

# Legal Writing Beyond Memos and Briefs: An Annotated Bibliography

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Critics of legal education are calling upon the law schools to do a better job training law students for the practice of law and, in particular, for the many variations of law practice that they may encounter.<sup>1</sup> Accordingly, law school professors are increasingly looking beyond focusing only on the office memorandum and appellate brief<sup>2</sup> in the first-year and upper-class law school curriculum.

A typical first-year legal writing class<sup>3</sup> will teach case synthesis and statutory and case analysis, large-scale and small-scale organization, concision, and clarity by having students write objectively in the fall semester (the office memorandum) and persuasively in the spring semester (the appellate brief).<sup>4</sup> Sometimes, the client advice letter is introduced, which combines objective and persuasive writing and teaches the role of audience in legal writing.<sup>5</sup> Although first-year writing assignments often are limited to the litigation setting, upper-class courses are multiplying and diversifying: they may cover general drafting (transactional, legislative or litigation drafting),<sup>6</sup> subject-specific drafting,<sup>7</sup>

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<sup>1</sup> See e.g. William M. Sullivan et al., *Educating Lawyers: Preparation for the Profession of Law* (Jossey-Bass 2007) [hereinafter *Carnegie Report* because the study was undertaken by The Carnegie Foundation for the Advancement of Teaching]; ABA Sec. Leg. Educ. & Admis. to the B., *Legal Education and Professional Development — An Educational Continuum, Report of The Task Force on Law Schools and the Profession: Narrowing the Gap* 4 (ABA 1992) [hereinafter *MacCrate Report* because the chair of the task force was Robert MacCrate].

<sup>2</sup> ABA Sec. Leg. Educ. & Admis. to the B., *Sourcebook on Legal Writing Programs* (Eric B. Easton gen. ed., 2d ed. 2006) 2006 [hereinafter *Sourcebook*] (“The most commonly taught documents are the objective office memorandum, the persuasive brief (trial level or appellate), and the client letter.”).

<sup>3</sup> The teaching of legal research, which is frequently integrated into the first-year legal writing curriculum, is outside the scope of this bibliography and is not addressed here.

<sup>4</sup> While this is by no means the sole paradigm for teaching legal research and writing in the first year of law school, it is the model most often used.

<sup>5</sup> *Sourcebook*, *supra* n. 2, at 21.

<sup>6</sup> *Id.* at 178.

<sup>7</sup> *Id.* at 179.

scholarly writing,<sup>8</sup> or judicial opinion writing.<sup>9</sup> Sometimes these upper-class courses are integrated with doctrinal subjects so that “students learn doctrine by using it practically and learn practical skills through an increasingly familiar branch of doctrine.”<sup>10</sup> Thus, while law schools may differ in approach,<sup>11</sup> writing programs are responding to the *MacCrate*<sup>12</sup> and *Carnegie*<sup>13</sup> reports and endeavoring “to teach students to think and communicate like lawyers.”<sup>14</sup>

One way to bridge the gap between law school and practice<sup>15</sup> is to teach writing in the context of documents other than memos and briefs. Distinctive skills are needed to learn how to draft clear documents that are at the core of an attorney’s practice: contracts and other transactional documents, different kinds of letters, pleadings, motions, and affidavits. Law students who choose a different path and assume positions in government or public interest advocacy organizations may need training in drafting clear legislation. Those pursuing clerkships produce scholarly writing which has its own style and structure. And relevant to all lawyers is the need to apply ethical considerations in drafting any legal document and to communicate effectively, whether by letter or e-mail. In short, the basics of good legal writing need to be applied across the board to a myriad of lawyer tasks.

Another way to bridge the gap is for practicing lawyers to attend continuing legal education seminars and to teach themselves legal writing designed to enhance the teaching and the “doing” of legal writing beyond memoranda and briefs. There are references that are relevant to the first-year legal writing classes, advanced legal writing classes, and doctrinal classes that include drafting components as well as for practitioners looking to improve their writing and drafting skills in documents other than memoranda and briefs. Categories include contracts and other transactional documents, corporate resolutions, letters and e-mails, litigation drafting (pleadings, motions, and affidavits), judicial opinion writing, legislation, and scholarly writing. Materials on ethics,<sup>16</sup> alternative dispute resolution, and collaborative lawyering are included to the extent that they reflect the ethical considerations that arise when drafting legal documents and the importance of good teamwork or collaboration in the practice of law. In

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<sup>8</sup> *Id.* at 193.

<sup>9</sup> *Id.* at 183.

<sup>10</sup> *Id.* at 190 (citing Susan L. DeJarnatt, *In re MacCrate: Using Consumer Bankruptcy as a Context for Learning in Advanced Legal Writing*, 50 J. Leg. Educ. 50 (2000)).

<sup>11</sup> See e.g. Association of Legal Writing Directors—Legal Writing Institute, *2007 Survey Results*, Questions 19, 20, [http://www.alwd.org/surveys/survey\\_results/2007\\_Survey\\_Results.pdf](http://www.alwd.org/surveys/survey_results/2007_Survey_Results.pdf) (last accessed June 6, 2008).

<sup>12</sup> *MacCrate Report*, *supra* n. 1.

<sup>13</sup> *Carnegie Report*, *supra* n. 1.

<sup>14</sup> *Sourcebook*, *supra* n. 2, at 6.

<sup>15</sup> *Carnegie Report*, *supra* n. 1, at 87.

<sup>16</sup> “Since the 1970s all students have been required to take a course in professional responsibility and legal ethics.” *Carnegie Report*, *supra* n. 1, at 136.

addition, the bibliography includes materials that address effective exam writing, given that “issue spotting” and analysis are essential to good lawyering.

This bibliography lists books<sup>17</sup> or articles that address the drafting of a particular type of legal document or the use of a particular method of communication. Multiple cross-references to books are listed as they may contain chapters on different types of writing. Similarly, articles may be cross-referenced more than once as they touch on different writing goals. I have not included materials that discuss legal research, are theoretical in scope, are broad statements of legal writing pedagogy,<sup>18</sup> relate to academic support, or are general articles about grammar or plain English, unless they are relevant to the drafting of a particular document. Materials on wills drafting have also been omitted. Finally, I have not included materials that discuss teaching doctrinal courses. I have endeavored to include those references that are the most practical and instructive in how to improve the drafting of a legal document. There is no shortage of wonderful resources and if any were omitted or overlooked, the fault is mine and mine alone.

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<sup>17</sup> Books are included in this bibliography if there is a chapter on how to craft a particular document or address a concern specific to the practice of law. While they are listed, and they vary in their approach, they are not annotated here. Pinpoint citations are provided for books in which multiple documents are discussed, but they are not provided where the entire book addresses a particular document.

<sup>18</sup> To the extent that sources straddle the line between general discussions of legal writing pedagogy and practical application, they have been included in the “Miscellaneous” section that follows the alphabetical listing seen here.

## I. Affidavits

Affidavits or declarations are used to provide evidence of facts in a number of different settings within law practice. These books and articles contain advice about their drafting.

### *Books*

Barbara Child, *Drafting Legal Documents: Principles and Practices* 68 (2d ed., West Publ. Co. 1992).

Elizabeth Fajans, Mary R. Falk & Helene S. Shapo, *Writing for Law Practice* 108 (Found. Press 2004).

Bryan A. Garner, *The Redbook: A Manual of Legal Style* 375 (2d ed., Thomson West 2006).

Wayne Schiess, *Writing for the Legal Audience* 92 (Carolina Academic Press 2003).

### *Articles*

Stacy Caplow, *Putting the "I" in Writing: Drafting An Effective Personal Statement to Tell a Winning Refugee Story*, 14 Leg. Writing 249 (2008). Noting the lack of instructive resources on how to craft an affidavit, the author suggests a model for teaching affidavits in the context of asylum law and suggests that the model could be applied to other practice areas. The model is designed to address not only the structure of the affidavits, but also the content.

David L. Lee, *Summary Judgment: The Intersection of Legal Writing & Trial Practice*, 12 CBA Rec. 16 (April 1998). The author presents advice for the practitioner for drafting summary judgment motions including specific guidance in how to draft affidavits.

Scott Moïse, *The Scrivener: Affidavits*, 16 S.C. Law. 47 (March 2005). After examining the rules in South Carolina, the article offers a step-by-step guide to drafting affidavits in state court.

Wayne Schiess, *Plain Language: Writing to the Trial Judge: Part Two — For Affidavits*, 83 Mich. B.J. 44 (Feb. 2004). In this article, the author offers several suggestions to help the drafter of an affidavit get the court's attention by using the bold synopsis and headings, and by creating a neat, clean look.

## II. Alternative Dispute Resolution

The process of alternative dispute resolution provides drafting experiences that may be different from those of traditional litigation.

### Articles

Pearl Goldman, *Alternative Dispute Resolution as a Vehicle for Promoting Collaborative Learning*, 15 *The Second Draft* (newsltr. of the Leg. Writing Inst.) 5 (June 2001). The author discusses using alternative dispute resolution assignments in the first-year lawyering class to provide students with the opportunity to “experience the benefits of teamwork and cooperation.”

Kate O’Neill, *Adding an Alternative Dispute Resolution (ADR) Perspective to a Traditional Legal Writing Course*, 50 *Fla. L. Rev.* 709 (1998). The author advocates introducing alternative dispute resolution ethos into the first-year legal writing course to minimize the litigation bias prevalent in the first-year curriculum.

## III. Collaborative Lawyering

The articles listed here stress the relevance of “collaborative lawyering” to the practice of law or suggest techniques that improve teamwork, self-learning, or collaborative skills necessary to good lawyering.

### Articles

Kirsten K. Davis, *Designing and Using Peer Review in a First-Year Legal Research and Writing Course*, 9 *Leg. Writing* 1 (2003). According to the author, in-class peer review experiences improve students’ abilities to work collaboratively and to better evaluate their own writing. In the process, students learn to respect the judgments of others and to work more efficiently.

Susan L. DeJarnatt, *In re MacCrate: Using Consumer Bankruptcy as a Context for Learning in Advanced Legal Writing*, 50 *J. Leg. Educ.* 50 (2000). The course described in this article afforded students the opportunity to hone their lawyering skills and, in the process, to appreciate the importance of teamwork and collaboration to the practice of law. Using a consumer bankruptcy situation as the substantive context for the course, the author introduced students to the processes of collaboration and negotiation necessary to the successful practice of law.

Elizabeth L. Inglehart, Kathleen Dillon Narko & Clifford S. Zimmerman, *From Cooperative Learning to Collaborative Writing in the Legal Writing Classroom*, 9 *Leg. Writing* 185 (2003). This article examines the use of collaborative learning in legal writing classes and concludes that collaborative learning “serves a useful and important purpose in our law school curriculum.”

Terri LeClerq, ed., *Collaboration*, 8 *The Second Draft* (newsltr. of the Leg. Writing Inst.) 6 (April 1993). The authors discuss collaborative learning techniques.

Pamela Lysaght & Danielle Istl, *Integrating Technology: Teaching Students to Communicate in Another Medium*, 10 *Leg. Writing* 163 (2004). The authors created a “technology unit” in the first-year writing course which required students to use

the Internet as a research tool and then use presentation software to present their analysis to a client to “replicate as much as possible the collaborative experience in law firms.” The program was designed to “teach students how to collaborate and work as a team.”

Vernellia R. Randall, *Increasing Retention and Improving Performance: Practical Advice on Using Cooperative Learning in Law Schools*, 16 Thomas M. Cooley L. Rev. 201 (1999). Based on an examination of the differences between traditional law school pedagogy and cooperative learning, the author argues that cooperative learning should be used in law school because it improves negotiation and mediation skills. She suggests strategies for its successful implementation.

Clifford S. Zimmerman, “*Thinking Beyond My Own Interpretation: Reflections on Collaborative and Cooperative Learning Theory in the Law School Curriculum*,” 31 Ariz. St. L.J. 957 (1999). The author proposes guidelines for implementing cooperative learning (a “group process” resulting in an individual product) and collaborative writing (a process resulting in a group product) in law school writing assignments generally, and for first-year legal analysis assignments in particular.

The following articles appeared in volume 15 of The Second Draft, the newsletter of the Legal Writing Institute. The theme for this edition was *Collaboration and Cooperation in the Legal Writing Classroom*. The essays listed here are representative of the types of collaboration used to foster an enriched legal writing experience. The lessons learned are easily adapted to law practice. The complete list of articles appearing in this (or any other) edition of The Second Draft is available at <http://lwionline.org/publications/seconddraft.asp>.

Ken Chestek, *The “Moot Case” Approach to Student Collaboration*, 15 The Second Draft (newsltr. of the Leg. Writing Inst.) 6 (June 2001). The author presents his model of teaching, which focuses the entire semester around a moot court case. Not only does this method teach lawyering skills, but also it introduces students to ethical concerns and fosters collaboration and respectful competition among students.

Pearl Goldman, *Alternative Dispute Resolution as a Vehicle for Promoting Collaborative Learning*, 15 The Second Draft (newsltr. of the Leg. Writing Inst.) 5 (June 2001). The author discusses ADR as an alternative learning situation which offers students an excellent opportunity to collaborate in developing lawyering skills, including writing and collaborative learning.

James B. Levy, “*Can’t We All Just Get Along?*” *Cooperative Legal Writing Assignments*, 15 The Second Draft (newsltr. of the Leg. Writing Inst.) 1 (June 2001). The author posits that the right balance of cooperative learning in teaching legal writing fosters collaboration, yet holds each individual accountable. This leads to greater understanding and confidence as well as better learning.

Jane Muller-Peterson, *A Collaborative Approach to Teaching Legal Analysis*, 15 The Second Draft (newsltr. of the Leg. Writing Inst.) 1 (June 2001). The collaborative approach helps first-year students overcome difficulties as they

learn how to think like a lawyer. The author offers examples of collaborative exercises.

Judy Rosenbaum & Cliff Zimmerman, *Fostering Teamwork Through Cooperative and Collaborative Assignments*, 15 *The Second Draft* (newsltr. of the Leg. Writing Inst.) 7 (June 2001). The authors discuss the use of cooperative exercises (for which group members work together but produce individual documents) and collaborative exercises (for which the group works together to produce a jointly created document).

## IV. Contracts & Transaction Documents

This section lists books and articles that address contract and transactional document drafting with an emphasis on the practical aspects of drafting, clarity, and simplicity.

### **Books**

Kenneth A. Adams, *Legal Usage in Drafting Corporate Agreements* (Quorum Books 2001).

Deborah E. Bouchoux, *Aspen Handbook for Legal Writers: A Practical Reference* 183 (Aspen Publishers 2004).

Susan L. Brody, Jane Rutherford, Laurel A. Vietzen & John G. Dernbach, *Legal Drafting* 203 (Little, Brown & Co. 1994).

Scott J. Burnham, *Drafting and Analyzing Contracts: A Guide to the Practical Application of the Principles of Contract Law* (3d ed., LexisNexis 2003).

Charles R. Calleros, *Legal Method and Writing* (5th ed., Aspen Publishers 2006).

Barbara Child, *Drafting Legal Documents: Principles and Practices* 112 (2d ed., West Publ. Co. 1992).

Elizabeth Fajans, Mary R. Falk & Helene S. Shapo, *Writing for Law Practice* 467 (Found. Press 2004).

Robert A. Feldman & Raymond T. Nimmer, *Drafting Effective Contracts: A Practitioner's Guide* (2d ed., Aspen Publishers 1999 & Supp. 2007).

Carl Felsenfeld & Alan M. Siegel, *Writing Contracts in Plain English* (West Group 1981).

Bryan A. Garner, *The Redbook: A Manual of Legal Style* 453 (2d ed., Thomson West 2006).

Thomas R. Haggard & George W. Kuney, *Legal Drafting: Process, Techniques, and Exercises* 23 (2d ed., Thomson West 2007).

George W. Kuney, *The Elements of Contract Drafting with Questions and Clauses*



*for Consideration* (2d ed., Thomson West 2006).

Mary Barnard Ray & Barbara J. Cox, *Beyond the Basics: A Text for Advanced Legal Writing* 89 (2d ed., Thomson West 2003).

Deborah A. Schmedemann & Christina L. Kunz, *Synthesis: Legal Reading, Reasoning, and Writing* 475 (3d ed., Aspen Publishers 2007).

Tina L. Stark, *Drafting Contracts: How and Why Lawyers Do What They Do* (Aspen Publishers 2007).

Steven D. Stark, *Writing to Win: The Legal Writer, The Complete Guide to Writing Strategies that Will Make Your Case — and Win It* 246 (Broadway Books 2000).

### Articles

Kenneth A. Adams, *The New New Rules of Drafting (Part Two)*, 81 Mich. B.J. 40 (Aug. 2002). The author demonstrates the use of clear and efficient writing in the drafting of contract prose.

Dennis I. Belcher & Laura O. Pomeroy, *A Practitioner's Guide for Negotiating, Drafting and Enforcing Premarital Agreements*, 37 Real Prop., Prob. & Trust J. 1 (Spring 2002). Practitioners present a guide for negotiating and drafting premarital agreements and include the basic provisions of the Uniform Premarital Agreement Act.

Daniel B. Bogart, *The Right Way To Teach Transactional Lawyers: Commercial Leasing and the Forgotten "Dirt Lawyer,"* 62 U. Pitt. L. Rev. 335 (2000). Using the commercial lease as an example, the author advocates combining the instruction of substantive law with negotiation, drafting, and skills used by the transactional lawyer. The transaction, and the document or documents that form the basis for the transaction, should be the foundation for the course.

Brian D. Bowden, *Drafting and Negotiating Effective Confidentiality Agreements (With Forms)*, 41 Prac. Law. 39 (Oct. 1995). The author explains the various provisions of a confidentiality agreement and presents two samples: one favoring the interested party and one favoring the disclosing party.

Scott J. Burnham, *How to Read a Contract*, 45 Ariz. L. Rev. 133 (2003). The author offers step-by-step analysis for reading contracts by explaining the implicit protocols employed by an experienced reader of contracts and attempts to convey those protocols to the novice.

Scott J. Burnham, *Using Contracts To Teach Practical Skills: Drafting in the Contracts Class*, 44 St. Louis U. L.J. 1535 (2000). Emphasizing the need to blend blending theory with practice to teach contracts, this article provides drafting exercises to supplement cases. These exercises highlight principles of contract law in the context of planning while helping students develop their skills as lawyers while appealing to different learning styles.

Barbara Child, *The Study of Contract Drafting Strategy: Exercises in Mine Detection*,



42 J. Leg. Educ. 279 (1992). The author posits that students can learn a great deal about drafting contracts by examining the “land mines” in form contracts. Form contracts for the purchase and sale of real estate are examined.

Carol Chomsky & Maury Landsman, *Using Contracts to Teach Practical Skills: Introducing Negotiation and Drafting Into the Contracts Classroom*, 44 St. Louis U. L.J. 1545 (2000). The authors describe how they collaborated in a team-teaching approach to teaching contracts, contract drafting and contract negotiation. By introducing a drafting and negotiation problem into the classroom, authors discuss how the instructor can create an active learning environment, where students learn by doing rather than by thinking abstractly and talking.

Phyllis G. Coleman & Robert M. Jarvis, *Using Skills Training to Teach First-Year Contracts*, 44 Drake L. Rev. 725 (1996). Simulation exercise to teach negotiation and drafting of contracts are discussed.

Maureen B. Collins, *Drafting Transaction Documents: The Pieces of the Puzzle*, 88 Ill. B.J. 110 (Feb. 2000). The author lays out the standard components of a transactional document that accurately reflects the “picture” of the deal.

Terence Floyd Cuff, *Drafting Partnership and LLC Agreements: Part 1*, 3 Bus. Entities 22 (May/June 2001). The author, a tax attorney, examines the venture agreement, urging drafters to use forms cautiously. Drafters should completely understand every provision that they draft and use only provisions that they understand.

Eric Goldman, *Integrating Contract Drafting Skills and Doctrine*, 12 Leg. Writing 209 (2006). The author discusses the challenges inherent in integrating drafting skills into a doctrinal course. The author describes how he introduced sample agreements and drafting assignments to teach skills in the context of contract doctrine.

Charles C. Lewis, *The Contract Drafting Process: Integrating Contract Drafting in a Simulated Law Practice*, 11 Clin. L. Rev. 241 (2005). This article reaches the conclusion that an effective way of teaching contract drafting in an upper level course is through simulated law practice so that “students learn contract drafting as lawyers experience it.”

Louis N. Schulze Jr., *Transactional Law in the Required Legal Writing Curriculum: An Empirical Study of the Forgotten Future Business Lawyer*, 55 Clev. St. L. Rev. 59 (2007). The author examines whether the first-year legal writing course should include transactional drafting and posits that law schools should expand their writing curricula to include training for both the litigator and transactional attorney. The author proposes several models that would integrate transactional lawyering into the writing curriculum.

Justin Sweet, *Contract Drafting: Seminar Style*, 21 J. Leg. Educ. 464 (1969). The author gives a detailed description of a third-year contracts drafting seminar. The seminar’s primary purpose is to bridge the gap between legal education and contracts drafting in practice. Students learn by doing prescribed problems,

comparing work with fellow seminar students, and having work evaluated by practicing lawyers. Examples of detailed drafting exercises and problems are included.

Robert Whitman, *Conducting Contract Negotiations: A Seminar on Legal Problems Exercise*, 15 J. Leg. Educ. 72 (1962). The author suggests using exercises in contract negotiation by using hypothetical client letters.

### **Internet Resources**

Tina L. Stark, *Contract Drafting — Treatises: Transactional Training Resource Guide*, <http://www.starklegaled.com/resources/index.php?id=320> (last accessed June 6, 2008).

## **V. Corporate Documents**

Corporate documents have their own needs, yet the need for clear and concise writing is no different from other documents. Students and practitioners can improve the drafting of corporate documents by applying the principles of clear writing.

### **Articles**

Kenneth A. Adams, *Legal Usage in Drafting Corporate Resolutions* (With “Before” and “After” Examples), 6 Prac. Law. 43 (Sept. 2002). The premise of this article is that the same principles of clear writing that are applied to contract drafting should be applied to the drafting of corporate resolutions. Samples of “before” and “after” versions of board of directors’ written forms of consent are included.

Kenneth A. Adams, *The New New Rules of Drafting* (pt. 1), 81 Mich. B.J. 48 (July 2002). Practical tips in drafting corporate agreements are explained.

Christian C. Day, *Teaching Students How to Become In-House Counsel*, 51 J. Leg. Educ. 503 (2001). Heeding the call of the *MacCrate Report* to integrate lawyering skills into the law school curriculum, Syracuse University College of Law created a course called “General Counsel Applied Learning Course” to introduce students to the practice of corporate law from the perspective of in-house counsel. This article describes how the course teaches the myriad of skills necessary to being an in-house attorney and advocates that all law students can benefit from a course that teaches “good drafting, negotiation skills, management skills, and a concern for ethics.”

## **VI. E-Mails**

With the advent of e-mail as the correspondence of choice among attorneys and their clients, practitioners and law schools need to be attentive to, and improve, e-mail writing and etiquette. This section lists some of the new

scholarship in this area.

### **Books**

Mary Barnard Ray, *The Basics of Legal Writing* 267 (Thomson West 2006).

Helene S. Shapo, Marilyn R. Walter & Elizabeth Fajans, *Writing and Analysis in the Law* 353 (5th ed., Found. Press 2008).

David Shipley & Will Schwalbe, *Send: The Essential Guide to Email for Office and Home* (1st ed., Alfred A. Knopf 2007).

Steven D. Stark, *Writing to Win: The Legal Writer, The Complete Guide to Writing Strategies that Will Make Your Case — and Win It* 236 (Broadway Books 2000).

### **Articles**

Anne Enquist & Laurel Oates, *You've Sent Mail: Ten Tips to Take With You to Practice*, 15 Persps. 127 (Winter 2007). The rise of e-mail as correspondence of choice among lawyers calls for increased professionalism in crafting e-mails. Ten guidelines for ensuring professionalism in e-mails are suggested.

## **VII. Ethics**

The materials listed here offer concrete suggestions for teaching ethics or professional responsibility in the context of particular writing tasks. Materials that discuss the substantive law of professional responsibility are not included.

### **Books**

Thomas R. Haggard & George W. Kuney, *Legal Drafting: Process, Techniques, and Exercises* 89 (2d ed., Thomson West 2007).

Melissa H. Weresh, *Legal Writing: Ethical and Professional Considerations* (LexisNexis 2006).

### **Articles**

Susan L. DeJarnatt, *In re MacCrate: Using Consumer Bankruptcy as a Context for Learning in Advanced Legal Writing*, 50 J. Leg. Educ. 50 (2000). The author describes a course in which students were faced with ethical considerations typical of a practicing attorney while learning a specific area of law. By using a consumer bankruptcy situation as the substantive context for the course, the author hoped to help students to resolve ethical dilemmas and avoid conflict.

Pamela Edwards & Sheilah Vance, *Teaching Social Justice Through Legal Writing*, 7 Leg. Writing 63 (2001). By using fact patterns that contain social justice issues, the authors hope to encourage diversity, maintain student interest, and raise social issues which, in turn, create lawyers who are more sensitive and well rounded.

Margaret Z. Johns, *Teaching Professional Responsibility and Professionalism in Legal Writing*, 40 J. Leg. Educ. 501 (1990). The author discusses how she introduced professional responsibility issues in the first-year legal writing course through the teaching of the demand letter and briefly addresses the ethical considerations that arise in the context of other “first-year” documents such as client letters and complaints, among others.

David McGowan, *Judicial Writing and the Ethics of the Judicial Office*, 14 Geo. J. Leg. Ethics 509 (2001). Ethical judges must write judicial opinions free of their own biases and personal feelings about a case. The author proposes the adoption of rules to guide the writing of judicial opinions to promote a “party-centered model of judging.”

Binny Miller, *Telling Stories About Cases and Clients: The Ethics of Narrative*, 14 Geo. J. Leg. Ethics 1 (2000). The author addresses the ethics of telling stories about clients and poses the question whether the lawyer or the client “owns” the story. The author concludes that the issue is complex and recommends “an ethics of narrative that respects client stories beyond the confines of confidentiality.”

Julie A. Oseid, *It Happened to Me: Sharing Personal Value Dilemmas to Teach Professionalism and Ethics*, 12 Leg. Writing 105 (2006). The author discusses how the first-year writing course is particularly well suited for introducing real-life ethical issues — “value dilemmas” — to highlight ethical considerations faced by lawyers in every aspect of their professional lives.

## VIII. Exam Writing

Exam writing is typically addressed by academic support professionals. The skills necessary to good exam writing are similar to what is required for good legal writing generally. Accordingly, an increasing number of authors include exam-writing tips and strategies.

### **Books**

Gertrude Block, *Effective Legal Writing: For Law Students and Lawyers* 257 (5th ed., Found. Press 1999).

Charles R. Calleros, *Legal Method and Writing* 147 (5th ed., Aspen Publishers 2006).

Suzanne Darrow-Kleinhaus, *Mastering the Law School Exam: A Practical Blueprint for Preparing and Taking Law School Exams* (Thomson West 2007).

Cathy Glaser, Jethro K. Lieberman, Robert A. Ruescher, & Lynn Boepple Su, *The Lawyer's Craft: An Introduction to Legal Analysis, Writing, Research, and Advocacy* 293 (Anderson Publg. Co. 2002).

Michael D. Murray & Christy Hallam DeSanctis, *Legal Research and Writing* 677 (Found. Press 2005).

Richard Neumann, *Legal Reasoning and Legal Writing: Structure, Strategy and Style* 291 (5th ed., Aspen Publishers 2005).

Richard Michael Fischl & Jeremy R. Paul, *Getting to Maybe: How to Excel on Law School Exams* (Carolina Academic Press 1999).

Herbert N. Ramo, *Succeeding in Law School* (Carolina Academic Press 2006).

### Articles

Adam G. Todd, *Exam Writing as Legal Writing: Teaching and Critiquing Law School Examination Discourse*, 76 Temp. L. Rev. 69 (2003). The author discusses the pedagogical and practical reasons to incorporate exam writing in the traditional legal writing course.

## IX. Judicial Opinion Writing

Writers of judicial opinions (students, clerks, and judges) must consider audience, structure, content, and rhetorical strategies, among other considerations, when drafting clear judicial opinions. Accordingly, judicial opinions warrant separate consideration in the discussion of legal writing. Handbooks for judges, books, articles, and Internet resources offer guidelines for students of judicial opinion writing.

### Books

Ruggiero J. Aldisert, *Opinion Writing* (West Publ. Co. 1990).

Elizabeth Fajans, Mary R. Falk & Helene S. Shapo, *Writing for Law Practice* 337 (Found. Press 2004).

Bryan A. Garner, *The Redbook: A Manual of Legal Style* 435 (2d ed., Thomson West 2006).

Joyce J. George, *Judicial Opinion Writing Handbook* (4th ed., W.S. Hein & Co. 2000).

### Articles

Richard B. Cappalli, *Improving Appellate Opinions*, 83 Judicature 286 (May/June 2000). The author identifies some problems in judicial opinion writing such as overly broad holdings, rules without reasons, and the like and argues that judges should write to their audience: "the world of future lawyers and judges who, as part of their daily professional work, have to know what rights and duties are imposed by law." Noting that decisions have long-term ramifications that go beyond the decision of the particular dispute, the author offers suggestions for creating effective precedent.

Walker Gibson, *Literary Minds and Judicial Style*, 36 N.Y.U. L. Rev. 915 (1961). The author, a professor of English, notes that certain terms and attitudes

familiar to students of literature and language can be useful to legal writers. Composing good judicial opinions is no different from composing any kind of good writing. The author emphasizes the importance of recognizing the audience.

Thomas Gibbs Gee, *A Few of Wisdom's Idiosyncrasies and a Few of Ignorance's: A Judicial Style Sheet*, 1 Scribes J. Leg. Writing 55 (1990). The author provides a style sheet as a tool for briefing clerks in their drafting of memoranda and proposed opinions. The author lists what he does and does not like to see in legal writing.

Joseph Kimble, *The Straight Skinny on Better Judicial Opinions*, in Joseph Kimble, *Lifting the Fog of Legalese: Essays on Plain Language* 15 (Carolina Academic Press 2006). By using a simple testing method in which lawyers were asked to read two versions of the same judicial opinion and decide which was better, the author identifies what readers look for in well crafted judicial opinions: conciseness and good summaries at the beginning of an opinion.

Robert A. Lefflar, *Quality in Judicial Opinions*, 3 Pace L. Rev. 579 (1983). The author uses judicial opinions to demonstrate quality judicial writing, and he analyzes problems inherent in judicial opinion writing.

Robert A. Lefflar, *Honest Judicial Opinions*, 74 Nw. U. L. Rev. 721 (1979). The author advocates intellectual honesty in judicial opinion writing. The real reasons (moral, social, economic, political) for breaking new ground or overturning existing law, if extant, should be enunciated in judicial opinions.

David McGowan, *Judicial Writing and the Ethics of the Judicial Office*, 14 Geo. J. Leg. Ethics 509 (2001). Ethical judges must write judicial opinions free of their own biases and personal feelings about a case. The author proposes the adoption of rules to guide the writing of judicial opinions to promote a "party-centered model of judging."

Patricia M. Wald, *The Rhetoric of Results and the Results of Rhetoric: Judicial Writings*, 62 U. Chi. L. Rev. 1371 (1995). The author, judge of the United States Court of Appeals for the District of Columbia Circuit, discusses the need for written opinions and the process of writing one.

Nancy A. Wanderer, *Writing Better Opinions: Communicating with Candor, Clarity, and Style*, 54 Me. L. Rev. 47 (2002). The author reviews the elements of judicial opinions and urges judges to keep their audience in mind when crafting judicial opinions that are clear and concise. A discussion of the proper use of tone (and the place, if any, that humor has in judicial opinions) is also included.

### Internet Resources

Gerald Lebovits, *Ethical Judicial Opinion Writing* (bepress Legal Series, Working Paper 1743, Sept. 11, 2006) (available at <http://law.bepress.com/expresso/eps/1743>). The role judicial opinions play goes beyond establishing precedent. They are teaching tools and guides for the future. Accordingly, to be

ethical, judges must live up to high moral standards. Maintaining such standards improves the judiciary, the legal profession, and the public's perception of the legal profession.

William D. Popkin, *The Dynamic Judicial Opinion* (Issues in Leg. Scholarship, Dynamic Statutory Interpretation, art. 7, 2002) (available at <http://www.bepress.com/ils/iss3/art7>). The author discusses both the substance and style of judicial opinion writing, referring to Judge Posner's judicial style as an example of how a judge might write a dynamic judicial opinion.

## X. Jury Instructions & Verdict Forms

Jury instructions are useful pedagogical tools for teaching the substantive law and good drafting skills. Forms, while problematic, can be instructive.

### **Books**

Mary Barnard Ray, *The Basics of Legal Writing* 288 (Thomson West 2006).

Mary Barnard Ray & Barbara J. Cox, *Beyond the Basics, A Text for Advanced Legal Writing* 54 (2d ed., Thomson West 2003).

Nancy L. Schultz & Louis J. Sirico, *Legal Writing and Other Lawyering Skills* 289 (4th ed., LexisNexis 2004).

Carol Ann Wilson, *Plain Language Pleadings* 172 (Prentice Hall 1996).

### **Articles**

Robert E. Keeton, *Teaching Torts Through Exercises on Drafting Verdict Forms*, 45 St. Louis U. L.J. 779 (2001). The author, a trial judge, proposes the use of verdict forms for teaching students unsettled areas of law.

Joseph Kimble, *How to Mangle Court Rules and Jury Instructions*, 8 Scribes J. Leg. Writing 39 (2001-2002). The author urges drafters of jury instructions to avoid the pitfalls of poor drafting in adopting new jury instructions and court rules and discusses ten pitfalls to avoid. This essay also appears in Joseph Kimble, *Lifting the Fog of Legalese: Essays on Plain Language* (Carolina Academic Press 2006).

Joseph Kimble, *The Route to Clear Jury Instructions*, 78 Mich. B.J. 1406 (Dec. 1999). The author offers guidelines for writing plain and concise jury instructions. This essay also appears in 6 Scribes J. Leg. Writing 163 (1996-1997).

Richard W. Stevens, *To Teach Plain English Techniques, Use Jury Instructions*, 2 Thomas M. Cooley J. Prac. & Clin. L. 177 (1998). The author demonstrates how to teach plain English by using pattern jury instructions as writing exercises.

## XI. Legislation

Poorly drafted legislation relies on archaic and convoluted language which



creates ambiguities and, consequently, litigation. Good legislative drafting requires a clear understanding of the drafter's intent, and the ability to draft clear prose using appropriate language and principles of division and sequencing.

### Books

Susan L. Brody, Jane Rutherford, Laurel A. Vietzen & John G. Dernbach, *Legal Drafting* (Little, Brown & Co. 1994).

Barbara Child, *Drafting Legal Documents: Principles and Practices* 175 (2d ed., West Publ. Co. 1992).

Elizabeth Fajans, Mary R. Falk & Helene S. Shapo, *Writing for Law Practice* 415 (Found. Press 2004).

Thomas R. Haggard & George W. Kuney, *Legal Drafting: Process, Techniques, and Exercises* 49 (2d ed., Thomson West 2007).

Robert J. Martineau & Michael B. Salerno, *Legal, Legislative and Rule Drafting in Plain English* (Thomson West 2005).

Mary Barnard Ray & Barbara Cox, *Beyond the Basics, A Text for Advanced Legal Writing* 22 (2d ed., Thomson West 2003).

Mary Barnard Ray, *The Basics of Legal Writing* 284 (Thomson West 2006).

Steven D. Stark, *Writing to Win: The Legal Writer, The Complete Guide to Writing Strategies that Will Make Your Case – and Win It* 248 (Broadway Books 2000).

### Articles

Albert P. Blaustein, *Constitution Drafting, The Good, the Bad and the Beautiful*, 2 Scribes J. Leg. Writing 49 (1991). The author discusses the dangers inherent in poor Constitution drafting and its serious implications for society. Examples are included.

Peter Butt, *Modern Legal Drafting*, 23 Stat. L. R. 12 (May 2002). The author argues that legal documents, whether contracts, deeds or statutes, should be drafted in modern English without sacrificing precision. The result is a document which serves the needs of both lawyers and non-lawyers.

Elizabeth Fajans, *Learning From Experience: Adding a Practicum to a Doctrinal Course*, 12 Leg. Writing 215 (2007). The author discusses the addition of a writing practicum to an administrative law class in which students in the doctrinal class propose legislation that the practicum students draft with the hope of “expos[ing] a large number of students to the challenges of rulemaking prose.”

Brian Hunt, *Plain Language in Legislative Drafting: An Achievable Objective or a Laudable Ideal?* 24 Stat. L. Rev. 112 (July 2003). While plain language, when used appropriately, is an effective tool, it is not always suitable in legislative drafting. Plain language should be used if it does not alter meaning and create ambiguity in

the legislation. The author presents an alternative to plain language legislative drafting: providing high quality explanatory materials using plain language techniques.

Robert J. Hopperton, *Teaching Legislative Drafting in Law School: A Model Course*, 19 Duq. L. Rev. 43, 43-68 (1980). The author calls for professionalizing legislative drafting as a realistic goal. A model for an upper-level course in legislative drafting, offering students a foundation in drafting fundamental skills, is proposed.

Joseph Kimble, *How to Write an Impeachment Order*, in *Lifting the Fog of Legalese: Essays on Plain Language* 125 (Carolina Academic Press 2006). The author examines the impeachment order issued by the United States Senate in the Clinton impeachment trial and offers an alternative approach to drafting that is simpler and devoid of legalese.

Joseph Kimble, *Lessons in Drafting from the New Federal Rules of Civil Procedure* (pts. 1-5), 86 Mich. B.J. 62 (Aug. 2007), 86 Mich. B.J. 48 (Sept. 2007), 86 Mich. B.J. 44 (Oct. 2007), 86 Mich. B.J. 46 (Nov. 2007), 86 Mich. B.J. 50 (Dec. 2007). The author compares the old Federal Rules of Civil Procedure with the “restyled” Federal Rules, noting the dramatic difference between them in the use of sequencing, lists, and language. Useful charts displaying the old version alongside the new versions are particularly instructive.

Joseph Kimble, *A Crack at Federal Drafting*, 10 Scribes J. Leg. Writing 67 (2005-2006). The author analyzes the Patriot Act to highlight what is wrong with federal drafting and suggests an alternative version. This essay also appears in *Lifting the Fog of Legalese: Essays on Plain Language* 125 (Carolina Academic Press 2006).

Lance W. Rook, *Laying Down the Law: Canons for Drafting Complex Legislation*, 72 Or. L. Rev. 663 (1993). Recognizing that sometimes-complex legislative drafting is necessary to achieve a particular Congressional goal, the author suggests various canons of construction to improve understanding of such legislation. Issues such as drafting a preamble, the use of headings, managing length, incorporating complex provisions such as mathematical computations, and cross-referencing are addressed.

Barry Jeffrey Stern, *Teaching Legislative Drafting: A Simulation Approach*, 38 J. Leg. Educ. 391 (1988). The author lays out the structure of a course in legislative drafting that attempts to duplicate the statutory drafting process by requiring students to research, draft, revise, and present statutes as if they were employed as an attorney by a drafting agency or legislative aide. A detailed simulation exercise is provided.

## XII. Letters

Communicating effectively is essential to good lawyering. Attorneys who draft clear correspondence to clients, opposing counsel, and the courts (to name but a few) will be most effective in honing their reputations and serving their client's needs.

### **Books**

Deborah E. Bouchoux, *Aspen Handbook for Legal Writers: A Practical Reference* 121 (Aspen Publishers 2004).

Charles R. Calleros, *Legal Method and Writing* (5th ed., Aspen Publishers 2006).

Linda H. Edwards, *Legal Writing and Analysis* 143 (2d ed., Aspen Publishers 2007).

Elizabeth Fajans, Mary R. Falk & Helene S. Shapo, *Writing for Law Practice* 215 (Found. Press 2004).

Bryan A. Garner, *The Redbook: A Manual of Legal Style* 353 (2d ed., Thomson West 2006).

Margaret Z. Johns, *Professional Writing for Lawyers, Skills and Responsibilities* 41, 71 (Carolina Academic Press 1998).

Michael D. Murray & Christy Hallam DeSanctis, *Legal Research and Writing* 95 (Found. Press 2005).

Mary Barnard Ray & Barbara J. Cox, *Beyond the Basics, A Text for Advanced Legal Writing* 312 (2d ed., Thomson West 2003).

Richard K. Neumann, *Legal Reasoning and Legal Writing: Structure, Strategy, and Style* 279 (5th ed., Aspen Publishers 2005).

Laurel Currie Oates & Anne Enquist, *The Legal Writing Handbook: Analysis, Research and Writing* 351 (4th ed., Aspen Publishers 2006).

Mary Barnard Ray, *The Basics of Legal Writing* 249 (Thomson West 2006).

Nancy L. Schultz & Louis J. Sirico, *Legal Writing and Other Lawyering Skills* 193 (4th ed., LexisNexis 2004).

Helene S. Shapo, Marilyn R. Walter & Elizabeth Fajans, *Writing and Analysis in the Law* 319 (5th ed., Found. Press 2008).

Robin S. Wellford Slocum, *Legal Reasoning, Writing, and Persuasive Argument* 299, 511 (2d ed., LexisNexis 2006).

Steven D. Stark, *Writing to Win: The Legal Writer, The Complete Guide to Writing Strategies that Will Make Your Case – and Win It* 236 (Broadway Books 2000).

Melissa H. Weresh, *Legal Writing: Ethical and Professional Consideration* 34, 56 (LexisNexis 2006).

### Articles

Susan L. DeJarnatt, *In re MacCrate: Using Consumer Bankruptcy as a Context for Learning in Advanced Legal Writing*, 50 J. Leg. Educ. 50 (2000). The author describes a course that afforded students the opportunity to hone their lawyering skills, including communicating effectively to the client and others, in the context of a specific area of law. By using consumer bankruptcy as the substantive context for the course, the author hoped to “[teach] writing through the substance of consumer bankruptcy and [teach] consumer bankruptcy through writing about it.”

Darby Dickerson, *Writing Opposing Counsel*, 84 Ill. B.J. 527 (Oct. 1996). Frequently, letters to opposing counsel are drafted in haste or without much thought. The author offers practical suggestions for drafting well-crafted letters to opposing counsel.

Wayne Schiess, *Writing for Your Audience: The Client*, 81 Mich. B.J. 50 (June 2002). The author addresses three typical characteristics of legal language that appear too often in client letters: legalisms, legal citation, and excessive formality. A sample excerpt from a client letter with a suggested revision is included.

## XIII. Motions

Motions require the drafting of several documents. Drafters can benefit from formbooks but should use them cautiously, being sure to adapt forms to the particular needs of the case. Different motions require different considerations, yet common to them all is the need to draw the court’s attention to the issue at hand.

### Books

Elizabeth Fajans, Mary R. Falk & Helene S. Shapo, *Writing for Law Practice* 93 (Found. Press 2004).

Bryan A. Garner, *The Redbook: A Manual of Legal Style* 391 (2d ed., Thomson West 2006).

Margaret Z. Johns, *Professional Writing for Lawyers, Skills and Responsibilities* 127 (Carolina Academic Press 1998).

Michael D. Murray & Christy Hallam DeSanctis, *Legal Research and Writing* 367 (Found. Press 2005).

Mary Barnard Ray & Barbara Cox, *Beyond the Basics, A Text for Advanced Legal Writing* 273 (2d ed., Thomson West 2003).

Nancy L. Schultz & Louis J. Sirico, *Legal Writing and Other Lawyering Skills*

283 (4th ed., LexisNexis 2004).

Carol Ann Wilson, *Plain Language Pleadings* 131, 150 (Prentice Hall 1995).

### Articles

David L. Lee, *Summary Judgment: The Intersection of Legal Writing & Trial Practice*, 12 CBA Rec. 16 (Apr. 1998). The author presents advice for the practitioner for drafting summary judgment motions.

Wayne Schiess, *The Bold Synopsis: A Way to Improve Your Motions*, 63 Tex. B.J. 1030 (2000). Recognizing that judges do not always read motions, the author recommends using the bold synopsis at the beginning of the motion to grab the court's attention. Samples of motion papers with and without the bold synopsis are included.

Wayne Schiess, *How to Write for Trial Judges*, 13 Prac. Litig. 41 (July 2002). The author presents general guidelines for writing for trial judges: put a summary up front; organize overtly; and be honest.

Wayne Schiess, *Plain Language: Writing to the Trial Judge: Part One — For Motions*, 83 Mich. B.J. 54 (Jan. 2004). The author provides three suggestions for affidavits that garner the court's attention: the bold synopsis, headings, and honesty.

## XIV. Pleadings

While pleadings tend to be formulaic, drafters of pleadings are challenged to avoid archaic language and create pleadings that serve their client's needs. Forms are instructive, yet should be adapted to each unique case.

### Books

Deborah E. Bouchoux, *Aspen Handbook for Legal Writers: A Practical Reference* 178 (Aspen Publishers 2004).

Susan L. Brody, Jane Rutherford, Laurel A. Vietzen & John G. Dernbach, *Legal Drafting* (Little, Brown & Co. 1994).

Charles R. Calleros, *Legal Method and Writing* (5th ed., Aspen Publishers 2006).

Barbara Child, *Drafting Legal Documents: Principles and Practices* 10, 85 (2d ed., West Publ. Co. 1992).

Elizabeth Fajans, Mary R. Falk & Helene S. Shapo, *Writing for Law Practice* 31, 65 (Found. Press 2004).

Margaret Z. Johns, *Professional Writing for Lawyers, Skills and Responsibilities* 83 (Carolina Academic Press 1998).

Bryan A. Garner, *The Redbook: A Manual of Legal Style* 383 (2d ed., Thomson

West 2006).

Mary Barnard Ray, *The Basics of Legal Writing* 274 (Thomson West 2006).

Mary Barnard Ray & Barbara Cox, *Beyond the Basics, A Text for Advanced Legal Writing* 248 (2d ed., Thomson West 2003).

Nancy L. Schultz & Louis J. Sirico, *Legal Writing and Other Lawyering Skill*, 247 (4th ed., LexisNexis 2004).

Steven D. Stark, *Writing to Win: The Legal Writer, The Complete Guide to Writing Strategies that Will Make Your Case — and Win It* 168 (Broadway Books 2000).

Melissa H. Weresh, *Legal Writing: Ethical and Professional Considerations* 79 (LexisNexis 2006).

Carol Ann Wilson, *Plain Language Pleadings* 69, 93-109 (Prentice Hall 1996).

### Articles

Herbert A. Eastman, *Speaking Truth to Power: The Language of Civil Rights Litigators*, 104 Yale L.J. 763 (1995). Civil rights litigation requires more from pleadings than just a “thin coat” of facts. Often the richness of the facts, and the drama of the events, get lost in the pleading stage. Plain writing in civil rights litigation need not be “artless.” Such pleadings, the author proposes, can be augmented by using literary techniques to improve the overall persuasiveness of the pleadings.

Seward P. Reese, *An Exercise In Drafting of Pleadings*, 4 J. Leg. Educ. 337 (1952). The author describes a pleading exercise which takes students from the first stages of drafting through its completion.

Shelly Rice Weinberg, *Bringing Pleadings into the Modern Age*, 84 Ill. B.J. 643 (1996). This brief article challenges attorneys to question the use of archaic language in drafting pleadings and gives practical suggestions for avoiding “magic language that has long since lost its magic.”

## XV. Scholarly Writing

Techniques and suggestions for producing well-crafted legal scholarship are addressed in several books and articles. Recommendations on how to select topics and improve organization and writing are provided.

### Books

Elizabeth Fajans & Mary R. Falk, *Scholarly Writing for Law Students: Seminar Papers, Law Review Notes and Law Review Competition Papers* (3d ed., Thomson West 2005).

Mary Barnard Ray & Barbara Cox, *Beyond the Basics, A Text for Advanced Legal Writing* 406 (2d ed., Thomson West 2003).

Eugene Volokh, *Academic Legal Writing: Law Review Articles, Student Notes, and Seminar Papers* (Found. Press 2003).

### Articles

Mary Beth Beazley & Linda H. Edwards, *The Process and the Product: A Bibliography of Scholarship About Legal Scholarship*, 49 Mercer L. Rev. 741 (1998). This is a bibliography of scholarship on legal scholarship.

Christian C. Day, *In Search of the Read Footnote: Techniques for Writing Legal Scholarship and Having it Published*, 6 Leg. Writing, 229 (2000). The author compiles a “nuts and bolts” list of techniques and suggestions for producing scholarship. The recommendations are instructive for students engaged in scholarly writing in either a journal or seminar.

Richard Delgado, *How to Write a Law Review Article*, 20 U.S.F. L. Rev. 445 (1986). Fundamental questions frequently arise when authors contemplate writing a law review article such as why write, how to choose a topic, how to effectively implement research strategies, etc. This article addresses some of those concerns.

Darby Dickerson, *The Publication Process: Citation Frustrations — And Solutions*, 30 Stetson L. Rev. 477 (2000). Frequently law review editors and their staff express frustration at handling various “cite and source projects” more effectively. Solutions in training, preparing written guidelines, and improving communication with authors are provided. An Appendix contains step-by-step guidelines, detailed Sample Cite and Source Guidelines that law journals can use when training staff members, and an evaluation form that editors could use when reviewing a staff member’s cite and source project.

Claire R. Kelly, *An Evolutionary Endeavor: Teaching Scholarly Writing to Law Students*, 12 Leg. Writing, 285 (2006). The author describes her class on scholarly writing and how it can be used as a model to teach a doctrinal seminar.

## XVI. Settlement Agreements

Settlement agreements ensure that negotiated settlements are carried out and meet the parties’ expectations. Pitfalls can be avoided with artful drafting.

### Books

Nancy L. Schultz & Louis J. Sirico, *Legal Writing and Other Lawyering Skills* 239 (4th ed., LexisNexis 2004).

### Articles

Robert J. Stumpf, Jr., *Drafting Settlement Agreements: Ask Yourself These Questions*, 62 Tex. B.J. 125 (1999). A litigation attorney identifies twelve pitfalls, and how to avoid them, in drafting settlement agreements.



## Miscellaneous

The articles listed here recognize that both law schools and practitioners should address the need to teach lawyering skills that go beyond writing the objective memorandum and brief. Because these articles do not fall neatly into any of the categories listed above, they are listed separately. There is no shortage of articles calling for improving lawyering skills across the board, and these are but a few examples.

Matthew J. Arnold, *The Lack of Basic Writing Skills and Its Impact on the Legal Profession*, 24 Cap. U. L. Rev. 227 (1995). Writing skills are essential to good lawyering and members of the legal profession would be best served by improving their skills. Practical remedies for improving writing skills are offered.

Lissa Griffin, *Teaching Upperclass Writing: Everything You Always Wanted to Know But Were Afraid to Ask*, 34 Gonz. L. Rev. 45 (1998-1999). The author proposes a syllabus for upper-class writing courses to create a uniform and high quality upper-class writing experience.

Andrea McArdle, *Teaching Writing in Clinical, Lawyering, and Legal Writing Courses: Negotiating Professional and Personal Voice*, 12 Clin. L. Rev. 501 (2006). Law students need to develop their professional voice while preserving their own. This article suggests how to help students achieve this.

Stephen Nathanson, *Designing Problems to Teach Legal Problem Solving*, 34 Cal. W. L. Rev. 325 (1998). The author discusses the elements that go into creating good problems necessary to teaching students how to become good problem solvers. One example is provided.

David S. Romantz, *The Truth About Cats and Dogs: Legal Writing Courses and the Law School Curriculum*, 52 U. Kan. L. Rev. 105 (2003). There are fundamental differences between legal writing courses and doctrinal courses. While different in their pedagogy, both legal writing and doctrinal courses contribute to the development of critical thinking skills so important to the legal professional.

Lucia Ann Silecchia, *Legal Skills Training in the First Year of Law School: Research? Writing? Analysis? Or More?* 100 Dick. L. Rev. 245 (1996). The author advocates that legal writing courses should go beyond the objective office memorandum and appellate brief model to introduce students to a "broader range of skills than does the traditional office memo/appellate brief format."