Association of Legal Writing Directors/Legal Writing Institute, 6 Leg. Writing 123 (2000) and A Snapshot of Legal Writing Programs at the Millennium, 6 Leg. Writing 95 (2000)

Jan M. Levine & Kathryn M. Stanchi, Women, Writing and Wages: Law Schools' Last Taboo, 7 Wm. & Mary J. Women & L. 551 (2001) & Kathryn M. Stanchi & Jan M. Levine, Gender and Legal Writing: Law Schools' Dirty Little Secrets, 16 Berkeley Women's L.J. 1 (2001)

Kristen K. Robbins, The Inside Scoop: What Federal Judges Really Think About the Way Lawyers Write, 8 Leg. Writing 257 (2002)

Susan Hanley Kosse & David ButleRitchie, How Judges, Practitioners, and Legal Writing Teachers Assess the Writing Skills of New Law Graduates: A Comparative Study, 53 J. Leg. Educ. 80 (2003)

Susan McClellan & Constance Krantz, Improving Legal Writing Courses: Perspectives From the Bar and Bench, 8 Leg. Writing 201 (2002)

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

c. read-aloud and think-aloud protocols

- i. Define
- ii. Examples

James Stratman, Investigating Persuasive Processes in Legal Discourse in Real Time: Cognitive Biases and Rhetorical Strategy in Appeal Court Briefs, 17 Discourse Processes 1 (1994)

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

d. ethnography (field and participant observation)

- i. Define
- ii. Suggestions?
- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

e. case studies

- i. Define
- ii. Examples

Laurel Currie Oates, Beating the Odds: Reading Strategies of Law Students Admitted Through Alternative Admissions Programs, 83 Iowa L. Rev. 139 (1997)

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

f. experiments

- i. Define
- ii. Suggestions?
- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

g. archives (scholarship based on existing data)

- i. Define
- ii. Examples

Richard K. Neumann, Jr., Women in Legal Education: What the Statistics Show, 50 J. Leg. Educ. 313 (2000)

Laura E. Little, Hiding With Words: Obfuscation, Avoidance, and Federal Jurisdiction Opinions, 46 UCLA L. Rev. 75 (1998)

Coleen M. Barger: On the Internet, Nobody Knows You're a Judge: Appellate Courts' Use of Internet Materials, 4 J. App. Prac. & Process 417 (2002)

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

3. Means of analyzing and interpreting data and information

h. qualitative analysis

- i. Define
- ii. Examples

[see Anne Enquist's article listed under interviews, Laurel Oates's article listed under case studies, James Stratman's article listed under read-aloud protocols, Coleen Barger's and Laura Little's articles listed under archives]

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

i. quantitative analysis

- i. Define
- ii. Suggestions

Kristine S. Knaplund & Richard H. Sander, The Art and Science of Academic Support, 45 J. Leg. Educ. 157 (1997)

[see articles listed under surveys, questionnaires, archives]

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

B. Scholarship based on research in other disciplines (library-based research)

1. Introduction to category

a. Define

From Deborah L. Rhode, *Legal Scholarship*, 115 Harv. L. Rev. 1327, 1329 (2002):

I believe that the current diversity of approaches is a healthy development, that recent theoretical, interdisciplinary, and "outsider" perspectives enrich the study of legal issues, and that these perspectives are no more ideologically driven than their predecessors. All perspectives are partial, and law has done better than most fields in transcending rigid disciplinary boundaries and integrating theory and practice.

b. Vast possibilities

2. Analyzing the subcategories

a. classical rhetoric (persuasion and argumentation)

- i. Define
- ii. Examples

Michael Frost, Justice Scalia's Rhetoric of Dissent: A Greco-Roman Analysis of Scalia's Advocacy in the VMI Case, 91 Ky. L.J. 167 (2002-03), Greco-Roman Analysis of Metaphoric Reasoning, 2 Leg. Writing 113 (1996), Ethos, Pathos & Legal Audience, 99 Dick. L. Rev. 85 (1994) & Brief Rhetoric—a Note on Classical and Modern Theories of Forensic Discourse, 38 Kan. L. Rev. 411 (1990)

Steven D. Jamar, Aristotle Teaches Persuasion: The Psychic Connection, 8 Scribe J. Leg. Writing 61 (2001-02)

Kristen K. Robbins, Paradigm Lost: Recapturing Classical Rhetoric to Validate Legal Reasoning, 27 Vt. L. Rev. 483 (2003)

Linda Levine & Kurt M. Saunders, Thinking Like a Rhetor, 43 J. Leg. Educ. 108 (1993); Kurt M. Saunders, Law as Rhetoric, Rhetoric as Argument, 44 J. Leg. Educ. 566 (1994)

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

b. contemporary rhetoric and composition theory

- i. Define
- ii. Examples

Teresa Godwin Phelps, The New Legal Rhetoric, 40 SW. LJ. 1089 (1986)

J. Christopher Rideout & Jill J. Ramsfield, Legal Writing: A Revised View, 69 Wash. L. Rev. 35 (1994)

Carol McCrehan Parker, Writing Throughout the Curriculum: Why Law Schools Need It and How to Achieve It, 76 Neb. L. Rev. 571 (1997)

Nancy Soonpaa, Using Composition Theory and Scholarship to Teach Legal Writing More Effectively, 3 Leg. Writing 81 (1997)

Linda L. Berger, Applying New Rhetoric to Legal Discourse: The Ebb and Flow of Reader and Writer, Text and Context, 49 J. Leg. Educ. 155 (1999)

Terrill Pollman, Building a Tower of Babel or Building a Discipline? Talking About Legal Writing, 85 Marq. L. Rev. 887 (2002)

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

c. linguistics/language studies

- i. Define
- ii. Examples

Terri LeClercq, Doctrine of the Last Antecedent: The Mystifying Morass of Ambiguous Modifiers, 2 Leg. Writing 81 (1996)

Elizabeth Fajans & Mary Falk, Linguistics and the Composition of Legal Documents: Border Crossing, 22 Leg. Studies F. 697 (1998)

Jill Ramsfield, Is "Logic" Culturally Based? A Contrasting, International Approach to the U.S. Law Classroom, 47 J. Leg. Educ. 157 (1997)

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

d. creative writing

- i. Define
- ii. Examples

Brian J. Foley & Ruth Anne Robbins, Fiction 101: A Primer for Lawyers on How to Use Fiction Writing Techniques to Write Persuasive Facts Sections, 32 Rutgers L.J. 459 (2001)

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

e. narrative and literary theory

- i. Define
- ii. Examples

Linda H. Edwards, The Convergence of Analogical and Dialectic Imaginations in Legal Discourse, 20 Leg. Studies F. 7 (1996)

Philip Meyer, Making the Narrative Move: Observations Based Upon Reading Gerry Spence's Closing Argument in the Estate of Karen Silkwood v. Kerr McGee, Inc., 9 Clinical L. Rev. 229 (2002)

Jeffrey Balkan, Literary Formalism, Legal Formalism, 10 Cardozo L. Rev. 1393 (1998)

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

f. critical theory

- i. Define
- ii. Examples

Kathryn M. Stanchi, Feminist Legal Writing, 39 San Diego L. Rev. 387 (2002) & Resistance is Futile: How Legal Writing Pedagogy Contributes to the Law's Marginalization of Outsider Voices, 103 Dick. L. Rev. 7 (1998)

Brook K. Baker, Transcending Legacies of Literacy and Transforming the Traditional Repertoire: Critical Discourse Strategies for Practice, 23 Wm. Mitchell L. Rev. 491 (1997)

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

g. cognitive psychology

- i. Define
- ii. Examples

Dan Hunter, Reason is Too Large: Analogy and Precedent in Law, 50 Emory L.J. 1197 (2001) & No Wilderness of Single Instances: Inductive Inference in Law, 48 J. Leg. Educ. 365 (1998)

Paula Lustbader, Construction Sites, Building Types, and Bridging Gaps: A Cognitive Theory of the Learning Progression of Law Students, 33 Willamette L. Rev. 315 (1997)

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

h. industrial/graphic design

- i. Define
- ii. Examples

Ruth Anne Robbins, Painting with print: Incorporating concepts of typographic and layout design into the text of legal writing documents, 2 J. ALWD __ (forthcoming 2004)

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

i. learning theory and instructional design

- i. Define
- ii. Examples

M.H. Sam Jacobson, A Primer on Learning Styles: Reaching Every Student, 25 Seattle U. L. Rev. 139 (2001)

Robin A. Boyle & Rita Dunn, Teaching Law Students Through Individual Learning Styles, 62 Alb. L. Rev. 213 (1998)

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

j. **ethics**

- i. Define
- ii. Examples

Elizabeth Fajans & Mary R. Falk, Shooting From the Lip: United States v. Dickerson, Role [Im]morality, and the Ethics of Legal Rhetoric, 23 U. Haw. L. Rev. 1 (2002)

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

k. **philosophy**

- i. Define
- ii. Examples

Joel R. Cornwell, Legal Writing as a Kind of Philosophy, 48 Mercer L. Rev. 1091 (1997)

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

C. Scholarship based on research in legal doctrine (library-based legal research)

- i. Define
- ii. Examples

Ellie Margolis, Closing the Floodgates: Making Persuasive Policy Arguments in Appellate Briefs, 62 Mont. L. Rev. 59 (2001) & Beyond Brandeis: Exploring the Uses of Non-Legal Materials in Appellate Briefs, 34 U.S.F. L. Rev. 197 (2000)

Maria Perez Crist, The E-Brief: Legal Writing for an Online World, 33 N.M. L. Rev. 49 (2003)

Rebecca A. Cochran, Gaining Appellate Review by “Manufacturing” a Final Judgment Through Voluntary Dismissal of Peripheral Claims, 48 Mercer L. Rev. 979 (1997)

Adam A. Milani & Michael R. Smith, Playing God: A Critical Look at Sua Sponte Decisions by Appellate Courts, 69 Tenn. L. Rev. 245 (2002)

- iii. Journals - suggestions from survey respondents
- iv. Roadmaps - suggestions for getting started

D. Passports

- a. People
- b. Groups & departments
- c. Publishers & publications
- d. Internet sources

III. Q & A/Conclusion

ROADMAPS^{*} (sources to help you start research in a new field)

1. Scholarship based on empirical research (research involving collection and analysis of data and information)

General sources

Wayne C. Booth, *The Craft of Research: Chicago Guides to Writing, Editing, & Publishing* (2d ed., U. of Chi. Press 2003)

Howard S. Becker, *Tricks of the Trade: How to Think About Your Research While You're Doing it* (U. of Chi. Press 1998)

A.F. Chalmers, *What is This Thing Called Science?* (3d ed., Hackett Publg. Co., Inc. 1999)

Thomas Kuhn, *The Structure of Scientific Revolutions* (U. of Chi. Press 1970)

Foundations for Research: Methods of Inquiry in Education and the Social Sciences (Kathleen deMarrais & Stephen D. Lapan eds., Lawrence Erlbaum Associates 2004)

Sage Encyclopedia of Social Research (Michael S. Lewis-Beck, Alan Bryman, Tim Futing Liao eds., Sage Publications 2004)

Research Design: Qualitative, Quantitative & Mixed Methods Approaches (2d ed., Sage Publications 2002)

Methodological Issues in Comparative Social Sciences (Lars Mjøset ed., JAI Press 1997)

Hans Keman et al., *Doing Research in Political Science: an Introduction to Comparative Methods and Statistics* (Sage Publications 1999)

Jeffrey Katzer et al., *Evaluating Information: A Guide for Users of Social Science Research* (4th ed., McGraw-Hill 1998)

The Web Center for Social Research Methods, <http://www.socialresearchmethods.net> (accessed June 27, 2004)

Methods, Statistics, and the Research Paper, www.trinity.edu/mkearl/methods.html#ms (accessed June 27, 2004)

International Encyclopedia of the Social and Behavioral Sciences, www.science.direct.com/science/reference/0080430767

General law-related sources

David L. Faigman et al., *Science in the Law: Standards, Statistics and Research Issues* (West 2002)

^{*} NOTE: in most cases, sources are arranged from general to specific and from basic to specialized and from books to articles to websites.

Michael Heise, *The Past, Present, and Future of Empirical Legal Scholarship: Judicial Decision Making and the New Empiricism*, 2002 U. Ill. L. Rev. 819

Lee Epstein & Gary King, *Building an Infrastructure for Empirical Research in the Law*, 53 J. Leg. Educ. 311 (2003) and articles commenting on this article in the same edition.

Lee Epstein & Gary King, *Rules of Inference*, 69 U. Chi. L. Rev. 1 (2002)

General writing-related sources

Mary Sue MacNealy, *Strategies for Empirical Research in Writing* (Allyn & Bacon 1999)

Janice M. Lauer & J. William Asher, *Composition Research: Empirical Designs* (Oxford U. Press 1988)

Gesa Kirsch & Patricia A. Sullivan, *Methods and Methodology in Composition Research* (Southern Illinois U. Press 1992)

Cindy Johaneck, *Composing Research: A Contextualist Paradigm for Rhetoric and Composition* (Utah State U. Press 2000)

Means of collecting data and information

a. interviews and focus groups

Handbook of Interview Research: Context and Method (Jaber F. Gubrium & James A. Holstein eds., Sage Publications 2002)

Charles L. Briggs, *Learning How to Ask: A Sociolinguistic Appraisal of the Role of the Interview in Social Science Research* (Cambridge U. Press 1986)

Focus Group Kit (David L. Morgan, Richard A. Krueger & Jean A. King eds., Sage Publications 1998)

A.R. Krueger *Focus Groups: A Practical Guide for Applied Research* (Sage Publications 1994)

b. questionnaires and surveys

Arlene Fink, *The Survey Kit* (2d ed., Sage Publications 2002) (includes nine volumes ranging from a survey handbook to how to conduct interviews to how to measure reliability to how to report on surveys)

Translating Questionnaires and Other Research Instruments: Problems and Solutions (Orlando Behling & Kenneth S. Law eds., Sage Publications 2000)

c. read-aloud and think-aloud protocols

Stuart Greene, *The Use of Think-Aloud Protocols in Writing Research*, in *The Encyclopedia of Rhetoric* 572 (Theresa Enos ed., Garland Publg. 1996)

John Hayes and Linda Flower, *Uncovering Cognitive Processes in Writing: An Introduction to Protocol Analysis*, in *Research on Writing: Principles and Methods* (Peter Mosenthal, Lynne Tamor, Sean A. Walmsley eds., Longman, 1983.)

H. Swarts, L. Flower & J Hayes, *Designing Protocol Studies of the Writing Process: An Introduction, in New Directions in Composition Research* (Richard Beach and Lillian S. Bridwell eds., Guilford Press 1984)

Speaking about Writing: Reflections on Research Methodology (Peter Smagorinsky ed., Sage Publications 1994)

James F. Stratman, *Teaching Lawyers to Revise for the Real World: A Role for Reader Protocols*, 1 Leg. Writing 35 (1991)

d. ethnography (field and participant observation)

Clifford Geertz, *The Interpretation of Cultures* (1973)

David Fetterman, *Ethnography: Step by Step* (2d ed., Sage Publications 1998)

Robert M. Emerson et al., *Writing Ethnographic Fieldnotes: Chicago Guides to Writing, Editing, & Publishing* (U. of Chi. Press 1995)

Contemporary Field Research: Perspectives and Formulations (Robert M. Emerson ed., 2d ed., Waveland Press 2001)

Margaret D. Lecompte & Jean J. Schensul, *Designing and Conducting Ethnographic Research: Ethnographer's Toolkit Vol. 1* (AltaMira Press 1999).

John Lofland & Lyn H. Lofland, *Analyzing Social Settings: A Guide to Qualitative Observation and Analysis* (3d ed. 1995)

Wendy Bishop, *Ethnographic Writing Research: Writing it Down, Writing it up, and Reading it* (Heinemann 1999)

J. Spradley, *The Ethnographic Interview* (Holt, Rhinehart & Winston 1979)

William Foote Whyte, *Creative Problem Solving in the Field: Reflections on a Career* (Alta Mira Press 1997)

M. Agar, *Professional Stranger: An Informal Introduction to Ethnography* (2d ed., Academic Press 1996)

James P. Spradley, *Participant Observation* (Holt, Rhinehart & Winston 1980)

www.sas.upenn.edu/anthro/CPIA/methods.html

www.rcf.usc.edu/~genzuk/Ethnographic_Research.html (the article at this web page contains a helpful bibliography)

e. case studies

R.K.Yin, *Case Study Research: Design and Methods* (3d ed., Sage Publications 2002)

f. experiments

Robert F. Boruch, *Randomized Experiments for Planning and Evaluation: A Practical Guide* (Sage Publications 1996) (how can you tell if a new program has had an effect)

Andy Field & Graham Hole, *How to Design and Report Experiments* (Sage Publications 2002)

g. archives (scholarship based on existing data)

Michael R. Hill, *Archival Strategies and Techniques (Qualitative Research Methods, Vol. 31)* (Sage Publications 1993)

Jennifer K. Robbennolt, *Evaluating Empirical Research Methods: Using Empirical Research in Law and Policy*, 81 Neb. L. Rev. 777, 780 (2002)

Means of analyzing and interpreting data and information

h. qualitative analysis

Handbook of Qualitative Research (Norman K. Denzin & Yvonna S. Lincoln eds., 2d ed., Sage Publications 2000)

Anselm L. Strauss & Juliet Corbin, *Basics of Qualitative Research: Grounded Theory Procedures and Techniques* (2d ed., Sage Publications 1998)

Barbara Sommer & Robert Sommer, *A Practical Guide to Behavioral Research: Tools and Techniques* (5th ed., Oxford U. Press 1997)

Gary King et al., *Designing Social Inquiry: Scientific Inference in Qualitative Research* (Princeton U. Press 1994)

M.Q. Patton, *How to Use Qualitative Methods in Evaluation* (Sage Publications 1987)

i. quantitative analysis

Howell E. Jackson et al., *Analytical Methods for Lawyers* (Foundation Press 2003) (chapters 8 and 9 cover statistical analysis)

The Sage Handbook of Quantitative Methodology for the Social Sciences (David Kaplan ed., Sage Publications 2004)

Scott Menard, *Applied Logistic Regression Analysis* (2d ed., Sage Publications 2002)

Joop Hox, *Multilevel Analysis: Techniques and Applications* (Lawrence Erlbaum Associates 2002)

Jacob Cohen et al., *Applied Multiple Regression/Correlation Analysis for the Behavioral Sciences* (Lawrence Erlbaum Associates 2003)

J. Scott Long, *Regression Models for Categorical and Limited Dependent Variables* (Sage Publications 1997)

Larry Gonick & Woollcott Smith, *The Cartoon Guide to Statistics* (HarperResource 1994) (no kidding — recommended reading for undergraduate statistics students)

2. Scholarship based on research in other disciplines (library-based research)

General sources

Thomas Mann, *The Oxford Guide to Library Research* (Oxford U. Press 1998)

NOTE: The Appendix: Special Cases lists materials helpful for specialized questions, including archives, biographies, conference proceedings, newspapers, psychological and educational tests

Wayne C. Booth, *The Craft of Research: Chicago Guides to Writing, Editing, & Publishing* (2d ed., U. of Chi. Press 2003)

Howard S. Becker, *Tricks of the Trade: How to Think About Your Research While You're Doing it* (U. of Chi. Press 1998)

a. **classical rhetoric (persuasion and argumentation)**

Aristotle, *On Rhetoric: A Theory of Civic Discourse* (George A. Kennedy trans., Oxford U. Press 1991) (although some favor other translations)

Edward P.J. Corbett, *Classical Rhetoric for the Modern Student* (3d ed., Oxford U. Press 1990)

George A. Kennedy, *A New History of Classical Rhetoric* (Princeton U. Press 1994).

Stephen Toulmin, *The Uses of Argument* (Cambridge U. Press 2003)

Chaim Perelman & Lucie Olbrechts-Tyteca, *The New Rhetoric: A Treatise on Argumentation* (John Wilkinson & Purcell Weaver trans., U. of Notre Dame Press 1969)

Christopher W. Tindale, *Rhetorical Argumentation: Principles of Theory and Practice* (Sage Publications 2004)

Irving Copi & Carl Cohen, *Introduction to Logic* (11th ed., Prentice Hall 2001)

See *Landmark Essays* on various subjects (Lawrence Erlbaum Associates)

b. **contemporary rhetoric and composition theory**

I.A. Richards, *The Philosophy of Rhetoric* (Oxford U. Press 1936)

Sonja K. Foss, Karen A Foss, Robert Trapp, *Contemporary Perspectives on Rhetoric* (Waveland Press, Inc. 2002)

Stanley Eugene Fish, *Doing What Comes Naturally: Change, Rhetoric, and the Practice of Theory in Literary and Legal Studies* (Duke U. Press 1989)

James Boyd White, *The Legal Imagination* (U. of Chi. Press 2001) (see also his many other works)

Erika Lindemann, *A Rhetoric for Writing Teachers* (4th ed., Oxford U. Press 2001)

The Writing Teacher's Sourcebook (Gary Tate et al. eds., 4th ed., Oxford U. Press 1999)

Victor Villanueva, *Cross-Talk in Comp Theory: A Reader* (2d ed., Natl. Council of Teachers of English 2003)

Linda Flower, *The Construction of Negotiated Meaning: A Social Cognitive Theory of Writing* (S. Ill. U. Press 1994)

Gary Tate et al., *A Guide to Composition Pedagogies* (Oxford U. Press 2001)

See *Landmark Essays* on various subjects (Lawrence Erlbaum Associates)

c. linguistics/language studies

Loreto Todd, *An Introduction to Linguistics* (York Press 1987)

William O'Grady et al., *Contemporary Linguistics: An Introduction* (4th ed., Bedford/St. Martin's 2001)

Adrian Akmajian et al., *Linguistics: An Introduction to Language and Communication* (5th ed., MIT Press 2001)

John Lyons, *Language and Linguistics: An Introduction* (Cambridge University Press 1981)

Vivian James Cook, *Inside Language* (St. Martin's Press 1997)

Andrew Carnie, *Syntax: A Generative Introduction* (Blackwell 2002)

Vivian James Cook & Mark Newsom, *Chomsky's Universal Grammar* (Blackwell 1996)

J.L. Austin, *How to do Things with Words* (2d ed., Harvard U. Press 1975)

Proceedings of the Law & Linguistics Conference, 73 Washington U.L.Q. 800 (1995)

Kluwer Academic Publishers, *Linguistic Bibliography for the Year* ____ (list available at www.wkap.nl/prod/s/LIBI (accessed July 13, 2004))

d. creative writing

Gotham Writer's Workshop, *Writing Fiction: The Practical Guide from New York's Acclaimed Creative Writing School* (Bloomsbury Publg. PLC 2003)

Janet Burroway & Susan Weinberg, *Writing Fiction* (6th ed., Longman Publg. Group 2002)

Lajos Ergi, *Art of Creative Writing* (Citadel Press 1995)

Mark Baechtel, *Shaping the Story: A Step-By-Step Guide to Writing Short Fiction* (Longman Publg. Group 2003)

e. narrative and literary theory

Robert M. Cover, *Nomos and Narrative*, 97 Harv. L. Rev. 4 (1983)

Narrative and the Legal Discourse: A Reader in Storytelling and the Law (David R Papke ed., Deborah Charles Publications 1991)

James Boyd White, *The Legal Imagination* (abridged ed., U. of Chi. Press 1985) or *Heracles' Bow: Essays on the Rhetoric and Poetics of the Law* (1985)

Robin West, *Narrative, Authority, and Law* (1993)

Peter Brooks & Paul Gewirtz, *Law's Stories: Narrative and Rhetoric in the Law* (Yale U. Press 1998)

Jerome S. Bruner, *Making Stories: Law, Literature, Life* (Farrar Straus Giroux 2002)

Kathryn Abrams, *Hearing the Call of Stories*, 79 Cal. L. Rev. 971 (1991)

Kim Lane Schepppele, *Narrative Resistance and the Struggle for Stories*, 20 Legal Stud. F. 83 (1996)

Richard Weisberg, *Poethics and Other Strategies of Law and Literature* (Columbia University Press 1992)

Guyora Binder & Robert Weisberg, *Literary Criticisms of Law* (Princeton U. Press 2000)

Patrick Hanafin et al., *Law and Literature* (Blackwell Publishers 2004)

Lenora Ledwon, *Law and Literature: Text and Theory* (Garland Publg. 1995)

f. critical theory

Eva H. Hanks et al., *Elements of Law* 539-686 (Anderson Publg. Co. 1994) (summarizing schools of critical legal thought)

Ian Ward, *Introduction to Critical Legal Theory* (Int'l Specialized Book Service Inc. 2004)

James Boyle, *Critical Legal Studies (International Library of Essays in Law and Legal Theory)* (N.Y.U. Press 1992)

Jerry Leonard, *Legal Studies as Cultural Studies: A Reader in (Post) Modern Critical Theory* (SUNY Press 1995)

Feminist Research Methods: Exemplary Readings in the Social Sciences (Joyce McCarl Nielsen ed., Westview Press 1990)

Katharine T. Bartlett & Rosanne Kennedy, *Feminist Legal Theory: Readings in Law and Gender (New Perspectives on Law, Culture, and Society)* (Westview Press 1991)

Matthew H. Kramer, *Critical Legal Theory and the Challenge of Feminism* (Rowman & Littlefield 1994)

Kimberle Crenshaw et al., *Critical Race Theory: The Key Writings That Formed the Movement* (New Press 1996)

Richard Delgado et al., *Critical Race Theory: An Introduction* (N.Y.U. Press 2001)

g. cognitive psychology

John R. Anderson, *Cognitive Psychology and Its Implications* (5th ed. W.H. Freeman & Co. 1999)

Mark Turner, *Cognitive Dimensions of Social Science: The Way We Think About Politics, Economics, Law, and Society* (Oxford U. Press 2003)

George Lakoff & Mark Johnson, *Philosophy in the Flesh: The Embodied Mind and its Challenge to Western Thought* (Basic Books 1999)

Mark Johnson, *Moral Imagination: Implications of Cognitive Science for Ethics* (U. of Chi. Press 1993)

Stephen Winter, *A Clearing in the Forest: Law, Life, and Mind* (U. of Chi. Press 2001)

Anthony G. Amsterdam & Jerome Bruner, *Minding the Law* (Harvard U. Press 2002)

Cognitive Processes in Writing (Lee Greeg & Erwin Steinberg eds., Lawrence Erlbaum Associates 1980)

Gary L. Blasi, *What Lawyers Know: Lawyer Expertise, Cognitive Science, and the Functions of Theory*, 45 J. Leg. Educ. 313 (1995).

Andrew Brook, *Philosophy and Cognitive Science Website*, <http://www.carleton.ca/~abrook/philcogsci.html>

h. industrial/graphic design

Elizabeth Resnick, *Design for Communication: Conceptual Graphic Design Basics* (Wiley 2003)

Karen A. Schriver, *Dynamics in Document Design: Creating Text for Readers* (Wiley 1996)

Alex White, *The Elements of Graphic Design: Space, Unity, Page Architecture, and Type* (Watson-Guptill Publications 2002)

Björn Gustavii, *How to Write and Illustrate a Scientific Paper* (Cambridge U. Press 2003)

See Ruth Anne Robbins, Bibliography, *Visual Rhetoric: enhancing persuasion with graphic design*, LWI Conference, July 2004

i. learning theory and instructional design

Morris L. Bigge & S. Samuel Shermis, *Learning Theories for Teachers* (6th ed., Allyn & Bacon 1998)

Marcy P. Driscoll, *Psychology of Learning for Instruction* (2d ed., Pearson Educ. 1999)

Dale H. Schunk, *Learning Theories: An Educational Perspective* (4th ed., Pearson Educ. 2003)

B. R. Hergenhahn et al., *An Introduction to Theories of Learning* (6th ed., Pearson Educ. 2000)

Walter O. Dick et al., *The Systematic Design of Instruction* (5th ed., Pearson Educ. 2000)

Patricia Smith & Tillman J. Ragan, *Instructional Design* (2d ed., Wiley Textbooks 1999)

Charles Reigeluth, *Instructional-Design Theories and Models: A New Paradigm of Instructional Theory* (Lea 1999)

Robert Reiser & John V. Dempsey, *Trends and Issues in Instructional Design and Technology* (Pearson Educ. 2001)

Paul T. Wangerin, *Learning Strategies for Law Students*, 52 Alb. L. Rev. 471 (1988)

See articles by Journal contributors Robin A. Boyle and M.H. Sam Jacobson.

j. ethics

Philosophy of Law (Joel Feinberg & Hyman Gross eds., 5th ed., Wadsworth Publg. Co. 1995)

Theodore C. Denise, Sheldon P. Peterfreund & Nicholas White, *Great Traditions in Ethics* (11th ed., Wadsworth Publg. Co. 2005) (the new edition was supposedly available in May 2004)

David Luban, *The Good Lawyer: Lawyer's Roles and Lawyer's Ethics* (Rowman & Littlefield Pub. 1983)

David Luban, *The Ethics of Lawyers* (N.Y.U. Press 1994)

k. philosophy

Simon Blackburn, *Think — A Compelling Introduction to Philosophy* (Oxford U. Press 2001)

Introduction to Philosophy: Classical and Contemporary Readings (Michael Bratman & John Perry eds., Oxford U. Press 1998)

Stanford Encyclopedia of Philosophy, <http://plato.stanford.edu>

John Herman Randall, Jr. & Justus Buchler, *Philosophy: An Introduction* (rev. ed., Harper & Row Publishers Inc. 1971)

Patrick J. Hurley, *A Concise Introduction to Logic* (6th ed., Wadsworth Publg. Co. 1997)

Samuel Enoch Stumpf, *Socrates to Sartre: A History of Philosophy* (McGraw-Hill 1966)

3. Scholarship based on research in legal theory and doctrine (library-based legal research)

You teach this!

[But don't forget that the books that you recommend to your students may be helpful to you in your own research and writing:

Elizabeth Fajans & Mary R. Falk, *Scholarly Writing for Law Students: Seminar Papers, Law Review Notes, and Law Review Competition Papers* (2d ed., West 2000)

Eugene Volokh, *Academic Legal Writing: Law Review Articles, Student Notes, and Seminar Papers* (West 2003)]

Credits:

The sources collected here were contributed by the presenters, those who answered our questionnaire and are included in the **Journals** handout at this presentation, other law school professors, and librarians. Thank you to Thomas Jefferson School of Law librarians Dorothy Hampton and June MacLeod for their help on this project; thank you to Michael Thompson for all of his work on the project.

PASSPORTS (special guides for crossing borders)

People

- Legal writing colleagues who already have written in the field (see, for example, the contributors to the **Journals** handout)
- Legal writing colleagues with training in other disciplines, research methods, quantitative and qualitative tools (for example, the Writing Advisor at your law school with an advanced degree in English, English literature, composition studies, linguistics)
 - Librarians (law school, undergraduate, and graduate)
 - Professors and researchers in other university departments
 - Research assistants with training in other disciplines, etc.
 - Yourself, after taking a course or two in empirical research or in another discipline
 - Other ways to find expert help? Law firms use experts for data-gathering and analysis as well as testimony; these experts advertise in legal newspapers and bar journals and online. As legal writing professors know, the internet is full of expert researchers and writers offering their work.

Groups & Departments

- The Institutional Review Board (IRB) or other department responsible for monitoring human subject research on your campus
 - See, for example, the attached webpage for Mercer University's IRB and the attached sample consent forms
 - Any committee or program set up to support empirical research at your law school
 - The office of sponsored programs on your campus (the department responsible for grant writing and other funding opportunities)
 - The computer services or information technology office at your law school or university (to assure that your hardware, software, and technical support staff are sufficient for the analysis you plan to undertake)
 - The Inter-University Consortium for Political and Social Research at the University of Michigan, www.icpsr.umich.edu, which offers a summer training program in empirical analysis
 - The Washington University (St. Louis) Workshop on Empirical Research and Law
 - The Law and Society Association, www.lawandsociety.org. Members are trained in law, sociology, political science, psychology, anthropology, economics, and history; the society has special programs for new scholars and sponsors interdisciplinary networks and collaborative research networks.
 - Other "law &" organizations and listservs (e.g., law and humanities)
 - Professional organizations and associations in other disciplines

Publishers & publications

- Get on the mailing list, look at the catalog, search the websites of academic publishers such as Sage Publications (social sciences, www.sagepub.com); Kluwer Academic Publisher (humanities and social sciences, behavioral sciences and others, www.wkap.nl); St. Martin's Press (college composition, www.bedfordstmartins.com); Pearson Education (educational research, www.pearsoneducation.com); Lawrence Erlbaum Associates (rhetoric and composition, www.erlbaum.com).
- Get on the mailing list, look at the catalog, search the website of college and university presses: Oxford University Press, Cambridge University Press, National Academy Press (publishes the reports issued by the National Academy of Sciences, the National Academy of Engineering, the Institute of Medicine, and the National Research Council), MIT Press, Harvard

Business School Publg., University of Chicago Press, Harvard University Press, Princeton University Press, Yale University Press, Columbia University Press

- After locating one good source, follow it to the most-cited journals in other disciplines
- Through introductory texts and course syllabi, find the “Landmark,” “Sourcebook,” and “Bibliography” publications in other disciplines

Internet sources

- On-line libraries of major universities can help you find books on a specific topic (see, for example, <http://catalog.library.ucla.edu>)
 - Amazon.com can help you find books on a specific topic, browse the table of contents, and even look inside
 - You can keep up with what's new in legal empirical and interdisciplinary research by subscribing to SSRN electronic journals, www.SSRN.com
 - Your library probably has access to thousands of other e-journals through sources such as EBSCO
 - You can find THE basic books in a field by searching online for course syllabi for introductory classes in particular research methods or other disciplines
 - Visit websites of professional organizations and associations in other disciplines (see James Elkins's links at www.wvu.edu/~lawfac/jelkins/legstudforum/masthead/links)
 - From Robert J. Ambrogi *Law Technology News*, 6-24-2004:
 - Soopple*, <http://www.soopple.com>, is Google for dummies. It provides explicit gateways to Google's advanced search features.
 - Queryster*, <http://www.queryster.com>, is a tool that puts a new spin on meta- searching, which refers to searching across multiple search engines from a single interface. Queryster submits your search to 10 of the most popular search engines: Google, WiseNut, LookSmart, Ask, DMOZ, Yahoo, AlltheWeb, AltaVista, Teoma and Hotbot. You can customize it to query any of more than 25 popular search engines

Office of Sponsored Programs

MERCER UNIVERSITY

Institutional Review Board for Research Involving Human Subject

Policies/Procedures

- [MU Procedures](#)
- [University Policies](#)
- [Meeting Schedule](#)
- [Standard Operating Procedures](#)
- [Guidance Documents](#)

Application Forms

- [Forms](#)
- [Instructions](#)

IRB Training

- [Training Policy](#) (pdf)
- [Indiana University](#)

Federal Guidelines

- [Federal Guidance](#)
- [Federal Requirements](#)
- [Related Links](#)

Miscellaneous

- [What's New](#)
- [Contact Information](#)



The IRB Committee is constituted to protect the interests of human subjects involved in research projects conducted by investigators affiliated with Mercer University.

The Federal Policy for the Protection of Human Subjects was promulgated in August 1991, and is commonly referred to as the [Common Rule](#). Two federal agencies, the [FDA](#) and the [Office of Human Research Protections](#), are involved in the promotion and enforcement of the requirements of this policy. The FDA is primarily a regulatory agency, involved in the development, approval and marketing of new drugs, biologics and devices.

45 CFR 46 Section 46. 102

A [Human subject](#) means a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information.

Any research involving human participants that is conducted by faculty, staff, or students at Mercer University must be submitted for review to the IRB. Similarly, any research conducted on the property of Mercer University, regardless of the affiliation of the researcher, must be submitted for review. Review and approval by an IRB at another institution does not constitute an exemption from review by the Mercer IRB.

Model Human Subject Consent Form 1

Sample Written Consent Form for Research Studies, Adults

This sample is a template from which a consent form can be developed. THE CONSENT FORM SHOULD BE WRITTEN IN TERMS UNDERSTANDABLE TO THE SUBJECT (avoid or define technical terminology, adjust for educational background and ages, provide translations in other languages when subjects do not understand English).

You are invited to participate in a research study conducted by [name of researcher], from the [school and department]. I hope to learn [state what the study is designed to discover or establish.] You were selected as a possible participant in this study because [state why subject was selected].

If you decide to participate, [describe procedures, including their purpose, how long they will take, their location and frequency]. [Describe risks, discomforts, inconveniences, and how these will be managed. Describe any alternative procedures or courses of treatment, if applicable. Indicate costs of participating, if any.] [Describe benefits to subjects and humanity expected from the research]. However, I cannot guarantee that you personally will receive any benefits from this research. [If subject will receive compensation, describe amount and when payment is scheduled.]

Any information that is obtained in connection with this study and that can be identified with you will remain confidential and will be disclosed only with your permission. Subject identities will be kept confidential by [describe coding procedures and plans to safeguard data]. [If information will be released to any other party for any reason, state the person/agency to whom the information will be furnished, the nature of the information, and the purpose of the disclosure.]

Your participation is voluntary. Your decision whether or not to participate will not affect your relationship with [name agency, school, etc. where subject was recruited]. If you decide to participate, you are free to withdraw your consent and discontinue participation at any time without penalty.

If you have any questions, please feel free to contact [provide phone number and address]. If you have questions regarding your rights as a research subject, contact the [provide name and address of compliance monitor]. You have been given a copy of this form to keep.

Your signature indicates that you have read and understand the information provided above, that you willingly agree to participate, that you may withdraw your consent at any time and discontinue participation without penalty, that you have received a copy of this form, and that you are not waiving any legal claims, rights or remedies.

Print Name _____

Signature _____ Date _____

(If subject is a child, indicate: Signature of Parent/Legal Guardian and include a space for name of child.)

Model Human Subject Consent Form 2

Sample Cover Letter for Anonymous, Non-Sensitive Questionnaires

This sample is a template from which a consent form can be developed. The language does not have to be repeated verbatim. THE CONSENT FORM SHOULD BE WRITTEN IN TERMS UNDERSTANDABLE TO THE SUBJECT (avoid or define technical terminology, adjust for educational background and ages, provide translations in other languages when subjects do not understand English).

I would appreciate your assistance with this research project on [state purpose of research]. The project is being conducted by [name of researcher], from the [school and department affiliation and status]. The research will help me understand [state benefits to subjects and humanity expected from the research].

All you need to do is complete this short questionnaire, which should take approximately [state time needed to complete questionnaire]. If you do not wish to participate, simply discard the questionnaire. Responses will be completely anonymous; your name will not appear anywhere on the survey. Completing and returning the questionnaire constitutes your consent to participate.

Keep this letter for your records. If you have any questions regarding the research, contact [give name, department, phone number, and department address if applicable.]. If you have any questions regarding your rights as a research subject, please contact the [compliance monitoring office]. Thank you again for your help.

JOURNALS

1. Scholarship based on empirical research

a. interviews

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Article: *Critiquing Law Students' Writing: What the Students Say is Effective*, 2 Leg. Writing 145 (1996)

First, into which of the categories mentioned in our letter does most of your scholarship fall? If none of the categories fits, please describe your scholarship below:

Scholarship based on empirical research: interviews and case studies

1. How did you “discover” the topic for this article?

After thinking for years about how we tell students to write with their audience and purpose in mind, it occurred to me that when we write critiques we may be forgetting this advice. Applying the advice to the critiques we write led naturally to asking the readers of those critiques to evaluate and comment on the critiques.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

I had been teaching in the field since 1980 so I had extensive personal background. I read all the available literature about critiquing law students' writing and almost all the available literature about critiquing in general.

I did not have experience designing case studies or questionnaires, so in each case I did some background reading on how to do them. After drafting the approach to the case studies and the questionnaire for the 35 experts, I asked numerous colleagues to review these drafts and help me troubleshoot them.

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

Initially I spent inordinate amounts of time with the information I gathered so that I could see patterns in it and draw inferences and conclusions from it. I kept grouping and adding up the various things I was observing in the hope that I would see all the four case study students had told me. I spent lots of time talking with two or three trusted colleagues about various observations I was making and what I thought they meant. Talking about what I was finding was a crucial part of "owning" it and getting prepared to write about it.

I waited until the summer to start drafting the article because I knew I would need big blocks of uninterrupted time. I started with a large scale outline based on the organization of a typical law review article. I developed a writing schedule with specific goals of what I would have accomplished at various points along the way. Once I had written a draft of the entire article it was pretty much downhill the rest of the way. I revised and edited the entire thing and then showed that draft to 3 trusted colleagues for comments. I revised again based upon their comments.

**4. What advice would you give to a novice entering this field of research?
Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.**

Read what has already been written. Be comprehensive in your background research and be sure to cite to these works.

For me it was not productive to clear one day in my schedule and to try to write, say every Friday. I lost momentum and spent too much time getting my thoughts back to where I was last Friday. Big blocks of uninterrupted time (the summer) were far more productive. Over the summer I could develop a writing rhythm to my day. (I've used the same approach for the books I've co-authored.)

Find the most productive time in your day (I'm a morning person) and write then. Save errands and other chores for your least productive time of day.

Pitfall: If you are doing anything like a case study or questionnaire, you have to do a human study research form called an IRB (Institutional Research/Review Board). Can't remember if the R is "research" or "review." Your university or law school will have such a board even if you've never heard of it before. Your study must be approved by the Board before you begin.

5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.

- a law librarian who is interested in your project and willing to brainstorm with you about sources
- a talented research assistant who is interested in your project
- bibliographies of legal writing scholarship (Legal writing scholarship.org)
- senior legal writing people around the country--people like Richard Neumann, Jan Levine, Laurel Oates are great to brainstorm with

6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?

Apply for a summer research grant at your law school. Even if your school does not technically support research for your position, it doesn't hurt to ask. I got financial support from my institution/dean long before the rules said it applied to me. Deans have discretionary funds they can spend on things like this. Even if the dean say no, he or she will remember that you were the one planning to do some scholarly work.

If you get a grant, follow through, write, and publish.

Notice which law reviews and journals have published articles about legal writing in the past. Send your stuff there.

Make each project count 2, 3, or 4 ways. Present the material at a regional conference, a national conference, write it up as an article, incorporate it into your teaching, do a presentation for your own faculty.

b. questionnaires and surveys

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Article: Susan Hanley Kosse & David ButleRitchie, *How Judges, Practitioners, and Legal Writing Teachers Assess the Writing Skills of New Law Graduates: A Comparative Study*, 53 J. Legal Educ. 80 (2003).

I agree with everything that Susan has said below (I'm sure she'd be happy to hear me say that). I would only add (under question 3, I think) that we aired our preliminary results at the last LWI conference in a session on the topic and we incorporated the views that we received in that forum into our article.

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Article: Susan Hanley Kosse & David ButleRitchie, *How Judges, Practitioners, and Legal Writing Teachers Assess the Writing Skills of New Law Graduates: A Comparative Study*, 53 J. Legal Educ. 80 (2003).

First, into which of the categories mentioned in our letter does most of your scholarship fall? If none of the categories fits, please describe your scholarship below:

It was primarily empirical research using questionnaires and surveys.

1. How did you "discover" the topic for this article?

We just brainstormed together.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

We started using the empirical analysis of the legal memorandum that the Law School Admission Council conducted. That provided the framework for the survey. We designed the survey and obtained feedback from professors in our field and stats people. Then we distributed the survey and paid a stats professor to analyze the results. When we had the results we did further research to support our conclusions.

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

We wrote it using the survey as our outline. We began by laying out the methodology derived from the LSAC concerning the elements of strong legal writing. We then discussed and evaluated the data received from the survey we carried out. Since there seemed to be widespread agreement concerning the poor writing skills of new law graduates, we explored the causes of this perceived deficiency. We posited several possibilities explaining why lawyers, in particular new lawyers, struggle with such an important component of their professional obligation. Finally, we briefly discussed ways in which law schools might attack the root causes of the poor writing skills of their students. We hoped these preliminary conclusions would aid legal writing teachers as they continue to strive to better prepare their students to excel in their chosen profession.

4. What advice would you give to a novice entering this field of research? Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

This was a HUGE undertaking. People warned us but we had no idea how major the project would become. Definitely hire a stats person. Our survey return rate was excellent but because it was so good we had so much data and really didn't know what to do with it. The stats person was invaluable. Make sure you get approval from the Human Studies department if required by your university. Make sure you have a very good secretary or research assistant that can enter all the responses into excel programs. That took a lot of time. Also you will need to think about money issues. We received an ALWD grant that paid for our expenses including the mailing of the surveys and the stats person.

5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you

recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.

We primarily just used regular journal articles to support our conclusions. We didn't really do much investigation on how to do an empirical study. That probably would have been helpful!

6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?

I think journals are very interested in this type of research but make sure you devote a lot of time to it. I definitely think it is much more work than writing a traditional journal article.

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Article: *1999 Survey Results, Association of Legal Writing Directors/Legal Writing Institute, 6 Leg. Writing 123 (2000)*

A Snapshot of Legal Writing Programs at the Millennium, 6 Leg. Writing 95 (2000)

1. How did you "discover" the topic for this article?

I had been running the national survey for several years and invested most of my summer in it. Finally, I realized (or someone suggested, I can't recall) that I should use the survey as a subject of scholarship. Write about what you know and what you are doing.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

As a math major who had taken statistics, I knew a bit about uses of data.

I'm assuming you're interested in how I came up with the questions in the survey -- the scope of the research. I began with the survey that Lou Sirico had administered. Then I looked at other surveys (Ramsfield, Rombauer). I thought about what I'd like to know. I asked others what they'd like to know.

Then I built a rough structure of the areas that were covered by the questions. I sketched some in if I saw gaps. I continued tinkering over the years. A few years ago, I thought of the idea of adding 10 questions as Hot Topics each year to keep the survey somewhat flexible and responsive, despite the need to keep the questions the same for purposes of comparison.

I also thought that changes in the responses might be as interesting as the responses themselves. Are there trends? Surprises? Big changes? Ebbs and flows? Ceilings that some values will not break through?

I began using mean values, and then found some means that were skewed by outliers (extreme values). Later I moved on to regression analysis.

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

The article was primarily descriptive, so I used the structure of the survey itself as an outline. I thought the overall organization of the questions of the survey had some internal logic and would be familiar to many readers.

After writing the descriptive parts, I began thinking about the implications of the data. (A pure description would be fairly dull to write and read.) I talked with colleagues and my very insightful husband.

I sent drafts to Lou Sirico and Kathy Stanchi—two very able and respected editors (maybe others, but I don't think I got substantive feedback)

I do many, many redrafts. I had to struggle with making the data accessible -- balancing the desire to be precise and readable.

**4. What advice would you give to a novice entering this field of research?
Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.**

The best advice is to look at what you are doing for sources of research. What do you care about? Know about, but want to know more? Know about and want to share with others. Having something you want to say is the kind of motivation I need to make me write.

Quantitative research has some perils because the writer needs to understand how to use data effectively. It's advisable to have help with data manipulation, but it's still necessary to understand what it all means. I think it's very difficult to rely on a statistician.

5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.

I don't have anything helpful here. I think it's most helpful to look at other similar articles to see what data is presented and how it is presented. I found looking at other charts, statistical explanations and the like most helpful.

6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?

At that point where you think that everything you have to say is both obvious and wrong, call a trusted friend who will remind you of the spark that made you start the project. It's particularly easy to get bogged down in the data!

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Article: *Critiquing and Evaluating Law Students' Writing: Advice from Thirty-Five Experts*, 22 Seattle U. L. Rev. 1119 (1999)

First, into which of the categories mentioned in our letter does most of your scholarship fall? If none of the categories fits, please describe your scholarship below:

Scholarship based on empirical research: questionnaires and surveys.

1. How did you "discover" the topic for this article?

After attending numerous sessions on critiquing and evaluating law students' writing at national conferences, I realized that on some points there was a growing consensus about what were the "best practices" for critiquing. I thought that information should be gathered and recorded so that we could use it as a foundation and advance our thinking on this critical part of our jobs. I saw that recording of our best thinking as part of becoming a professional discipline. I also noticed some "questionable" advice that was relayed as gospel in some of these sessions. By finding the consensus of 35 recognized experts, I hoped to squelch some of the pedagogically unsound ideas that were occasionally floated about. Finally, we all know that critiquing is labor-intensive and a major source of burn-out. I wanted to gather the collective wisdom of the experts about how to survive the critiquing process.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

I had been teaching in the field since 1980 so I had extensive personal background. I read all the available literature about critiquing law students' writing and almost all the available literature about critiquing in general.

I did not have experience designing case studies or questionnaires, so in each case I did some background reading on how to do them. After drafting the approach to the case studies and the questionnaire for the 35 experts, I asked numerous colleagues to review these drafts and help me troubleshoot them.

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

I started the writing process for this article with a strong sense of my intended readers in mind. To me, the most important readers of the article would be new legal writing faculty. As I worked, I kept two new legal writing professors on my own faculty in mind and basically wrote the article to them. In the forefront of my mind were a number of questions all new LW professors seem to have about critiquing, and I tried to see if there were answers to those questions in the experts' responses.

I was also very conscious of not wanting to embarrass or betray in any way the 35 experts who had been kind enough to share their experience and advice. I wrote with them in mind, trying to be respectful of their expertise.

Like the other article, I began by immersing myself in the experts' answers to my questions. I spent lots of time tallying up their responses and recording patterns. I tried to look hard for things I did not expect to find as well as for the "common knowledge" that needed for the novice teachers.

The outlining, drafting, revising, editing process was much the same as with the first article. The one difference was that I sent an almost final draft to each of the 35 experts, highlighting their responses. This was a safeguard for them and for me. I did not want the article to come out and have one or more of them feel their responses had been misrepresented in any way. One or two tinkered with a quote I had attributed to them from the questionnaire, but none made anything close to a substantive change.

4. What advice would you give to a novice entering this field of research?
Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

Read what has already been written. Be comprehensive in your background research and be sure to cite to these works.

For me it was not productive to clear one day in my schedule and to try to write, say every Friday. I lost momentum and spent too much time getting my thoughts back to where I was last Friday. Big blocks of uninterrupted time (the summer) were far more productive. Over the summer I could develop a writing rhythm to my day. (I've used the same approach for the books I've co-authored.)

Find the most productive time in your day (I'm a morning person) and write then. Save errands and other chores for your least productive time of day.

Pitfall: If you are doing anything like a case study or questionnaire, you have to do a human study research form called an IRB (Institutional Research/Review Board). Can't remember if the R is "research" or "review." Your university or law school will have such a board even if you've never heard of it before. Your study must be approved by the Board before you begin.

- 5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.**
 - a law librarian who is interested in your project and willing to brainstorm with you about sources
 - a talented research assistant who is interested in your project
 - bibliographies of legal writing scholarship (Legal writing scholarship.org)
 - senior legal writing people around the country--people like Richard Neumann, Jan Levine, Laurel Oates are great to brainstorm with
- 6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?**

Apply for a summer research grant at your law school. Even if your school does not technically support research for your position, it doesn't hurt to ask. I got financial support from my institution/dean long before the rules said it applied to me. Deans have discretionary funds they can spend on things like this. Even if the dean say no, he or she will remember that you were the one planning to do some scholarly work.

If you get a grant, follow through, write, and publish.

Notice which law reviews and journals have published articles about legal writing in the past. Send your stuff there.

Make each project count 2, 3, or 4 ways. Present the material at a regional conference, a national conference, write it up as an article, incorporate it into your teaching, do a presentation for your own faculty.

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Article: *Continuing Development: A Snapshot of Legal Research and Writing Programs through the Lens of the 2002 LWI and ALWD Survey*, 9 Leg. Writing 227 (2003)

1. How did you "discover" the topic for this article?

Took on the ongoing ALWD/LWI survey project and realized that formal “reporting” of survey results needed to be updated.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

I was lucky because the survey instrument was already created and all I really had to do was collect and analyze the data. If I were advising a novice who needed to create a survey instrument, I would suggest that he or she work with a statistician or other survey “expert” who could help craft the instrument to avoid bias etc. My data analysis was really fairly simple. I didn’t have to deal with T-squares etc., so I’m not sure mine is the best example for you!

- 3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.**

First I got all of the data together and analyzed. Then I started to look for major shifts from earlier data on the same topic and for emerging trends. With a good handle on what the data was and how it compared to existing data, I wrote the article to provide background and then show the changes, trends, etc.

- 4. What advice would you give to a novice entering this field of research? Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.**

Take your time and make sure you double-check your calculations. It is helpful to have another person do the calculations independently to assure accuracy. If you’re not a “math person” (and I’m not!), you really want to have that extra set of eyes to make sure you’re not introducing error into your data set.

- 5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.**

Can’t really think of anything specific—but Jo Anne Durako is great with statistical analysis, regression, etc.

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Article: *The Inside Scoop: What Federal Judges Really Think About the Way Lawyers Write*, 8 Leg. Writing 257 (2002).

First, into which of the categories mentioned in our letter does most of your scholarship fall? If none of the categories fits, please describe your scholarship below:

Most of my work is in category 2A.

1. How did you "discover" the topic for this article?

I was interested in finding out what judges currently think about the way lawyers write. I was particularly interested in using what they said in my teaching. As the emphasis on and funding for training in the field continue to decline, it is important that we do what we can to prepare our students for the real world of legal writing.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

First, I bought and read *How to Conduct Your Own Survey* by Slant and Dillman in order to make my results statistically sound. I coordinated with our main campus to get access to and training on SPSS, a statistical software program. Then I designed the survey.

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

Once I got survey results, I hired a student to input the data who could manipulate it as well. It is easy to enter the data but a challenge to interpret it and find an interesting story. I am not sure I accomplished that, but I thoroughly enjoyed the process.

4. What advice would you give to a novice entering this field of research? Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

The greatest challenge is knowing how empirical research will be viewed in your own legal community and doing more than reporting results in a way that does not seem to present original thought.

5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.

See the answers above.

6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?

Finding a new and unusual topic.

[NOTE: No Journals were returned for categories c. - g.]

h. qualitative analysis

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Article: *On the Internet, Nobody Knows You're a Judge: Appellate Courts' Use of Internet Materials*, 4 J. App. Prac. & Process 417 (2002).

1. How did you "discover" the topic for this article?

Personal curiosity. My students increasingly look to web resources, and I wondered what courts were doing. I soon discovered, however, many problems with the Internet sources cited in judicial opinions, particularly with citations to content that had changed, moved, or disappeared. I soon developed a set of questions that would guide my research and thinking on the topic.

As described in my article, "Several questions shaped the research for this study. For example, what kinds of Internet sources are being cited in appellate opinions? Additionally, are Internet sources more likely to be cited in certain kinds of cases, e.g., cases involving technology issues? What kinds of research support do the sources provide—background factual information? Footnote glosses? Or are courts using these sources as authority for legally significant facts of which they are taking judicial notice? Similarly, to what extent are courts relying upon Internet sources of law—as convenient substitutes for materials commonly found in print? As parallel citations to materials also cited in print media? As authoritative materials that are only available online? Next, are the cited sources still available on the Internet, and if so, are they identical to the way they appeared at the time they were accessed by the judicial author? Finally, if the cited sources are not presently available, why not?"

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

As described in my article, my research "considered federal appellate opinions (United States Supreme Court and Circuit Courts of Appeal) issued through December 31, 2001 (published and unpublished, if available on Westlaw). Using Westlaw, the author searched in each court's individual database for all cases using the term "http" (acronym used in web addresses for hypertext transfer protocol). Searches using "www" (the abbreviation for World Wide Web) were found to be unreliable, both because they turned up non-Internet cases using the abbreviation for other words (e.g., Western Water Works), but more significantly, because many Internet sites do not use the "www" prefix and therefore, a search requiring "www" would have missed the cases citing them. See e.g. <http://wipo2.wipo.int/process2/report/html/report.html>, cited in *Sallens v. Corinthians Licenciamientos LTD A*, 273 F.3d 14, 17 n. 2 (1st Cir. 2001)."

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

After locating all the cases containing Internet citations, I read each, recording the citations and noting the reason the court cited that particular source and noting and describing any problems I had in accessing the source.

Problem citations were generally due to the impermanence of the Internet. I devised several categories, including (a) evolving content, (b) migrating content, (c) vanished content, (d) restricted access and overbroad reference, and (e) mis-cited content.

Because one of my goals in writing this article was to educate judicial authors about the consequences of citing Internet sources (the article was published in a Journal distributed to all state and federal appellate judges), I also had to write a significant amount of background about the use of the Internet for legal research.

- 4. What advice would you give to a novice entering this field of research?**
Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

Keep the topic narrowly focused. At the time I began my research, there were a lot of cases citing the 'Net, but the number was manageable. Thus I was able to survey all the federal appellate courts and note trends. The number of citations has now surged, however, and were I doing this work again, I would have to select only a few circuits to study.

- 5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.**

Law librarians and college librarians have been alarmed about the increasing over-reliance of researchers who trust all content they find on the Internet. Many of their publications (both in print and online) were helpful. Mary Rumsey wrote about a similar phenomenon in law review article citations to Internet sources.

- 6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?**

We still have to educate the trial judges!

i. quantitative analysis

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Articles: Jan M. Levine & Kathryn M. Stanchi, *Women, Writing and Wages: Law Schools Last Taboo*, 7 Wm. & Mary J. Women & L. 551 (2001)

Kathryn M. Stanchi & Jan M. Levine, *Gender and Legal Writing: Law Schools Dirty Little Secrets*, 16 Berkeley Women's L.J. 1 (2001).

First, into which of the categories mentioned in our letter does most of your scholarship fall? If none of the categories fits, please describe your scholarship below:

A combination of questionnaires and surveys, critical theory, and politics and legal education.

1. How did you "discover" the topic for this article?

The articles' topic was a follow-up to prior articles we had each written before, coupled with "in-house" research prompted by our need to gather data for a request for salary increases, and awareness of proposed changes to the ABA Accreditation Standards (and testimony we had offered about the data we had collected).

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

We had little experience in statistical research, but had written before about survey data. We obtained help with the statistical analysis from a law student research assistant who had done graduate work in statistics, and from a university statistician from our computer services center. The William & Mary article was the result of our work, and the Berkeley piece was done afterwards, at the request of the journal. The Berkeley editorial board was looking for a lead essay, and wanted us to write about the ABA Accreditation process, as the essay fit better with the journal's requirements and mandate.

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

This was a co-authored project. We simultaneously wrote draft sections about (1) the history of LRW program design/staffing and survey , (2) drafts of the data analysis, and (3) an outline of the feminist theory that applied to our thesis. We did this ourselves and with the help of student assistants. We then combined our sections, and did multiple rewrites. We had the university statistician review our draft, and then revised it again, finally sending it out to journals.

4. What advice would you give to a novice entering this field of research? Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

Planning and an awareness of the multiple fields of interest (statistics, survey data, LRW history, and feminist theory). If you don't know about the field you want to write in, start reading now. Go to the library and take out books on the subject and read them before you start writing. Do a Westlaw search and get the "big" articles on the subject. Ask others who the "big" authors are, what the "big" articles are so that you don't reinvent the wheel – but you should still do independent research. All of the stuff you read initially will lead you to other stuff. You will read stuff you

don't need – chalk it up to learning. This is the only way to find stuff you do need. And it takes a lot of time.

It is a LOT of preparation work, especially if you have not practiced or taught in the area. Hire student assistants with a particular focus (i.e., Women's Studies major, a Statistics major, etc). It helps to know what you want to say before you write the article – in this case, we knew our agenda (though you won't always).

5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.

Familiarity with the field and existing literature, having people willing to read and discuss drafts, good research assistants, and a great coauthor (i.e., one who shares your work ethic and view of the piece – this is a real potential pitfall. The right co-author can be a huge benefit and make the writing go faster and the article better. The wrong co-author can irredeemably delay things or create a struggle for the “heart” of the piece. Map out a schedule and big content things beforehand!).

2. Scholarship based on research in other disciplines

a. classical rhetoric (persuasion and argumentation)

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Articles: *Justice Scalia's Rhetoric of Dissent: A Greco-Roman Analysis of Scalia's Advocacy in the VMI Case*, 91 Ky. L.J. 167 (2002-03)

Greco-Roman Analysis of Metaphoric Reasoning, 2 Leg. Writing 113 (1996)

Ethos, Pathos & Legal Audience, 99 Dick. L. Rev. 85 (1994)

Brief Rhetoric—a Note on Classical and Modern Theories of Forensic Discourse, 38 Kan. L. Rev. 411 (1990).

1. How did you "discover" the topic for this article?

The impetus for my first article on classical rhetoric was mostly accidental. I was reading the rules for submitting briefs to the U.S. Supreme court (I don't remember why) and began to wonder about the origin of those rules. At about the same time a colleague told me about a short article (“Winning with Aristotle”) he'd read in a bar journal. I researched the U.S. Sup. Ct. rules and read the Aristotle article. After that, I started reading Aristotle's Rhetoric and thinking about what connections, if any, existed between the classical and modern approaches to legal discourse.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

Because I have a Ph.D. in English I had a pre-existing exposure to rhetoric and composition theory. As part of my undergraduate and graduate school course work, I had even studied some of the relevant classical materials. Initially, “my research” consisted of digging out my old books, notes, etc. and re-familiarizing myself with material I’d mostly forgotten.

Soon afterwards, I stopped reading my class notes and secondary materials and focused exclusively on the classical works themselves. I read them with no particular agenda in mind. I just took notes about anything that interested me. As I did so, certain patterns started to emerge and those patterns formed the basis of the first essay. All subsequent essays on the topic are an outgrowth of the first one.

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

See second paragraph, Answer #2. I’m not sure my approach was “distinctive” in any particular respect. Early on, I did decide not to read any scholarship or secondary materials until I’d read and taken notes on the classical materials (Aristotle, Cicero, Quintilian, Isocrates, etc.). I didn’t want to be overly influenced by what others had written. Once I had developed my own ideas and written a couple of drafts, I then turned to secondary materials from Rhetoric, Composition, and English scholars to see what they had to say about the topic.

4. What advice would you give to a novice entering this field of research? Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

First, familiarize yourself with the classical sources. Don’t be in hurry. The classical authors weren’t.

All the rest of my advice applies to research and writing on any topic, classical rhetoric included. At the risk of listing platitudes or sounding pompous, or both, here’s what I’d recommend: Keep the topic narrow and focused. Ask yourself why anyone would be interested in the topic in the first place. Ask yourself if you can “live” with the topic for several months (or years). Ask yourself if you’re being faithful to your materials. Ask for candid criticisms from colleagues and friends and trust their judgment, even if it means more work for you. Understand that the writing (and the research) will take longer than you thought and longer than you told the Dean.

5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.

For absolute novices I'd recommend Edward P.J. Corbett's Classical Rhetoric for the Modern Student. For an historical perspective, also read Brian Vicker's In Defence of Rhetoric and George A. Kennedy's A New History of Classical Rhetoric. All three books have good bibliographies.

6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?

Classical rhetoric has a long and varied history. Trying to get a good grasp of the topic in order to write an article can be time-consuming and, for many, intimidating and frustrating. Even so, the time will be well spent because the topic is so interesting and so deep. It's full of surprises and much of it will seem more familiar than you thought.

Try to find a link between a modern legal topic you are already familiar with and classical rhetoric. That way you have a focusing device for your reading in the classical materials and a comfortable vantage point from which to view them.

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Article: *Aristotle Teaches Persuasion: The Psychic Connection*, 8 Scribe J. Leg. Writing 61 (2001-02)

1. How did you "discover" the topic for this article?

I took a course in Advanced Rhetoric in college in which we studied Aristotle's Rhetoric as a practical guide to writing. I found it useful then and increasingly so as I practiced law. Then when it was my turn to direct a program, I returned to Aristotle, found the new translation (Kennedy), saw new things in it, and knew I wanted to explain to others some of my fascination with Aristotle and how 2300 years ago he was wrestling with the same things we are now.

The topic narrowed to something quite simple to provide a hook to make it accessible and to make the work relevant and modern in insight and focus. One thing I have noticed is often missing in current books on persuasion is the simple thing that really underlies Aristotle's insight - that connecting with the audience can be translated into modern terms - making a psychic connection. That is what persuades. And that is why it is important. It is not just using a syllogism or analogy - it is using the right one in the right way.

So it was an area of long-standing interest, an area of some practical impact, and a corrective for some of the works of some currency and prominence in our profession.

Finally, most scholarship on Aristotle is very instrumental and technical - this or that technique or idea - ethos, pathos, logos, etc. I wanted to do something a bit less obvious.

- 2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.**

I was tenured when I published this so I didn't worry about such things. Really. But here is what I did:

- I did a presentation at an LWI conference where some other experts (Joe Williams) and others would likely be around (and were) to give comments and correctives.
 - I bought a couple of recent books on Aristotle's Rhetoric - collections of scholarly articles by others - to see what was being talked about in English, linguistics, and philosophy departments. I also read them.
 - I read everything I could find that had been published in the legal literature on Aristotle, on logic, on analogizing, on classical rhetoric, and on modern rhetoric. One cannot really do this for every subject - and I could not read all that there is on Aristotle - 1000s upon 1000s of articles in the past 100 years alone.
 - Read numerous bibliographies of works on Aristotle's Rhetoric and sought out a few promising-sounding articles from other disciplines.
- 3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.**

I put all the background work aside and went back to just The Rhetoric and wrote what I wanted to say. Then I went back to what I had researched and found where I properly should cite others for ideas. But since most of what I was saying was in some sense new or a new angle, there was very little in what I had found that had really addressed what I was saying.

I would write what I thought and what I recalled from memory. Then I would go back into the book and find exactly what Aristotle had said and clean up what I wrote.

This gave me a set of bits that needed to be assembled in some way. Assembly was quite a problem. There was no obvious organization other than the thread itself. This article was written and rewritten and rewritten many times to get a good organization.

Then I sent it to Scribes. Scribes has some special rules - like no explanatory footnotes. And has a special audience - not really academic per se, but judges, lawyers, and scholars. So this too require substantial reworking. This led to some bits of redundancy and guideposts that I just do not like aesthetically, but which make sense for the particular publication.

- 4. What advice would you give to a novice entering this field of research? Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.**

I was writing a practical piece. This makes a world of difference. I was not entering into dialogue with linguists or with rhetors from other fields. This is a very important point. I did not want to use the jargon from another field because I was talking to lawyers, not linguists or rhetoric theoreticians. I did not want to make the lawyers able to read linguistic literature or academic rhetoric literature. Indeed, I criticize Tony Amsterdam's book for making exactly this mistake. So the first advice is avoid becoming an apologist for the other discipline or a translator for it. Use its insights in the discourse language of your target audience, not the source of the ideas, unless of course, you want to enter into that discourse and publish it to that audience. Otherwise, be selective about the terms you port into the legal discourse.

I do not find the deep pieces useful. And I think the main purposes of writing in these areas—as in writing about learning theory—is to be helpful to teachers and practitioners. So that is quite a different sort of writing than other types. The challenge is not to be brilliant, the challenge is to take the brilliant ideas and make them accessible to others and to make them useful in day-to-day teaching and practice.

5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.

- Aristotle's Rhetoric, Kennedy translation.
- Anthony G. Amsterdam & Jerome Bruner, *Minding the Law* (Harv. U. Press 2000)
- Published bibliographies as part of anthologies from books in the area.

6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?

Be fearless. But wait until you are tenured to take on certain types of issues at certain institutions because they are harder for others to evaluate. And you will have more freedom to do just what you want.

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Article: *Paradigm Lost: Recapturing Classical Rhetoric to Validate Legal Reasoning*, 27 Vt. L. Rev. 483 (2003).

First, into which of the categories mentioned in our letter does most of your scholarship fall? If none of the categories fits, please describe your scholarship below:

Most of my work has been in 2a.

1. How did you "discover" the topic for this article?

I got interested in this subject as I searched for a taxonomy to use with my students to describe how lawyers reason and when they are reasoning effectively.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

I did a great deal of reading to educate myself in this area. Edward Corbett is a good place to start. I also read every article I could find on rhetoric and legal writing.

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

I think the important point here is to make sure you understand the subject matter very well before you begin to work with it. The usefulness of rhetoric to the teaching of legal writing is what's interesting; the subject itself has been written on exhaustively.

4. What advice would you give to a novice entering this field of research? Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

Again, make sure you understand the material and the scope of your work. The subject is broad and complicated.

5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.

Corbett is helpful for classical rhetoric. Toulmin is a good place to start for modern rhetoric.

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Articles: *Law as Rhetoric, Rhetoric as Argument*, 44 J. Leg. Educ. 108 (1993)

Linda M. Levine & Kurt M. Saunders, *Thinking Like a Rhetor*, 43 J. Leg. Educ. 108 (1993)

First, into which of the categories mentioned in our letter does most of your scholarship fall? If none of the categories fits, please describe your scholarship below:

At the time the two articles referenced in your letter were published, most of my scholarship fell into the categories of classical, contemporary rhetoric, and learning theory. Presently, all of my scholarship is based on legal theory and doctrine.

1. How did you "discover" the topic for this article?

At the time, I was teaching legal writing and legal methods and was interested in what other disciplines might have to offer in teaching writing, argument, and analysis. Due to its historical and cultural roots, I found rhetoric and law to be closely related and so it was logical to investigate what legal writing and argument might be able to borrow or reclaim from rhetorical theory.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

A friend who was finishing a Ph.D. in Rhetoric (who was my co-author for first of these articles) suggested several readings and sources. Afterwards, we had extensive conversations about the theories and devices suggested by classical and contemporary rhetoric, and I then began to consider applications to legal issues and law school teaching.

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

The articles were initially going to be a subpart of a larger study on “learning to think like a lawyer” (a quasi-empirical case study published separately in the U.S.F. L. Rev in 1994). However, it became clear that I had overestimated what could be done in the study and decided to “spin off” the rhetoric element as one or two separate articles. The process of writing these was definitely iterative, but I recall that preparing the justification for using rhetoric in teaching law and legal argument, followed by summarizing the basic devices and strategies of rhetorical theory, occurred before I devised specific examples that applied rhetoric to law. The justification, description, and application were the principal components of the articles.

**4. What advice would you give to a novice entering this field of research?
Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.**

The discipline of rhetoric is wide and has much to offer, so it may be tempting to try to do it all. The result may be a broad, scatter-shot piece of scholarship that may be of limited use to those seeking specific applications. The two articles I wrote discussed a particular set of theories or tools, but each of these could have been an article or two in itself. For a novice, getting a high-level understanding is a good starting point, but a narrow focus for research is probably the best way to go, particularly if the novice can use prior experience or knowledge of an area of law as a context for applying rhetorical devices.

5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.
 - Edward Corbett, Classical Rhetoric for the Modern Student
 - Stephen Toulmin, The Uses of Argument
 - Chaim Perelman & Louise Olbrechts-Tyteca, The New Rhetoric: A Treatise on Argumentation
 - Sonja K. Foss, Karen A. Foss, and Robert Trapp, eds., Contemporary Perspectives on Rhetoric
 - Aristotle, Rhetoric
 - James Boyd White, The Legal Imagination
 - James Boyd White, Heracles' Bow: Essays in the Rhetoric and Poetics of the Law
 - Irving Copi & Carl Cohen, Introduction to Logic
 - <http://www2.sjsu.edu/depts/itl/graphics/main.html>

6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?

Unless you are pursuing this area for pure knowledge, be sure that it fits within your overall research agenda or purpose, particularly if you are on a tenure track.

b. contemporary rhetoric and composition theory

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Article: *Writing Throughout the Curriculum: Why Law Schools Need It and How to Achieve It*, 76 Neb. L. Rev. 571 (1997)

1. How did you "discover" the topic for this article?

I discovered the topic for the article through my experiences teaching in and directing writing programs at DePaul University and Indiana University and through reflecting on those experiences in light of presentations on rhetoric given at the Legal Writing Institute.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

I had some background in learning theory, which helped me get started, but basically I began by reading everything I could get my hands on about legal writing. Handouts from Legal

Writing Institute sessions also provided some good starting places, particularly an article by Linda Flowers on the paradigm shift in teaching composition.

- 3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.**

The article began as “job talk” and focused on using writing as a tool for learning to read and synthesize legal authorities. Then I fleshed out the discussion to include writing program goals of teaching the tools-of-the-trade and of using writing to teach interpretation. At that point, I realized that what I was talking about was writing across the curriculum. After that, the article pretty much wrote itself (but it did require adult supervision).

- 4. What advice would you give to a novice entering this field of research?**
Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

Attend Legal Writing Institute conferences; stay current with literature in the field; and pay careful attention to your students and your colleagues (both in academia and in law practice). Notice what surprises or intrigues you; think about those things and about why they may matter.

- 5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.**

- Elizabeth Fajans & Mary R. Falk, *Scholarly Writing for Law Students* (2d ed. West 2000). This book (especially in chapter 2) provides many good ideas for getting started on an article.
- The bibliography of legal writing scholarship prepared by Linda Edwards, et al.
- Conferences of the Legal Writing Institute

- 6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?**

Finding a writing mentor to explain the odd world of legal scholarship and how to submit manuscripts to law reviews for publication.

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Article: *Building a Tower of Babel or Building a Discipline? Talking about Legal Writing*, 85 Marq. L. Rev. 887 (2002)

First, into which of the categories mentioned in our letter does most of your scholarship fall? If none of the categories fits, please describe your scholarship below:

The article is on the dangers and benefits of legal writing teachers creating a professional language as they teach legal writing. Part of the article briefly examines how various movements in rhetoric and composition theory have influenced legal writing language. I also use principles from rhetoric, namely that making language makes meaning, to argue that by creating a professional language (jargon) legal writing teachers create their discipline.

1. How did you "discover" the topic for this article?

This article grew out of the frustration two friends and I experienced when talking about legal writing. That incident led me to think about both the language we use to teach legal writing, and also about jargon in general. I think the real idea for the article came when I began to think beyond an automatic response that all “jargon” is bad.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

I started by reading and re-reading some of the legal writing articles that had most influenced me. That led me to realize that composition theory had influenced that language legal writing teachers were creating to teach legal writing. I read some of the authors cited by legal writing scholars. I also attended the Notre Dame Conference on legal discourse, and some of the presenters and materials from those programs helped me understand what I needed to read in both areas: composition theory and rhetoric. I followed up on footnotes and bibliographies from those presentations.

I also did a good deal of plain old library research on composition theory, linguistics, and jargon.

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

- I sit at my computer every day and don't let myself get up for at least four hours It doesn't matter if I'm writing or not; I make myself sit there regardless.
- I start with the barest one page outline (really one paragraph outline)
- I begin by writing the introduction
- I move to writing whatever section looks easiest.
- I write until I have a good sized partial draft.
- I decide the whole thing sucks and decide to quit.

- I eat some chocolate. I write a little more.
 - I send drafts to one or two friends for edits.
 - I do some more reading where I think the article feels weak.
 - I incorporate the edits from friends and finish a “full” draft.
 - I decide the whole idea is completely terrible and decide to quit.
 - I rewrite and edit it many times myself, and I get more comments from my friends.
 - My ideas and thesis change many times.....the writing process shapes my thinking. I think about that a lot, because it is part of what I was writing about.
 - I rewrite my introduction many, many times. It still isn’t right, but oh well.
 - I wake up in the middle of the night, terrified that someone will publish it and everyone will read it and see how bad it is. I wake up the next night, depressed because I know no one will publish it and no one will read it.
 - I get so sick of it that I don’t care if people read it or don’t read it, I just want to be finished with it.
 - I write the introduction one more time. I think of other articles I want to write.
 - Finally, even though I know it could be much, much better, I let it go. I send it out for publication.
- 4. What advice would you give to a novice entering this field of research?**
Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

Read all the legal writing scholarship in the area — and all the legal writing scholarship period.

Read significant authors from rhetoric or composition theory in the original. If you don’t have time for whole books, read smaller pieces or contributions to compilations.

Never read without taking notes.

Don’t let yourself be overwhelmed by how much you don’t know. You have to write before you know and understand it all. Leave some things for the next article.

- 5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.**

Read everything by Tony Amsterdam and James Boyd White and Joe Williams.

Again: read all the legal writing scholarship.

In legal writing, these authors, among many others, have been very helpful in this area: Teresa Phelps, Linda Berger, Jesse Gearson, Elizabeth Fajans and Mary R. Falk, Phillip Kissam, Laurel Oates and Nancy Soonpa. I’m sure I’m leaving out important authors, and I apologize.

Michael Frost has done some very interesting work on rhetoric.

In composition theory: Linda Flower, Patricia Bizzell, Janet Emig.

If you are a part of a university, contact the rhetoric and composition departments and take people there to lunch. Make friends. Talk.

6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?

Most important: in legal writing make friends like Linda Berger and Linda Edwards and Mary Beth Beazley who care about writing. Skip sessions at conferences so you can talk to them about their work and your work. Send emails. When really desperate, call them. If you want to, call me.

c. linguistics/language studies

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Article: Elizabeth Fajans & Mary Falk, *Linguistics and the Composition of Legal Documents: Border Crossing*, 22 Legal Studies F. 697 (1998).

1. How did you "discover" the topic for this article?

I have a colleague, Larry Solan, who has a linguistics degree as well as a law degree. He interested me in the topic. Larry writes about linguistics and statutory interpretation (especially about the difficulties in asserting statutes have a plain meaning), but I teach writing and was interested in what lessons linguistics has for a writing teacher. Mollie and I felt there were two. First, linguistics could help us to create documents that communicate with clarity. Second, it could help us to understand our limits the slipperiness of language and the inevitability of ambiguity.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

This was a while ago so I'm a bit hazy about the process I followed. I had no background in linguistics so Mollie and I began by reading two introduction to linguistic textbooks recommended by Larry. It was pretty hard going as linguistics has a highly specialized vocabulary. A teacher would have been wonderful. Then I read some of the classic articles in the field, some of which were recommended to me by people with knowledge of the field and some of which were in the bibliographies and footnotes in articles I was reading. Then I searched for articles already on linguistics and composition.

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

This was a collaborative piece so we divided up the article. I basically wrote the background section on linguistics and Mollie focused on its applications to legal writing. Linguistics has 5 basic areas of study, but two (phonology and morphology) didn't seem relevant, so I focused and organized around the three relevant areas, syntactics, semantics and pragmatics. Mollie decided there was more written on linguistics and statutes (drafting) so she decided to focus on linguistics and its lessons for persuasive writing, focusing on two particular linguistics notions implicature and speech acts and how they could be used in persuasive writing.

- 4. What advice would you give to a novice entering this field of research?**
Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

Linguistics is a hard field for a novice, as I said above. I think a course would really be helpful and I wish I had audited a class! Absent that, you must be modest about your claims since there is a wide margin for error.

- 5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.**

See the bibliography in footnotes 9 and 35 of the article, as well as the symposium in 73 Wash. U. L. Q., H.P. Grice, Logic and Conversation in 3 Syntax and Semantics, and J.L. Austin, How to Do Things with Words, also in 3 Syntax and Semantics. Larry was our people source.

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Article: *Doctrine of the Last Antecedent: The Mystifying Morass of Ambiguous Modifiers*, 2 Leg. Writing 81 (1996).

- 1. How did you "discover" the topic for this article?**

I was a consultant on a case involving a disputed clause in a contract and had to prepare my answer.

- 2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.**

Oddly, I have experience in rhetoric and composition. What I do not have is experience in the law. So reading the cases cited by different legal commentators drove me crazy. Luckily,

I had a series of really smart research assistants who would de-code the case, and then the rest was easy for me (especially the diagramming!).

- 3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.**

I began with my problem sentence. In the larger field of composition studies, this ambiguity has a name, a cause, and varying solutions for resolution. But almost immediately I discovered that the ambiguity had been worked over by a legal draftsman, re-titled, and re-applied (incorrectly). So that was fun--me versus 100 years of legal reasoning. I looked at all the cases that referenced his term (Doctrine of the Last Antecedent) and all the cases referenced within them.

For the article I limited my analysis to those (few) cases I could even understand. But they were enough, I think. I came up with something that others scholars have called ‘seminal’ and ‘groundbreaking’.

- 4. What advice would you give to a novice entering this field of research? Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.**

Since my scholarship is reverse of those legally trained, I’m not sure what to say. If something about the language of a case or a statute puzzles you, it puzzles others. Investigate it. See what authorities say. Trace their references. Think. Play. Then set down to work. (It doesn’t hurt to employ smart student researchers, either.)

- 5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.**

For a question about syntax, start with Corbett, Kinneavy, and Zinsser. Explore by diagramming (someone in the Rhetoric Dept. might help.) I suppose the net grammar pages could help, but probably you need to know what is wrong before you can use those sources to help resolve the mystery. Once you have a fair idea of the traditional takes on the problem, then switch to the legal commentators.

- 6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?**

To use semantics or linguistics, you need background. Don’t try to learn the whole field while analyzing law. Take a summer course; hire an under-paid English teaching assistant, etc. Mostly, though, I’d advise beginners to find the question that excites them, and to follow it through.

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Articles: Jill Ramsfield, *Is "Logic" Culturally Based? A Contrasting, International Approach to the U.S. Law Classroom*, 47 J. Legal Educ. 157 (1997)

[Christopher Rideout & Jill J. Ramsfield, *Legal Writing: A Revised View*, 69 Wash. L. Rev. 35 (1994)]

1. How did you "discover" the topic for this article?

In the [A Revised View article], Chris provided the framework about questions that had bothered me since I began law school. The "view" of legal writing was uninformed and was causing a great deal of poor education and prejudice.

In the [Logic article], I recognized in the work of my ESL student patterns that were beyond grammar, so sought the help of linguists on our main campus, most notably Dr. David Harris, one of the original authors of TOEFL.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

Oh, dear. I just started reading. My path is usually quite traditional: reading definitive articles or interesting articles and following their paths backward and forward. Interdisciplinary research is just like legal research, with good ideas cited and explored by subsequent authors. I just kept reading and taking notes until the research circle was complete. Of course, Chris offered quite a bit of guidance on the first paper.

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

Chris and I talked, wrote an outline, discussed and revised the outline, read, revised the outline, then split up some of the writing. Some we wrote together, as I recall. The second article was a typical exploration for me: a good outline, discussed with Dave and others, then written. Then 23 drafts before the final, the 19th of which was a complete inversion of the original outline.

4. What advice would you give to a novice entering this field of research? Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

Be patient, persistent, and persnickety. Take careful notes. Follow your instincts, and insist on getting it right, no matter how many drafts it takes.

5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you

recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.

I'm not much help on this. I like the Fajans and Falk book and articles. But most of my research and writing ability comes from undergraduate school and a lifelong insistence on getting to the bottom of things. I certainly don't always accomplish that, but I try!

6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?

You have something to say! And we have so many areas that need something said about them. Look beyond your day-to-day teaching to ask why. Why do students learn like this? Why do they not retain or transfer things? Why do they almost universally feel straight jacketed by the way we teach LRW? Why is the writing not getting any better? Why is good performance so hard in this field? So much to learn. But (I believe) we need to learn it from those who have studied this before, not make it up as we go. This means composition theory, rhetoric, linguistics--all transferred and applied to our field. Go for it!

d. creative writing

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Article: Brian J. Foley & Ruth Anne Robbins, *Fiction 101: A Primer for Lawyers on How to Use Fiction Writing Techniques to Write Persuasive Facts Sections*, 32 Rutgers L.J. 459 (2001).

First, into which of the categories mentioned in our letter does most of your scholarship fall? If none of the categories fits, please describe your scholarship below:

I think that you probably categorized it correctly as "creative writing." It might also belong with "narrative/literary theory" but you can make the call there because I am not sure how broadly you are defining that category.

1. How did you "discover" the topic for this article?

Brian and I had several conversations over many months in which we both expressed frustration about the short shrift being given to facts sections in legal writing -- both in the literature and in our uniform syllabi for the 1L writing program. At the same time we developed an upper level writing course (Advanced Brief Writing) and decided to devote approximately one third of the classes to facts -- something like 8 hours of in-class time plus conferences. Brian, who is writing a novel and who has studied a lot of creative writing, came up with the idea to import some of the creative writing principles into one of the classes, so he started with the theories and I worked on the "and now let's turn back to legal writing" concepts. We turned that into an LWI presentation and began work on an article that was not yet completed before the conference. Our presentation was so well received and we received such positive encouragement (most notably from Linda Edwards!) that we

reworked and expanded the article.

2. **If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.**

For the Fiction Article:

Brian had background in the area since he does creative writing and owns lots of "how to" books. I don't have that same kind of background but have taught it to myself and continue to teach it to myself. We spent a lot of time doing research in more traditional legal ways because we were so mystified that there was nothing else out there saying what we were saying. We also asked a trusted librarian to help us. I am a big believer in that one. In fact, I have spent so much time working with one librarian in particular that she decided legal writing sounded really good to her and now she teaches it at Widener. I am really really really missing her right now although of course I am glad that she joined the legal writing ranks.

Also:

I am going to answer some of this question using my processes for other legal writing articles I have written or are working on (the Visual Rhetoric article and the new Clients as Heroes article) because in each I had to teach myself how to research outside of law. I started by going to the library and poking around to see the scope of what I wanted to deal with. So first the books, then the articles. When I realized that I was in some huge new area I enlisted the aid of a very good librarian and she and I tackled the new research areas together. I learned quite a lot about other disciplinary databases such as ERIC and PSYCHInfo and that sort of thing. I also did some web based research and then verified those sites and double-verified the credibility of those sites. I also asked others who were more experienced in that research field. I have to say that especially with learning theory, there is soooooo much out there that someone could get easily lost unless they have the guidance of an expert.

3. **How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.**

First, you have to understand that Brian and I were doing a lot of projects together that summer. We designed and truly co-taught the first upper level writing course at Rutgers Camden. We were also doing consulting at law firms in Philly. And we were working on this article. It was a fabulous and exhausting summer (and oh yeah, I was pregnant and due in mid-September). But all of our projects really dovetailed and ultimately culminated with this article. We started it as a class lecture/LWI presentation, which means that we had some notes and then moved it into prose and tossed it back and forth for commenting/filling in. Writing that article as a duo was a really great way to get going because we motivated each other and because we complemented each other very well. At the time Brian was more of the Idea Man and I was more of the Implementation Woman. Those roles aren't rigid but I think that is how this particular article was written. He can really buckle down and do some "serious" toned work whereas I am more likely to have my work reflect my personality in terms of injecting some humor etc. We didn't do a lot of that in the article although if you saw our talk in Seattle that year you might have guessed it was the other way around -- Brian can be hysterically funny whereas I am more of a straight man.

To really get the article finished -- and I completely agree that writing is a recursive process, we holed up in my house one or two days in late August and really worked on it. We were facing a Labor Day deadline for the J. Leg. Writ. submission, and we assumed that it was going to be published there because who else would want an article about legal writing? Also, I was 2 weeks away from giving birth so we had that deadline as well. OK -- I have to tell a funny story here. We worked on the article very jointly but there were times when he would edit and then I would edit, so we each would have some down time. And as I said, we were holed up in my house (another legal writing person came to hang out with us and my house is one of those places where people come and go so it wasn't completely isolated but it was still isolated enough). Brian decided to completely play the role of "I can't get anything else done in my life while we work on this" and so had mounds of laundry, which he brought to my house to do. At one point I ended up moving a load from washer or dryer or dryer to basket or something like that and was joking around to him and everyone else "barefoot, pregnant, supervising attorney of the Rutgers Domestic Violence Project and doing my collaborator's wash." I am not sure if that is the way one is supposed to write a law review article but hey, it worked for us.

Some of the work was distinctive to legal writing because we really needed to think about our target audience -- we had the choice of a) attorneys b) legal writing professors or c) doctrinal professors. We deliberately chose a) attorneys, as we decided this would actually be the broadest base since legal writing professors could also appreciate it. We also felt some legal writing distinctiveness because we had no idea whether any journal other than J. Leg. Writ. would be interested, and so we felt bound by the deadlines that journal set out. We didn't really believe that a student-run journal would have the guts to publish an article about legal writing, no matter how relevant we thought the article might be.

Our dean knew about the article (I don't remember whether he actually read a draft but he certainly talked to Brian and me in some depth) and advised both of us to try for the J. Leg. Educ. but that journal does not allow multiple submissions, and we were afraid that if we tried and failed for the J. Leg. Educ. we would also be foreclosed from the J. Leg. Writ. So we gambled on the latter. Ultimately, I handed it to two of my former TAs to spade prior to submission and one of them was the managing editor of the Rutgers L.J. who saw it as something that they wanted to keep for themselves, so they basically approached us. (By the way, one great perk to being in legal writing -- your best law students will do you the favor of bluebooking the articles, no problem). We sent out the article to a few other journal but ultimately decided to go with the RLJ. The J. Leg. Writ. was not available online at the time, and that worried us. Much as we support the LWI, I think that we made the right choice. And since we were approached twice for reprinting permission, I think we did right by legal writing as well.

**4. What advice would you give to a novice entering this field of research?
Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.**

Start out slow if you need to. LWI people are very understanding and will support you. They won't ridicule you, promise! Publish in the Second Draft or Perspectives to get your feet wet. Then move on. Have a sense of it "In year 1 I will learn the literature out there and maybe write a Second Draft article. In year 2 I will present somewhere and write a Perspectives article. In year 3 I will publish the first law review article" or whatever. I would advise them to find a mentor in legal writing and use that mentor for encouragement and for fruitful discussions. I could not have written that article without Brian (and I hope he would say the same!) and I am not sure if we would have gone ahead but for the reception we received at

that 2000 LWI conference or the enthusiasm that Linda Edwards showed us. Moreover, not to be overly sentimental, but I don't think that I would necessarily have felt as positively about my subsequent work without Michael being there to support me. Although our dean was very encouraging, I don't think that he could really give us the in-depth feedback that we needed. So I think that novices should find people within legal writing -- someone whose work they admire -- and reach out to them.

I think that one of the reasons why my articles get written is that I ultimately narrow them down pretty far and also because I target them towards attorneys rather than towards other professors (other professors might read them anyway but not the other way around). An article about writing stories in facts sections? An article about persuading through fonts? An article about incorporating hero archetypes into character development? Those are pretty narrow and are directly relevant to the practicing attorney. Focusing in that way is more manageable, however. And that probably means better researched and more credible.

As a corollary, I would also advise novices to try and move away from the pedagogy articles at least at first. Educational theory is a huge field and there are a lot of different camps with a lot of potentially-conflicting research-- bewildering to the person not schooled in that field. I am not saying that we shouldn't study pedagogy, I just think it is probably too easy to get mired down and discouraged if it is the first thing that novices try to research. Just researching the theories on "do headings really aid comprehension?" took me weeks when I was doing work on the Visual Rhetoric article -- and I already knew the answer! I think that legal writing has so many things that people can write about. We don't have to "teach legal writing but write about tort reform" or the like -- that doesn't really help us. Or attorneys. Finally, here is my advice: we don't need one more legal writing textbook aimed at the 1L student. I try to get my hands on every one that I know of -- and there are way more than are necessary. If you want to write a textbook, write an upper level course book.

5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.

Have a sense of who in legal writing has published what. There are maybe 20-30 "major articles" in legal writing other than those discussing status. (OK, call me a jerk for saying that). Know those articles. Who wrote them? Why are they so good? Same thing with the many legal writing textbooks. What do the books say about your topic? Anything? Reach out to those authors as well. They may also know of articles you missed. After that, get to know your librarians and forge an alliance. A good librarian will be one of the most invaluable assets you have with respect to scholarship. And have that librarian retrain you (yes, really!) about generalized research, not just legal research. Know your university library system.

Are you really asking me to give you my "best of" list?? I don't think that you are truly a legal writing professional if you don't have a working knowledge of Edwards, Neumann and Calleros books. I also think that everyone should know about Terrill Pollman's "Babel Tower" article and Ellie Margolis's two articles about Brandeis Briefing and Policy/Equity arguments. If you are studying educational theory you should know Linda Berger's and M.H. Sam Jacobson's works. You should also know about Jane Kent Gionfriddo's quintessential "fruit in the basket" exercise and you should know why it works so well as an ice breaker the first week of class. As an upper level writing person you should know Mary Beth Beazley (really you should know her before you are an upper level writing person) on Appellate Advocacy and Michael Smith and Ray/Ramsfield materials. After that, it is all a matter of

preferences. Oh wait -- you should also know about that Fiction 101 article.

6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?

In the words of Nike (which channels the warrior hero archetype): "Just do it." Also -- remember how many law journals there are. And finally -- if you are not sure if you have an article in you, set a deadline for yourself, like an LWI conference (i.e. you have to present). Just as our students won't make fools of themselves in oral argument, forcing yourself to present will often crystallize the idea for you and get you started down the path.

e. narrative or literary theory

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Article: *The Convergence of Analogical and Dialectic Imaginations in Legal Discourse*, 20 Leg. Stud. Forum 7 (1996)

First, into which of the categories mentioned in our letter does most of your scholarship fall? If none of the categories fits, please describe your scholarship below:

I'm not sure how to describe my scholarship using the three categories, so here's the info and you can put it wherever seems best. My scholarship (not counting short pieces or newsletter articles) includes:

- the narrative theory article (*Convergence*)
- 2 LW texts & the subsequent editions of those books
- 1 text on estates and future interests
- 2 articles about scholarship
- 2 articles about employment discrimination
- 1 article on legal ethics

1. How did you "discover" the topic for this article?

One year, the AALS Section program was on the topic of how narrative relates to legal writing. I was really looking forward to the program because I had wanted to understand that relationship for a long time. The program was good in many respects, but it didn't answer my questions. Narrative seemed to me to be very different from the main kinds of legal reasoning we teach our students. We mostly teach them to articulate some kind of legal authority or principle (speaking broadly) and explain how it applies to their client's facts. For several years I had heard some criticism of our emphasis on this structure and process as compared to a less structured and more narrative approach. The critics were people whose opinion I respected, so I had to take the critique seriously. And the critique resonated with some of my own experience. From my years as a practicing

lawyer, I knew that in real life, rules, cases, and policies seemed to matter less than we in the academy often admit. Judges were far more influenced by the facts of the case than law school would suggest.

Most of me remained convinced that the argument section of a brief should be structured according to a rule of law and should rely heavily on the language of the rule, on analogies, and on policy. But I worried that I was misleading my students and teaching them to write lifeless, ultimately ineffective briefs. I wanted to understand how narrative relates to these other forms of analysis and persuasion and whether and how they could work together in the argument section of a brief. Since the program didn't answer that question and since I couldn't find any articles or books that did either, I decided to try to figure it out myself.

2. **If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.**

I had very little background in the field. Because I had been wondering about the question for several years, I had been casually collecting sources on narrative with the hope that one day I'd actually read them. So I started by reading what I had already collected and then reading some of the sources most often cited by those pieces. I did do some additional research on my own, but I concentrated primarily on the works already cited most often in the ongoing scholarly conversation since that was the conversation I was hoping to join.

Because I wanted to compare narrative to these other forms of analysis, I found that I also had to research those forms (use of rules, analogies, and policies). But that research was so broad as to be nearly impossible to do comprehensively, so I concentrated first on books rather than on law review articles. Sometimes the books would cite to articles about rules, analogies, and the use of policy, and I would read those. Then I looked myself for articles with those words in the title. I knew that probably there were other useful articles less directly on point, but if I tried to find all those, I would never finish reading.

Also, I talked to a couple of people in related disciplines who had a broader literary knowledge than I did, and they were able to give me some cites from their own disciplines. These cites seemed to be unknown to the legal scholars who had been writing in the field, yet they seemed to offer some relevant insights. I did a little reading of some of the sources cited in these related disciplines too, but I didn't want to go too far afield so I didn't spend too much time on reading that might not be very productive.

At that point, I stopped researching and reading, and started writing. Of course there would be articles I missed, but if I tried to find everything written on such a broad subject, I'd never have gotten around to writing. By getting into the ongoing conversation and reading what everyone else was citing, I felt pretty sure that I had found the major works. Also, thanks mostly to the people I talked to, I would also have some unusual sources from related disciplines to add to the conversation.

3. **How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to**

anything distinctive about your writing process because the article was in this particular field.

I did a detailed outline. Since the article was going to explore the relationship between narrative and other kinds of analysis, I found that I had to define and explain the other kinds of analysis early in the article. I identified each (rule-based, analogical, and policy-based) and used a textual analysis of a case to show examples of narrative and of each other kind of analysis. After the kinds of analysis were set out and demonstrated, I could explore the roles narrative plays within each and come to some conclusions about the relationship. Most of the content was created as I wrote. For much of the piece, I didn't know what I was going to say about the relationships until I worked it out by writing it. So I used the writing process itself as a way to work out the answers to my questions and to create the content of the piece. I asked a couple of smart, knowledgeable people to read drafts, and their feedback was very helpful. They were also able to give me some literary references I didn't know about or hadn't remembered.

**4. What advice would you give to a novice entering this field of research?
Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.**

(A) Because the sources in this area can be overwhelming, it can be tempting to keep reading and researching and never feel ready to write. At some point, you have to stop gathering information and start writing. That is frightening, but it's necessary.

(B) I had a hard time with the voice of the article. I had just finished writing a text, so I was used to using the voice of a teacher talking to law students. But for this piece, I was talking to legal scholars, some of whom were (are) quite erudite and who converse at a very high level of abstraction. It was hard for me to know how to talk in that conversation. To this day, I'm not sure I achieved a decent voice. I can't tell myself, and I've received drastically conflicting feedback from others. Maybe next time I write in the area, I'll be able to do better.

5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.

Robert M. Cover, *Nomos and Narrative*, 97 Harv. L. Rev. 4 (1983)

Narrative and the Legal Discourse: A Reader in Storytelling and the Law, David R Papke, ed., 1991)

Kathryn Abrams, *Hearing the Call of Stories*, 79 Cal. L. Rev. 971 (1991)

James Boyd White, The Legal Imagination (abridged ed. Univ. Chicago Press 1985) or Heracles' Bow: Essays on the Rhetoric and Poetics of the Law (1985)

Robin West, Narrative, Authority, and Law (1993)

Kim Lane Schepppele, *Narrative Resistance and the Struggle for Stories*, 20 Legal Stud. F. 83 (1996).

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Article: *Literary Formalism, Legal Formalism*, 10 Cardozo L. Rev. 1393 (1998).

First, into which of the categories mentioned in our letter does most of your scholarship fall? If none of the categories fits, please describe your scholarship below:

2(e). Specifically, literary and art theory/history and intellectual property law. Most interested in authorship and personality and their relationship to copyright doctrine. The article you asked me about somewhat predates my current interests.

1. How did you "discover" the topic for this article?

It goes back to my first semester of law school. In graduate school, "formalism" had been taught as a good thing, or at least as a very valid approach to literary interpretation. In law school, I was surprised that formalism was addressed as a necessary evil, at best -- a way for judges to avoid the social consequences of their legal decisions. I always wondered whether the literary critics and the lawyers were talking about the same thing when they referred to "formalism."

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

In my Ph.D. program, there was an unusual constellation of professors who had been trained in the "Chicago school" of literary criticism, which was a "neo-Aristotelian" approach that competed with the better known "New Haven" or "New Critical" school. Both are formalistic modes of interpretation, and I was obliged to give some thought to the differences between them. In law school, formalism is much easier to grasp -- unavoidable, for example, in statutory construction.

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

The article was actually the spin-off from another project. I was using some doctrinal examples from a series of cases that deal with the right of publicity -- specifically, rights to celebrity photographs. A friend suggested to me that I focus on the legal aspects of the project, and downplay the theoretical. The project that emerged worked out well, and I was able to do some interesting things with the form/substance distinction in portrayals of personality. [Stolen Photographs: Personality, Publicity and Privacy, 75 Tex. L. Rev 779 (1997).]

The formalism piece, which I put together from the left-over pieces, was crystallized by an article in the sports section of the S.F. Chronicle with commentary from NFL coaches and league officials about the "instant replay rule." It occurred to me that this was a good illustration of the conflict between formalism and instrumentalism in the application of rules. There was also a comparable discussion by H.L.A. Hart in *The Concept of Law* where he used a hypothetical game called "scorer's discretion" to illustrate how the players would respond to a game where there could be no scoring error because "the score is whatever the referee says it is." The question is whether the practice of NFL football is better served by a scoring rule that guarantees formally correct (but meaningless) calls or by a scoring rule that speeds up the pace of play and accepts scoring error as part of the game. In other words, how should we resolve the possible conflict between the purpose of a practice and the correct application of the rules that constitute the practice?

4. What advice would you give to a novice entering this field of research?

Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

I don't think this is a good area to get into unless you have some idea in advance of what you want to accomplish. It really doesn't fit very well into the genre of the law review article and doesn't give rise to any suggestions for law reform, which makes it difficult for many law professors to understand. It's also difficult to fit legal examples to theoretical speculations (which is why I resorted to NFL football).

Another big question here is whether you're able to read primary source materials in another discipline. The project is not going to be very credible if your understanding of the interdisciplinary materials is based primarily or solely on second-hand accounts of sources.

There are also the problems of falling into lit-crit or sociological jargon as well as the problem of pointless name-dropping -- (professor X says this ... professor Y says that ...) It's tough to deal with legal doctrine and concepts from another discipline, blend these into a medium that doesn't fit the pattern of a law review article, and hold on to your own original insights and ideas.

5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.

On legal formalism? I'd recommend Thomas Grey's article, "Langdell's Orthodoxy" (in the Pittsburgh Law Review, don't have the cite). "The Problems of Jurisprudence" by Richard Posner (Harvard 1990) explains the relationship between formalism and pragmatism very well. I also like Kenneth Vandervelde's "Thinking Like a Lawyer" (Westview 1996) as an introduction to formalistic reasoning and policy reasoning.

Guyora Binder and Robert Weisberg, Literary Criticisms of Law (Princeton Univ. Press 2000). ... the best source for anyone who wants to begin thinking about literary/narrative theory and legal scholarship. The book has separate chapters on hermeneutic criticism, narrative criticism, rhetorical criticism, deconstructive criticism, and cultural criticism. Any of these sections, which can be read separately, would provide a good starting point or refresher course for the novice or the non-novice.

6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?

Don't be hesitant to cut big pieces out of the paper if you find that you're changing directions in midstream. The writing process is also a thought process and may take you to unexpected places.

f. critical theory

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Article: *Transcending Legacies of Literacy and Transforming the Traditional Repertoire: Critical Discourse Strategies for Practice*, 23 Wm. Mitchell L. Rev. 491 (1997).

First, into which of the categories mentioned in our letter does most of your scholarship fall? If none of the categories fits, please describe your scholarship below:

Most of my scholarship falls into cognitive science and learning theory, some empirical, modern rhetoric/composition (including narrative), ethics, and then as you note critical theory. I am currently writing much more about access to medicines re the AIDS pandemic which is interdisciplinary but not in the categories you've listed.

1. How did you "discover" the topic for this article?

I discovered this topic out of literature on discourse communities and novices' acculturation to new discourse communities and out of critical theory and its questioning approach to conventions of practice.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

At the time I wrote the article, I had read a lot of composition theory and social practice theory, both of which focus on communities of practice/discourse communities. I had also read widely for some earlier publishing in cognitive science and particularly reports concerning the acculturation of novices, which I likened to teaching law students. Part of the cognitive science research focused on the ubiquity of stereotypes and I knew that legal advocacy often played on these stereotypes consciously or unconsciously. Although these disciplines had prepared me to understand how students were assimilated to prevailing discourse conventions, they provided little in the way of understanding how novices (or experts) might challenge and rethink the conventional, including the widespread practice of appealing to bias in decisionmakers.

In this regard, I had for a long time been reading critical theory and especially that written by clinicians. That literature focused on critical race theory and critical feminism, for example, but it often was more oriented to practice than some of the other critical legal studies literature. During this same time period, I was also involved in a critical race theory study group.

Thus, I don't think that I so much that my article necessitated a new area of research for me as it permitted me to meld disparate strands that I had been interested in for some time. I was therefore more a process of synthesis than exploration, though some of my earlier research certainly had required extensive research into areas that were brand new to me, e.g., cognitive science and social psychology in particular.

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

My writing process first depended on taking very good research notes, which often consisted of direct quotes for sources on particular topics around which I built my own analysis and synthesis. Often, these quotes would become footnotes rather than remain in text, but collecting them carefully was both a way to provoke thinking and a way to acknowledge my sources.

My actual process of writing involved multiple revisions on earlier sections even as I was adding new content. This process was highly recursive because of course my understanding, even of earlier material, was changed by my additional writing and thinking. In addition to revising earlier content through near constant revision, I would also read as a reader to discover gaps, inconsistencies, and incoherence in my text. That would frequently require more large-scale revision and occasionally new research to tie something down.

Although I don't necessarily recommend this practice for everyone, I did not rely on research assistants because I wanted to read, analyze, summarize, and synthesize the material on my own. Moreover, I tended not to share early drafts with colleagues though I did present my paper in advanced draft form in a faculty colloquium. Again, I don't think that this solitary approach is necessarily desirable, but if the writer is a person who can maintain a good internal dialogue and if the writer can maintain a critical or questioning pose toward his or her own work, I think writing largely by yourself can be productive.

4. What advice would you give to a novice entering this field of research?
Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

I think if you want to write something that has a critical edge then you have to be critical even about the critical framework(s) you have chosen. In particular, critical theory has been justly criticized, in my view, for not being sufficiently focused on practice and on structural issues in the global economy and in social relations. For a period of time, the turn to criticism was subsumed in deconstructionism and identity-group politics, which, in my mind, frequently underplayed real features of structural violence for an analysis of the violence of language or of interpersonal affront.

Another way of expressing my concern is that any discipline, including critique, can be subject to fads and those fads must be questioned rather than relished.

5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.

Yikes, this question is too broad for me. There is such a wealth and variety of critical literature that it is very hard to pick a few. However, there are good published bibliographies on critical feminism and critical race theory and queer theory that I would look at if I were going to write from that perspective. Another way to proceed is to find an author whose scholarship you admire in your intended field and start looking at those sources.

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Articles: *Feminist Legal Writing*, 39 San Diego L. Rev. 387 (2002)

Resistance is Futile: How Legal Writing Pedagogy Contributes to the Law's Marginalization of Outsider Voices, 103 Dick. L. Rev. 7 (1998).

First, into which of the categories mentioned in our letter does most of your scholarship fall? If none of the categories fits, please describe your scholarship below:

Unfortunately, I am all over the map. All of it is critical/feminist, but otherwise, it falls into many categories. Doctrinal, linguistic/rhetoric, political/lrw politics.

1. How did you “discover” the topic for this article?

Resistance was a response to my experience teaching LRW at a diverse institution.

FLW started as a review of MacKinnon's writing and broadened as I noticed that many feminist theorists used unusual rhetorical and linguistic devices. I had read all the feminist theory because I teach a class in it, and noticed the different language/rhetoric.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

I did have background. But I basically (i) went to the library and took out lots of books on e.g. linguistics and rhetoric and (ii) asked people who wrote on these topics what I should read (you were one Mike!). I read a LOT.

- 3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.**

Basically, I start by writing a review of the literature I read. I pick a framework for the piece. I decide on a thesis. I write the intro, then an outline. I write the descriptive part of the piece, either the framework (i.e., what is conventional rhetoric) or the work that is related that has come before mine. Then I write the "original" part, my analysis. I read and write off and on. As I write, I often learn I need to read more. The more I read, the easier the writing is. I like to write surrounded by materials.

- 4. What advice would you give to a novice entering this field of research?**
Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

Read some of the classics of critical theory -- text books, course books. Go online to see what people assign in their critical or feminist theory courses.

h. industrial/graphic design

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Article: *Painting with Print: Incorporating concepts of typographic and layout design into the text of legal writing documents*, 2. J. ALWD 108 (forthcoming 2004)

First, into which of the categories mentioned in our letter does most of your scholarship fall? If none of the categories fits, please describe your scholarship below:

I think that it certainly belongs with graphic design but I also like to think that it incorporates some classical rhetoric (as indeed the Fiction 101 article does as well). An article based solely on graphic design would not necessarily have implications for legal writing, would it?

1. How did you "discover" the topic for this article?

This story is going to prove my adage "Life is a Legal Writing Exercise." I meandered and back-doored into the article through a series of silly circumstances until it became blaringly obvious "this is a law review article." First, the mundane: Once upon a CLE presentation I created a document "Visual Effects that enhance or detract from your document" and I drew upon only my instincts, but I knew that I was lacking in the citation department. Nevertheless, the document has proved useful and has served me well (I still distribute a version of it to my students). I am not sure if I am a "visual learner" so much as I am visually oriented, i.e. I "pay attention to visuals." I always thought "I need to find the support for

these truisms" and had a few pop-culture books about graphic design, but none of them cited any research, just conclusions.

Anyway, fast forward a year or so. I received a phone call from a friend in practice, complaining that his appellate brief had been bounced because it was not in Courier font. I read the court rule in NJ and was horrified -- thus starting a letter writing exchange with the presiding judge of the rules committee suggesting a change to the rule. She was completely immune to my arguments and declared "Courier is a perfectly good font" etc. etc. So I gritted my teeth and started researching exactly why she was wrong (as any good academic would do). You will note that my article is dedicated to that rules committee.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

During the time I was involved with "that stupid rules committee" campaign, my TA/RA was reading People Magazine one day (another lesson to be learned right there) when she ran across a "Dear Etiquette Advisor" column concerning the use of allcaps in emails. The column mentioned a study done in the 30's about the use of allcaps (no author or cite given). We emailed People Magazine and got back the answer "here is the name of the study, we couldn't find a copy of it." Within 10 minutes we discovered that Rutgers U. Libraries had about 7 copies of the study and suddenly that area of educational psychology opened up to me. I do have an undergrad degree in biology, so scientific articles don't frighten me until I start reading them. But hence began "the font project" in earnest. I was blessed with that research assistant -- she is still seriously considering library school -- and we embarked on learning interdisciplinary research techniques. We each spent a lot of time in the undergrad library at Rutgers. I also had the invaluable assistance of the librarian who is now at Widener teaching legal writing (oh how I selfishly rue my cavalier and contagious "legal writing is wonderful!" attitude) and she helped me learn a lot about the other databases such as ERIC and PSYCHInfo and that sort of thing. So much of my research was done in journals such as "Journal of Educational Psychology" and that sort of thing.

I also did some web based research and then verified those sites and double-verified the credibility of those sites. I also asked others who were more experienced in that research field. I needed to parse some of the research on print media from web-based media, and that took a little bit of education and a lot of time. Finally, believe it or not, sometimes I did research on Amazon and then pulled the books from the Rutgers libraries. The official and unofficial reviews were helpful to me in sifting through a lot of the theory versus junk stuff. If a book was too good to give back to the library (and sometimes when the library did not have it) I bought the book with my small-but-existent research budget. The best pop-culture books had cites and lengthy "for additional reading" bibliographies. I have also not been shy about emailing authors when I had questions.

I have to say that especially with learning theory, there is soooooo much out there that someone could get easily lost unless they have the guidance of an expert. One other thing that I learned: there are a lot of people out there who won't go looking for the primary sources but will just trust that the primary sources a) even exist and b) actually say what the writer thinks they say. My science degree served me well in that respect -- I have been trained to never trust the research unless I see the original study. I spent quite a lot of time with the verification process. The only exception I allowed myself was when the researcher

himself compiled his data into one book. And I only allowed that exception when it was too hard or near-impossible for me to pull the original scientific publication.

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

I had an ALWD scholarship, which definitely helped. Unfortunately I could not spend the summer completely idle simply because I have to run the pro bono domestic violence project, and we see the most cases during summer months. But I certainly felt some pressure to produce, and I think that was a good motivator, I see it as a net positive. I also had the J. ALWD rfp deadline as a motivator, and it was pretty obvious to me that I should be submitting my article for possibly inclusion in the Fall 2004 volume. So, towards the end of last summer I took "vacation" time and again holed up in my house to write the article. I scheduled nothing else at all -- there was no "on Tuesday morning I have a doctor's appointment but I can still write Thursday because after all I have lunch plans in New York on Wednesday." I acted as if I was out of town and I even turned off email some of that time. During this writing session, unlike the Fiction 101 writing experience, I didn't have to do laundry for any other legal writing professor (and I wasn't pregnant). It was just me, my research materials, an outline, and my computer. I ended up needing a third week, but I was very disciplined and worked very well during the day and only sometimes into the wee hours. I actually remember it as a pleasant enough experience. My husband recalls "you complained a little bit but mostly you didn't." Because this article did not start out as a lecture or presentation, I didn't have a real foundation beyond the outline I wrote for the ALWD scholarship application. So I had to teach myself quite a lot during the writing process. Then I had my colleagues in legal writing -- a lot of font naysayers I might add -- review it. Legal writing profs are great editors.

I also wanted to check the article's ethos with others in the science and web-design fields. Luckily, I know people who fit that bill. So they also read it and gave me feedback. Finally, to check and make sure it was going to appeal to the intended audience, I gave it to some practicing attorneys/judicial law clerks to get their reaction. One of them, my husband, is a corporate attorney (transactional) and helped me add some Plain English and UCC material to broaden the appeal at least a tiny bit to transactional attorneys as well as litigators. I think that is somewhat distinctive to legal writing because the audience can be slightly different than just other academics.

4. What advice would you give to a novice entering this field of research? Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

Actually, I think that there could and should be related writing done on other visual effects in legal writing documents. In which case, I would suggest that they follow some of the pathways I took (perhaps minus the People Magazine route, that one has probably served out its useful life). As far as advice goes on writing legal writing articles, generally, I really do believe that "life is a legal writing exercise" (or "life is legal writing article") and that what might appear to be "an accepted maxim" really does deserve some critical examination from a persuasive theory standpoint. And because persuasive theory incorporates so much interdisciplinary material, there are lots of articles that we should be writing. My concrete advice is: buddy up with a good librarian and block out several weeks with nothing else to do but write. Before you write, make sure your research is in good shape and have a sense of

your outline as well as your audience. Have a goal in mind -- where do you want this published? Think long and hard about that one. Is it in any old law review? A targeted law review? The ABA Journal?

6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?

Finally, I would advise the novices not to be afraid to take a few chances. One or two people questioned "my voice" in the article -- which was lilting and light hearted (OK, no one called it lilting, that is just my fantasy review) and not traditionally bland/"academic" in tone. But that isn't really me most of the time. If I am not going to be taken seriously in the academy I doubt it will be because my article has a "fun read" feel to it. Geez, the article is already condemned by virtue of the fact that it has "legal writing" in the title. Ultimately, I decided to go with my gut and stick with the tone I originally selected (i.e. attempts to be witty). Otherwise, who would want to read an article about fonts?! I have visions of Donald Rumsfeld being called to task by 60 Minutes "Tonight: Morley Safer reports on allegations that inmates at Guantanamo Bay are being forced to read articles about incorporating graphic design principles into legal writing documents." Anyway, one of the blind readers of the J. ALWD selection committee wrote a very nice review about how they really appreciated the tone. That made me feel better about my decision (even if the reviewer did not use the word "lilting.")

i. learning theory and instructional design

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Article: Robin A. Boyle & Rita A. Dunn, *Teaching Law Students Through Individual Learning Styles*, 62 Alb. L. Rev. 213 (1998)

1. How did you "discover" the topic for this article?

Dr. Rita Dunn, Director of the Center for the Study of Learning and Teaching Styles at St John's University, presented at a faculty luncheon here (St. John's University School of Law) to introduce law professors to learning styles. I was new to teaching Legal Research and Writing as "Administrative Staff" (years later our staff positions were upgraded to faculty), and I attended the session. I was intrigued by her presentation. (Little did I know that years later I would give a similar presentation to other professionals and to my students.)

After the luncheon, I contacted Dr. Dunn and said I was interested in learning more about how to teach to different learning styles. Our Dean of the school asked another legal writing instructor and me to write a grant proposal with Dr. Dunn, which we did. Dr. Dunn and I gave it our best shot and wrote a detailed proposal about learning styles and law school. We did not get the grant money, but the proposal served as a basis for our first article – *Teaching Law Students Through Individual Learning Styles*. The other legal writing instructor was too busy to help us with the article, so Dr. Dunn and I worked together on

turning the grant proposal into a manuscript. I rewrote the manuscript several times, and it finally got published as an article (see details below).

- 2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.**

Dr. Dunn and I wanted to focus our article on learning styles of incoming law students. I inquired about university procedures for testing human subjects (every school has a protocol and a committee I learned). I studied the assessment tool that Dr Dunn recommended – the Productivity Environmental Preference Survey (PEPS) and read articles about it. I contacted the appropriate deans and committees and received permission to test students. I drafted a release for students to sign giving us permission to use the results.

I arranged for Dr. Dunn to present before a large class with incoming law students. She lectured on learning styles and the PEPS. Students voluntarily signed the release form and took the PEPS. I sent the PEPS outside of the school for processing.

When the results came back, I shared the results with the class as a whole and with students individually. Dr. Dunn and I then incorporated the results into a manuscript draft.

- 3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.**

Dr Dunn took the first stab at drafting the article, but it took the form of an education piece and we wanted it to fit a legal journal. I did not want to merely add my name to something that someone else wrote. Thus, I ordered from our library every source Dr. Dunn cited, both the education pieces and the legal pieces, including pertinent dissertations on the topic. (I continue to read Ed. D. dissertations whenever I write). I also did my own research in both the education and legal fields, but there was not a lot of material in the legal community on the topic at the time.

I completely took over revising the article by working through changes line by line. I took the electronic file and made it my own. I sent drafts to Dr. Dunn for comments. When it was in the best possible shape, I sent out drafts of the manuscript to three legal academics for comment. (I later thanked those who helped me in a footnote of the published article.) Having published in other fields before, I carefully edited this manuscript for legal publication. I worked hard to incorporate comments by my field “experts.” By the time I was ready to send the manuscript to legal periodicals, almost every sentence had been rewritten from the first draft and many sections of material had been added. Dr. Dunn suggested that I put my name first, which was a big moment for me.

- 4. What advice would you give to a novice entering this field of research? Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.**

It depends on the writer’s learning styles! I have learned that I prefer to work with an authority figure, and Dr. Dunn served that role for me as did the other legal academics who read and commented on my drafts.

A pitfall to avoid – do not rely on anyone's citations to authority: read the original articles, books, dissertations, and so forth. I assume that most of our schools have librarians or student assistants who would be happy to order materials via inter-library loan. I do not hesitate to ask for help by tapping the resources that my school provides; therefore, I borrow from other libraries original doctoral dissertations. When librarians are particularly helpful, I thank them in a footnote in my published piece.

6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?

I found that I needed a push from people to write a publishable article for the first time. My advice is to listen to others who are encouraging you to write. Take advantages of opportunities, such as apply for research stipends; make use of a research assistant, a quiet space and a computer; take up an offer by someone to read a draft; call another academic to talk about your ideas; and attend faculty workshops and conferences to hear what others are writing about. Some ideas that are outside of the academic mode are these: attend creative writing workshops to get you in the habit of writing, visit bookstores frequently, and foster that fun sensation when you think about writing.

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Article: *A Primer on Learning Styles: Reaching Every Student*, 25 Seattle U. L. Rev. 139 (2001)

First, into which of the categories mentioned in our letter does most of your scholarship fall? If none of the categories fits, please describe your scholarship below:

My article includes several of the research paths that you noted, specifically, 1a, b, and e; 2c, g, and i; and 3.

1. How did you "discover" the topic for this article?

My interest in the topic (learning styles) began in 1989 when I first started teaching and was trying to help those students who were having difficulty in mastering legal analysis. I tried to get inside their heads to learn what they were doing with information (so that I could redirect them); then I read everything I could find on the topic (which was a lot). After all of the work researching and after giving many presentations on the topic, I wanted to memorialize my work and to contribute to the literature an overview piece that would help others to prioritize what aspect of learning styles would be most useful and to establish a framework for comparing the different foci of learning style studies.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your

research process, paying particular attention to how you would describe it to a novice in the field.

I started by listening to the students as they explained how they worked and what learning experiences were successful for them. Then I developed various tools that I thought might be helpful. I did some empirical research on how successful those were. At the same time, I was researching the literature and studies on the topic. I started with the texts but found their analytical framework to not be very complete or clear. So, I went to the studies on which the conclusions were based and developed my own structure that I think is more useful. The studies were available in publications from our undergraduate library, in ERIC microfiche, online, or through interlibrary loan. Each aspect of learning styles had its own literature; I tried to focus on one aspect at a time to be sure that I was being thorough and that I was getting an accurate picture of that aspect. At the end of each article would be a bibliography and I always reviewed it to be sure there weren't studies that I was missing. While I also reviewed the legal scholarship to see what others had written on the topic, I relied more on the studies (education and psychology) because they provided some objective support for my ideas, which most of the legal scholarship did not do. I felt it was important to move beyond anecdotes and intuition (although much of the research confirms these).

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

When I thought my research was complete, I outlined the basic structure of the article. I organized my research according to the topics of my structure, putting the materials in separate piles. I worked on one topic at a time. I would review the literature to determine if I had subpoints; if so, I would create sub-piles for each subpoint. Then I would write my discussion one point (or sub-point) at a time. Writing one subpoint or point would usually take about 45-90 minutes (relatively short because I knew what I wanted to say). Then I would do the footnotes for that section; that might take as long as 6 hours. For me, it was important to separate the big ideas of the writing from the details of the footnotes. I also think it is important to do the footnotes immediately after writing the piece while the literature is fresh in your mind. It also makes it more immediately obvious if you need additional authority. If you have a research assistant, you can have him/her try to get the additional authority for you while you're moving on to the next section. If you don't have a research assistant, keep going on the writing, but make a list of things to add in, which you can do when you go through the editing process.

After finishing the draft, ignore the excitement of having given birth to a magnificent creation. Let the piece sit for a couple of days and then start editing. I usually am incorporating additional authorities into a piece as I'm editing for the first time. After I think I have finished my editing, I ask my husband, who knows nothing about the topic, to read the article for me. He is helpful in identifying areas that need more explanation or writing that is not clear.

When I write, I write to finish what I have started. So, I block out a chunk of time (3 days to 3 weeks, depending on the project) and I work until I start getting fuzzy-brained, usually 8-10 hours. While everyone is different, I find that if I leave a draft for too long, it's like starting over before you return to the place where the synaptors are starting to generate some creative thought. But then, I read a good novel straight through without stopping as

well. Everyone's different in how they work, budget their time, etc., but this works best for me (and it means that I actually finish the project).

4. What advice would you give to a novice entering this field of research?

Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

I would recommend the following: First, pick a topic that adds to, not repeats, what's already available in the literature. Second, be sure that you evaluate the studies critically, because some may not be statistically reliable (even though you like the results) or their conclusions cannot be extrapolated beyond their particular setting. Some of the studies can be pretty sloppy and you need to be able to separate those from the studies that are more well done. Know what the most prestigious journals are for the field; for other journals, beware of those that have a known bias (e.g., the journal is sponsored by a group with a known bias). If you're unsure of how to analyze the statistics, you might have a chat with a professor in another discipline that knows statistics (which may be easier than trying to self-teach yourself from a book). Third, if you're going to use any information from your students, even if it is just aggregated statistics, you need to get that cleared with your university review committee on human subjects, and you need to get releases from your students.

5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.

Start with the key articles on learning styles and check out their footnotes. That will give you a heads-up on the primary resources. Jossey-Bass has some very accessible publications on learning styles that might give you a good foundation before diving into psychology or educational psychology texts. To find articles, undergraduate libraries have online libraries of articles in these fields; these online libraries are easy to search. You might also try google searching; often, academics will post their research or their articles on their websites. If you find someone who has done some interesting work on your topic, you might want to contact them by email or telephone to pick their brain for more ideas. Most academics love to talk about their work and are flattered to know that someone has read it.

6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?

Write on something that is a passion or of particular interest. Otherwise, the research and writing becomes a chore, rather than a necessary means to a desired end.

j. ethics

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Article: Elizabeth Fajans & Mary R. Falk, *Shooting From the Lip: United States v. Dickerson, Role [Im]morality, and the Ethics of Legal Rhetoric*, 23 U. Haw. L. Rev. 1 (2002).

1. How did you "discover" the topic for this article?

Anyone teaching persuasive writing needs to be concerned with its ethics...examples of legal rhetoric that uses misdirection abound...its hard not to discover it.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

I had some familiarity with classical rhetoric, but otherwise it's good to read Aristotle and a text-- a good one is Edward Corbett, "Classical Rhetoric for the Modern Student."

I was less familiar with professional ethics literature and began with books on the topic that were edited by respected scholars, for example Luban's *The Ethics of Lawyers*. Discussion with colleagues who teach professional ethics is a good start.

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

Mollie and I divided the piece into sections. She wrote the section on ethics and I wrote the section on rhetoric. She analyzed the Dickerson decision and I analyzed the briefs and scholarship. Both of us had graduate degrees in literature so the hermeneutics wasn't that difficult. We did the backgrounds sections first to guide our analysis of the texts.

4. What advice would you give to a novice entering this field of research? Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

I felt we wrote this piece before we were really comfortable with the professional ethics literature. Probably if we were in less of a rush to publish, the piece would have been more nuanced. That is a classic pitfall.

5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.

I think I covered this above

3. Scholarship based on research in legal theory and doctrine

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Article: Maria Perez Crist, *The E-Brief: Legal Writing for an Online World*, 33 N.M.L. Rev. 49 (2003).

First, into which of the categories mentioned in our letter does most of your scholarship fall? If none of the categories fits, please describe your scholarship below:

My early scholarship fell primarily into the category of the pedagogy of legal education, primarily legal research and writing instruction. (I guess that would be your second category). My more recent category falls more into category three, although the sub-topics of "contemporary rhetoric and composition" were certainly an important part of my e-brief article.

1. How did you "discover" the topic for this article?

I receive a daily briefing in my e-mail from Law.com of items of interest within the legal profession. I often find ideas for simulations and ideas for scholarship from this source. For the article in question, I was intrigued with a small article about a CD-ROM brief filed with the U.S. Supreme Court. I wondered about the logistics of filing an electronic brief and did a quick search of other articles on the topic in Westlaw. All I found were a few short practitioner pieces that were just descriptive. As I considered the unresolved questions, the lightbulb went on that maybe this would be a good topic for an article.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

After some initial research (described above), I sketched out a rough outline for the article and then discussed the outline and my topic with a colleague who taught in the substantive area related to my topic. I then tweaked the outline (as far as the broad main subject areas) and began my research. I had my outline on my laptop computer. As I did my research, I had two documents open: a bibliography and the outline. As I read a source, I would first enter it in the bibliography list and give the source a short name (usually the author's name, e.g., "Miller"). Then, as I read the source, if there was something I thought related to one of the broad sub-topics in the outline, I would include it there, and add a cite (Miller @19). This process resulted in a huge document (a "research outline") that really helped later on, when I was ready to write.

More specifically, for each broad topic of my article, I focused on secondary sources first. The secondary sources gave me leads to primary sources (cases and procedural rules). I then researched and updated these leads on Westlaw. The Keycite and "most cited cases" features in Westlaw were particularly helpful in broadening my research. I also created a "Westclip" that would regularly run a search on the topic to catch any new caselaw or developments.

When researching the local procedural rules for all the federal circuits, I relied heavily on the Internet court web sites and spoke with the clerks from almost every circuit. Because my topic was related to new technology, I did a lot of research on the Internet. Law firms that were developing expertise with electronic briefs often included this fact in their law firm web site. This led me to specific practitioners who I was able to contact and get more information.

My article also involved cognitive theory which was pretty new to me. I asked an undergraduate professor teaching in that area to tell me what were the major textbooks in the area I was researching and who was doing research in the area I was interested in. With these leads, I got those textbooks, read them for background and leads. I also used our state-wide, online library catalog for sources. I researched the names of some of the leading researchers on the Internet and also located useful information there, too.

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

As described earlier, by the time I was done researching, I had three major piles of "stuff." In pile one was the bibliography, in pile two was my expanded "research outline" filled with notes and quotes from the sources, and in pile three were the actual sources (books, printouts, etc). I actually filed pile three alphabetically in a crate, to make it easier to retrieve a source. Before I began to write, I read through my research outline. This really helped me begin synthesizing the information. I then created a new "topic sentence" outline to get me going.

I used Word and as I would write, I would have two documents open: the research outline and the topic sentence outline. The topic sentence outline turned into my actual article. As I was writing, I used the shortened cite from the research outline ("Miller @ 19"). Having the research outline was really helpful, because often as I was writing, a thought would occur to me about something else I had read. Instead of having to dig through the piles of the actual sources, I could use the menu command "find" in the research outline, find the reference, and then from there, go to the actual source. It may sound convoluted, but it worked for me.

I wrote for long stretches of time, and had numerous drafts. While I had footnotes from the beginning, many were the basic shortened cite. I didn't put in full cites according to the rules until later drafts. By the time I had a more finished draft, I asked someone not in academia, but heavily involved with electronic filing in the courts, to read my draft. He gave me some good suggestions that led to the final draft.

4. What advice would you give to a novice entering this field of research? Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

Any research involving new technologies should be sure to take advantage of the Internet. The advanced search features in Google are especially helpful. For example, by limiting a search to .pdf files, you can access many articles from other disciplines that may not come up as easily as on a regular search. Don't be afraid to talk to experts, but before talking to

anyone, be sure you've done your homework. Don't expect someone else to "teach" you the law.

5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.

- vivisimo.com is an internet search tool. It puts the hits in folders and makes it really easy to zero in on useful web sites.
- courts.net is a good internet source to quickly locate court web sites. It has links to federal and state courts (all levels).
- Academic Legal Writing by Eugene Volokh was a helpful resource for how to write an article.
- I like Westlaw better than Lexis, but I did use both database systems.

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Articles: *Closing the Floodgates: Making Persuasive Policy Arguments in Appellate Briefs*, 62 Mont. L. Rev. 59 (2001)

Beyond Brandeis: Exploring the Uses of Non-Legal Materials in Appellate Briefs, 34 U.S.F. L. Rev. 197 (2000).

1. How did you "discover" the topic for this article?

Beyond Brandeis: I was given the initial idea by my colleague, Michael Smith, who had run across it in the context of other work he was doing. I refined the topic as I became more informed by my research.

Floodgates: I was led to this topic by the previous article, *Beyond Brandeis*.

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

With *Beyond Brandeis*, I had some idea that the topic had something to do with the concept of judicial notice, so I began researching in that area. After reviewing the rules of evidence and several articles, I began to get a clearer idea of what to look for. Since I was largely thinking about using social science information as legal authority, I also looked in the area of social

science and the law. Mostly, though it was terribly unscientific, one thing just led to another, as with my usual research process.

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

I don't think there was anything distinctive about the field that affected my writing process. My process for both articles was to make notes on the sources as I went, periodically mapping out a rough outline of where I thought the article would go. I generally don't start actually writing until I feel that the research is fairly complete and I have a clear picture of what I am going to say. I typically write from the beginning to the end (meaning I don't write parts out of order and put it together later). Because I usually have a clear picture of the organization before I start, I don't do a lot of major structural revision. Overall, I feel I have terrible writing habits and do not recommend that others follow my path.

4. What advice would you give to a novice entering this field of research? Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

I don't have any specific advice because I don't really think that researching in this field is any different than scholarly legal research in general.

5. If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.

I don't say this to sound vain, but since there is so little written in the areas I have written, I would recommend my own work. My two articles contain references to most of the sources that existed to date in the areas of using extra-record factual information as support for legal and policy arguments, and of making policy arguments in appellate briefs.

6. Is there anything else that you think would be particularly helpful to a novice wanting to enter this field to research and write an article?

I'm afraid I can't be much help. Even though I have done it myself, I don't have any more confidence about developing a topic and writing an article than I did before I started.

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Article: *Playing God: A Critical Look at Sua Sponte Decisions by Appellate Courts*, 69 Tenn. L. Rev. 245 (2002)

1. How did you "discover" the topic for this article?

Through a conversation with my colleague, Michael Smith. I had been involved in a case where an appellate court made a very clear error on an issue which had not been briefed by either of the parties. I was talking to Michael about it and said, "This is why courts shouldn't decide cases *sua sponte*." He responded: "That's an article."

2. If you had little or no background in the field represented by this article, how did you enter the field of research into which this article falls? Briefly sketch your research process, paying particular attention to how you would describe it to a novice in the field.

I had no background in the field, but through my later conversations with Michael I did have a couple old Supreme Court decisions where dissenting justices had criticized *sua sponte* decisions. I searched on Westlaw to find cases and articles discussing those dissents but didn't find as much as I'd hoped. I then did a variety of different searches on Westlaw, looking for anything that would help me get me a background on the issue. Among other things, I looked for:

- Supreme Court and federal appellate cases which mentioned "*sua sponte*"
- law review articles with "*sua sponte*" in the title
- law review articles which just mentioned "*sua sponte*"
- I also ran a search in a library database for books which discussed the issue.

After reading the items found in my initial searches, I looked up any cases, articles and books cited in them which looked they would have substantive discussions on the issue. I can't stress the importance of this step enough. Among the cited material were books and articles going back 60-70 years which I never would have found solely through electronic research.

At this point, I began to see that there were some common criticisms of *sua sponte* decisions. I then ran Westlaw searches to get more information on issues such as 1) the American judicial system's reliance on the adversary process and 2) the due process right to notice of and the opportunity to be heard on the determinative issue in the case

3. How did you write the article? Briefly sketch your writing process, paying particular attention to how you would describe it to a novice in the field and to anything distinctive about your writing process because the article was in this particular field.

There wasn't anything distinctive about the process because it was in this field. The article was co-authored with Michael Smith, though, so there are some things about the process which are unique to that compared to all the articles I've written on my own. We agreed that I would write a complete first draft and then hand it off to him to fill in one section and revise the remainder of the article. We then went back and forth on a series of revisions.

My main advice for a novice is to START WRITING EARLY. Let me say that again: START WRITING EARLY. Don't wait until you're done with your research. After you've been reading the cases, articles, and books for few weeks, you will know that explanations of certain things (cases, statutes, legal concepts, etc.) will go SOMEWHERE in the article. Don't worry about where at that point. Just write about them. You can always rearrange the order later.

We all know that writing is a discursive process, and writing about these things will make you think about them more carefully than you would have just reading the material. You'll discover new things to research, think up arguments that can be used later on, decide how to narrow (or widen) your focus, etc. And, YOU'LL ALREADY HAVE SOMETHING WRITTEN.

Michael and I had sketched out a brief outline of the article before we started -- and the final product was completely different. That's OK. By going through the process described above, we saw that certain things needed to be added, emphasized more or scrapped. In the end, we had an article which was better than what we had envisioned.

4. **What advice would you give to a novice entering this field of research?**
Concentrate on significant lessons learned, helpful approaches to follow, and unexpected pitfalls to avoid.

I don't think I can add anything to what I've written above.

5. **If you were asked by a novice to list a handful of the most helpful resources for beginning to research and write an article in this field, what would you recommend? Think about including specific books, articles, or other print sources; specific Internet sources; specific or general people sources.**

The "sua sponte" issue is a narrow one, so I don't think it really counts as a field. If you're going to write in any way about the importance of the adversarial system, some possible sources are (in no particular order):

- *Professional Responsibility: Report by the Joint Conference*, 44 A.B.A.J 1159 (1958)
- Lon L. Fuller, *The Forms and Limits of Adjudication*, 92 Harv. L. Rev. 353, 388 (1978)
- Lon L. Fuller, *The Adversary System*, in *Talks on American Law* 34 (Harold J. Berman ed., 1976).
- Lon L. Fuller, *The Problems of Jurisprudence* 705-07 (temp. ed. 1949).
- Stephan Landsman, *Readings on Adversarial Justice: The American Approach to Adjudication* (1988)
- Ellen E. Sward, *Values, Ideology and the Evolution of the Adversary System*, 64 Ind. L.J. 301 (1989)
- Jerold H. Israel, *Cornerstones of the Judicial Process*, Kan. J.L. & Pub. Pol'y 5 (1993)
- Bailey Kuklin & Jeffrey W. Stempel, *Foundations of the Law: An Interdisciplinary and Jurisprudential Primer* 104-118 (1994)
- Thomas B. Marvell, *Appellate Courts and Lawyers: Information Gathering in the Adversary System* (1978)
- John Thibaut, Laurens Walker & Lind, *Adversary Presentation and Bias in Legal Decisionmaking*, 86 Harv. L. Rev. 386 (1972)
- Mirjan Damaska, *Evidentiary Barriers to Conviction and Two Models of Criminal Procedure: A Comparative Study*, 121 U. Pa. L. Rev. 506, 554-87 (1973) (comparing criminal procedure in adversary and nonadversary systems)
- Mirjan Damaska, *Structures of Authority and Comparative Criminal Procedure*, 84 Yale L.J. 480 (1975) (explaining the differences between common law and civil law countries by pointing to the different views on authority)
- Mirjan Damaska, *Presentation of Evidence and Factfinding Precision*, 123 U. Pa. L. Rev. 1083 (1975).

- John H. Langbein, *The German Advantage in Civil Procedure*, 52 U. Chi. L. Rev. 823 (1985) (comparing German and American civil procedure)
- *Penson v. Ohio*, 488 U.S. 75, 84 (1988) (“system is premised on the well-tested principle that truth -- as well as fairness -- is ‘best discovered’ by powerful statements on both sides of the question”)
- *Polk County v. Dodson*, 454 U.S. 312, 318 (1981) (“The system assumes that adversarial testing will ultimately advance the public interest in truth and fairness.”)
- *Mackey v. Montrym*, 443 U.S. 1, 13 (1979) (“our legal tradition regards the adversary process as the best means of ascertaining truth and minimizing the risk of error”).
- *Lankford v. Idaho*, 500 U.S. 110, 126 (1991) (“[n]otice of issues to be resolved by the adversary process is a fundamental characteristic of fair procedure.”)

JOURNALS - INDEX

1. Scholarship based on empirical research

a. interviews and focus groups

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Article: Susan Hanley Kosse & David ButleRitchie, *How Judges, Practitioners, and Legal Writing Teachers Assess the Writing Skills of New Law Graduates: A Comparative Study*, 53 J. Leg. Educ. 80 (2003).

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Article: *A Snapshot of Legal Writing Programs at the Millennium*, 6 Leg. Writing 95 (2000)

1999 Survey Results, Association of Legal Writing Directors/Legal Writing Institute, 6 Leg. Writing 123 (2000)

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Article: *The Inside Scoop: What Federal Judges Really Think About the Way Lawyers Write*, 8 Leg. Writing 257 (2002).

[NOTE: No Journals were returned for categories c. - g.]

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Article: *On the Internet, Nobody Knows You're a Judge: Appellate Courts' Use of Internet Materials*, 4 J. App. Prac. & Process 417 (2002).

i. quantitative analysis

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Articles: Jan M. Levine & Kathryn M. Stanchi, *Women, Writing and Wages: Law Schools Last Taboo*, 7 Wm. & Mary J. Women & L. 551 (2001)

Kathryn M. Stanchi & Jan M. Levine, *Gender and Legal Writing: Law Schools Dirty Little Secrets*, 16 Berkeley Women's L.J. 1 (2001).

2. Scholarship based on research in other disciplines

a. classical rhetoric (persuasion and argumentation)

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Articles: *Justice Scalia's Rhetoric of Dissent: A Greco-Roman Analysis of Scalia's Advocacy in the VMI Case*, 91 Ky. L.J. 167 (2002-03)

Greco-Roman Analysis of Metaphoric Reasoning, 2 Leg. Writing 113 (1996)

Ethos, Pathos & Legal Audience, 99 Dick. L. Rev. 85 (1994)

Brief Rhetoric—a Note on Classical and Modern Theories of Forensic Discourse, 38 Kan. L. Rev. 411 (1990).

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Article: *Aristotle Teaches Persuasion: The Psychic Connection*, 8 Scribe J. Leg. Writing 61 (2001-02)

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Article: *Paradigm Lost: Recapturing Classical Rhetoric to Validate Legal Reasoning*, 27 Vt. L. Rev. 483 (2003).

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Articles: *Law as Rhetoric, Rhetoric as Argument*, 44 J. Legal Educ. 108 (1993)

Linda M. Levine & Kurt M. Saunders, *Thinking Like a Rhetor*, 43 J. Legal Educ. 108 (1993)

b. **contemporary rhetoric and composition theory**

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Article: *Writing Throughout the Curriculum: Why Law Schools Need It and How to Achieve It*, 76 Neb. L. Rev. 571 (1997)

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Article: *Building a Tower of Babel or Building a Discipline? Talking about Legal Writing*, 85 Marq. L. Rev. 887 (2002)

c. **linguistics/language studies**

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Article: Elizabeth Fajans & Mary Falk, *Linguistics and the Composition of Legal Documents: Border Crossing*, 22 Legal Studies F. 697 (1998).

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Article: *Doctrine of the Last Antecedent: The Mystifying Morass of Ambiguous Modifiers*, 2 Leg. Writing 81 (1996).

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Articles: Jill Ramsfield, *Is "Logic" Culturally Based? A Contrasting, International Approach to the U.S. Law Classroom*, 47 J. Legal Educ. 157 (1997)

d. creative writing

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Article: Brian J. Foley & Ruth Anne Robbins, *Fiction 101: A Primer for Lawyers on How to Use Fiction Writing Techniques to Write Persuasive Facts Sections*, 32 Rutgers L.J. 459 (2001).

e. narrative or literary theory

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Article: *The Convergence of Analogical and Dialectic Imaginations in Legal Discourse*, 20 Leg. Stud. Forum 7 (1996)

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Article: *Literary Formalism, Legal Formalism*, 10 Cardozo L. Rev. 1393 (1998).

f. critical theory

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Article: *Transcending Legacies of Literacy and Transforming the Traditional Repertoire: Critical Discourse Strategies for Practice*, 23 Wm. Mitchell L. Rev. 491 (1997).

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Articles: *Feminist Legal Writing*, 39 San Diego L. Rev. 387 (2002)

Resistance is Futile: How Legal Writing Pedagogy Contributes to the Law's Marginalization of Outsider Voices, 103 Dick. L. Rev. 7 (1998).

[NOTE: No Journals were returned for category g. - cognitive psychology]

h. industrial/graphic design

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Article: *Painting with Print: Incorporating concepts of typographic and layout design into the text of legal writing documents*, 2. J. ALWD 108 (forthcoming 2004)

i. learning theory and instructional design

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Article: Robin A. Boyle & Rita A. Dunn, *Teaching Law Students Through Individual Learning Styles*, 62 Alb. L. Rev. 213 (1998)

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Article: *A Primer on Learning Styles: Reaching Every Student*, 25 Seattle U. L. Rev. 139 (2001)

j. ethics

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Article: Elizabeth Fajans & Mary R. Falk, *Shooting From the Lip: United States v. Dickerson, Role [Im]morality, and the Ethics of Legal Rhetoric*, 23 U. Haw. L. Rev. 1 (2002).

[NOTE: No Journals were returned for categories k. - philosophy]

3. Scholarship based on research in legal theory and doctrine

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Articles: *Closing the Floodgates: Making Persuasive Policy Arguments in Appellate Briefs*, 62 Mont. L. Rev. 59 (2001)

Beyond Brandeis: Exploring the Uses of Non-Legal Materials in Appellate Briefs, 34 U.S.F. L. Rev. 197 (2000).

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Article: Adam Milani & Michael R. Smith, *Playing God: A Critical Look at Sua Sponte Decisions by Appellate Courts*, 69 Tenn. L. Rev. 245 (2002)

