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ALWD Teaching Grant – 2024-25

Genre Study through Civil Litigation Immersion

Traditionally, U.S. legal writing courses have been divided between objective or predictive legal writing and persuasive legal writing. While that approach makes some pedagogical sense and has clearly produced generations of accomplished legal writers, it is out of step with the sequence and flow of law practice. No lawsuit’s trajectory is neatly divided between the predictive phase and the advocacy phase. Rather, almost every communication lawyers read and write throughout litigation serves multiple purposes for multiple audiences. Moreover, students in required research and writing courses rarely encounter a genre that will no doubt make up a significant portion of their work: written discovery.

This course module is meant to be introduced after the capstone project of the persuasive semester of research and writing instruction (often an appellate or complex trial brief). At many schools, this project will take up the instructional time between spring break and the end of the semester, but it is adaptable to different schedules.

This module simulates a civil lawsuit’s progression from the potential client’s first interaction with a law firm throughout discovery. It begins with a client filling out an online contact form and exposes students to documents including letters to insurance companies, potential parties and witnesses, and court staff. It also exposes students to written discovery in manageable amounts and offers students the opportunity to draft a discovery dispute letter to opposing counsel. Students must then convert their discovery dispute letter into a memorandum of law in support of a motion to compel.

During class time, I recommend exercises including peer review and collaborative drafting. I also recommend showing students a variety of legal letters that are specific to the law school’s geographic location and state law.

This module includes:

1. A hand-filled client intake form memorializing a partner’s notes from a phone

call with a potential client,

1. An email from the partner asking the “associate” to conduct research and

evaluate whether the claim has merit,

1. A slide for use in a peer review exercise so that students may evaluate each

other’s emails,

1. A form students can use in evaluating each other’s emails,
2. A complaint,
3. A slide for use in a collaborative drafting exercise that introduces students to

drafting written discovery requests,

1. Interrogatories served on behalf of our client,
2. Defendant’s responses to the interrogatories,
3. An email from the partner asking the “associate” to draft a discovery dispute

letter,

1. A rubric to evaluate the student’s letters,
2. An email from the partner asking the “associate” to draft a memorandum

of law in support of a motion to compel responses to interrogatories,

1. A rubric to evaluate the student’s MOLs.

Each document has fillable fields to allow customization and updating of dates, etc.