

Compiled by Barbara Bintliff

Barbara Bintliff is the Nicolas Rosenbaum Professor of Law and Director of the William A. Wise Law Library at the University of Colorado Law School in Boulder. She is a member of the Perspectives Editorial Board. This bibliography includes references to books, articles, bibliographies, symposia, and research guides that could prove useful to instructors of legal research and writing and their students. Also included are citations to related resources that may be of interest to those who teach legal research and legal writing. It includes sources noted since the previous issue of Perspectives, but does not include articles in Perspectives itself.

Carol M. Bast & Linda B. Samuels, *Plagiarism and Legal Scholarship in the Age of Information Sharing: The Need for Intellectual Honesty*, 57 Cath. U. L. Rev. 777–815 (2008).

“[E]xplores plagiarism from the perspective of professors, judges, and practicing attorneys and discusses topics such as reuse of one’s own previously published writing, authorship, and the difference between plagiarism and copyright infringement.” *Id.* at 777. The author argues for the development of clearer standards for determining plagiarism.

Ben Bratman, *Toward a Deeper Understanding of Professionalism: Learning to Write and Writing to Learn During the First Two Weeks of Law School*, 32 J. Legal Prof. 115–136 (2008).

A legal writing professor explains the reasoning behind the first assignment he gives his first-year students—a memo discussing the differences between a business and a profession. His goal is to develop the “all-important” understanding of lawyer professionalism, which “sets professionals apart from business persons.” *Id.* at 116.

Justin Burney, *Recent Law Review Articles Concerning the Legal Profession*, 32 J. Legal Prof. 339–350 (2008).

A selective bibliography, occasionally annotated, on the subject of the legal profession. Articles are divided into 24 topics, including pro bono and public interest law, law and society, criminal

defense and prosecution, SEC and Sarbanes-Oxley regulations, and alternative dispute resolution.

Tina S. Ching, *The Next Generation of Legal Citations: A Survey of Internet Citations in the Opinions of the Washington Supreme Court and Washington Appellate Courts, 1999-2005*, 9 J. App. Prac. & Process 387–408 (2007).

“This paper surveys the types of Internet sources the Washington state Supreme Court and Appellate Court justices are citing ... followed by a discussion of some of the major issues surrounding Internet citations in judicial opinions and an analysis of the survey results.” *Id.* at 389. Issues discussed include the reliability of Internet sources, citation format, continuing availability, and preservation of sources.

Tom Cobb & Sarah Kaltsounis, *Real Collaborative Context: Opinion Writing and the Appellate Process*, 5 J. Ass’n Legal Writing Directors 156–176 (2008).

Describes a legal writing teaching experiment aimed at infusing the classroom with “real collaborative context.” The authors “looked for instances of collaboration that actually occur in the legal process and asked students to participate in those processes in order to gain a better understanding of the social aspects of legal practice and jurisprudence.” *Id.* at 157.

Christine Coughlin, Joan Malmud & Sandy Patrick, *A Lawyer Writes: A Practical Guide to Legal Analysis*, 2008 [Durham, NC: Carolina Academic Press, 312p.]

Written for law students preparing for their first job in a law office, “[t]his book will teach you how to assess the merits of a legal problem and how to communicate your assessment to other attorneys.” Introduction. Includes many annotated examples. Each chapter concludes with a brief list of “Practice Points” to summarize what has been taught in the chapter.

Larry D. Dershem, *California Legal Research Handbook*, 2008 [Buffalo, NY: W.S. Hein & Co., Inc., 471 p.]

“The purpose of this book is to teach law students, paralegal students, and attorneys the

basic skills needed for doing legal research in California.” Preface. Chapters fall into three major categories: primary authority, secondary authority, and computer-assisted legal research.

Darby Dickerson, *Reducing Citation Anxiety*, 11 Scribes J. Legal Writing 85–95 (2007).

The author attempts to “bring some sense of relief to those who suffer from citation anxiety.” *Id.* at 87. Gives tips such as “[u]se a reasonableness standard” and “[l]earn the key rules—the ones that most people know” in order to assist in reducing stress on those who struggle with citation format. *Id.* at 89–90.

William Drennan, *Lay Words for Lawyers*, 2008 [Chicago, Ill.: ABA General Practice, Solo & Small Firm Division, 109 p.]

A mini-dictionary of “verbal ammunition,” words “whose mere mention is intended to elicit strong mental—but particularly strong emotional—images or memories in the hearer, to stimulate a flood of associations that will help advance your case.” Preface. Arranged by categories based on generation and topic: mature, boomers, Generation X, Generation Y, pangenerational, computer, literary, and sports. Each entry includes the age range for the target client/juror/witness, an explanation of the term, a description of the appropriate application, and an example of the correct use of the term. Examples of terms include “Blanchard and Davis” (mature) and “butterfly ballot” (Generation Y).

Benjamin R. Dryden, Comment, *Technological Leaps and Bounds: Pro Se Prisoner Litigation in the Internet Age*, 10 U. Pa. J. Const. L. 819–865 (2008).

The author “argues that the unenumerated constitutional right of access to courts entails that prisons provide pro se prisoner litigants with Internet access to help them with legal research.” *Id.* at 819. The author notes that this should not impose a significant financial burden on states, as “[q]uality legal research resources are available today online for free,” including

Findlaw.com, Wikipedia, and government Web sites. *Id.*

Francis A. Gabor, *Guide to Legal Research and Writing from the Transnational Perspective*, 2008 [Lake Mary, FL: Vandeplas Publishing 137 p.]

This author believes law students need “exposure to a transnational legal perspective in the contemporary global legal environmental.” Foreword. He believes this objective can be achieved in three stages, the third of which involves academic research. The book is designed to be used as a tool in the third stage. Features five law review articles that introduce the topic and provide models for scholarly writing.

Marvin Garfinkle, *Real World Document Drafting: A Dispute-Avoidance Approach*, 2008 [Philadelphia, Pa.: ALI ABA, 217p.]

Discusses drafting “deal” documents with a focus to “sensitize lawyers to avoid interpretive uncertainties.” *Id.* at 1. Sections include: Preliminary Considerations, Ambiguities, Litigation Issues and Traps, Achieving Clarity, and Boilerplate and Other Specific Provisions.

Bryan A. Garner, with a foreword by Ruth Bader Ginsburg, *Garner on Language and Writing: Selected Essays and Speeches of Bryan A. Garner*, 2009 [Chicago: American Bar Association, 839 p.]

“[A]rranges [Bryan A. Garner’s] shorter commentary into an informative and entertaining whole.” Foreword. Includes many very short (three to four pages) essays, with few essays longer than 10 pages. The 19 chapters are sprinkled with pencil drawings of famous attorneys and judges.

Kristin B. Gerdy, *Clients, Empathy, and Compassion: Introducing First-Year Students to the “Heart” of Lawyering*, 87 Neb. L. Rev. 1–61 (2008).

In response to criticisms included in the 2007 Carnegie Report, “Educating Lawyers,” the author “explore[s] the need for instruction and experience with the ‘heart’ of law practice within the first year of law school.” *Id.* at 3. The “heart” is defined as “[u]nderstanding clients and exercising empathy and compassion.” *Id.*

Pearl Goldman, *Legal Education and Technology II: An Annotated Bibliography*, 100 *Law Libr. J.* 415–528 (2008).

An update to a 2001 “annotated bibliography of articles, commentaries, conference papers, essays, books, and book chapters that examine the impact of technology on legal education.” Abstract. The bibliography is organized into seven categories: specific technologies, curriculum, distance education, pedagogy, law schools, the future of technology in legal education, and miscellaneous. *Id.*

Marc Hershovitz, Review of CiteGenie—Automatic Bluebook Citations When Using Westlaw, LLRX.com, Oct. 13, 2008 (available online at <www.llrx.com/features/citegenie.htm>).

A review of “CiteGenie, a new extension for the Firefox web browser that, as its website promises, ‘automagically’ creates Bluebook formatted pinpoint citations when copying from Westlaw.” Publisher. Includes an explanation of how to install and use CiteGenie and provides the results of a series of tests designed to check the accuracy of CiteGenie’s results.

The Inter-American Citator: A Guide to Uniform Citation of Inter-American Sources for Writers and Practitioners, 39 *U. Miami Inter-Am. L. Rev.* 275–330 (2008).

A country-by-country citation guide that provides examples of how to cite many legal sources from North or South America, including constitutions, codes, official gazettes, general publications, and reporters.

M.H. Sam Jacobson, *A Checklist for Drafting Good Contracts*, 5 *J. Ass’n Legal Writing Directors* 79–117 (2008).

The author proposes the use of a checklist for contract drafters to ensure coverage of the requirements and considerations common in all contracts. She includes examples and step-by-step considerations for incorporation into the finished product and concludes with a brief bibliography of additional sources on drafting and contract drafting.

Joseph Kimble, *Hunting Down Nouners*, 11 *Scribes J. Legal Writing* 79–84 (2007).

The author encourages the reader to “[r]esist the impulse to turn strong verbs—action verbs—into abstract nouns,” creating nominalizations, or what he calls “nouners.” *Id.* at 79. The author gives tips on how to detect and avoid nouners and passive voice and provides exercises to practice eliminating these writing flaws.

Matthias Klatt, *Making the Law Explicit: The Normativity of Legal Argumentation*, 2008 [Oxford; Portland, OR: Hart Publishing, 303 p.]

This translation of a German monograph provides answers to questions such as “how much freedom do judges have in applying the law?” and “[h]ow can we distinguish between applying the law and making the law?” by means of a “complex and detailed theory of literal meaning.” Preface.

Frank Y. Liu et al., *Pennsylvania Legal Research Handbook*, 2008 [Philadelphia, PA: American Lawyer Media, 427 p.]

“Our goal for this handbook is to provide for legal researchers in one place a comprehensive and in-depth compilation of authentic legal information resources for researching Pennsylvania law.” Chapter 1: Introduction. Includes illustrations of many sources.

Gloria Miccioli, *Researching Medical Literature on the Internet—2008*, LLRX.com, Sept. 22, 2008 (available online at <www.llrx.com/features/medical2008.htm>).

Research guide for finding medical information on the Internet, concentrating on databases the author finds “reliable and useful” for the professional researcher. Introduction.

Diane Murley, *Technology for Everyone ... In Defense of Wikipedia*, 100 *Law Libr. J.* 593–599 (2008).

The author “explains how Wikipedia articles are created and edited and how to use Wikipedia’s tools to evaluate articles. She argues that research instructors should teach students to use Wikipedia properly, rather than trying to convince them not to use it.

Finally, she suggests ways in which Wikipedia can be used to help teach the importance of evaluating sources.” Abstract.

Shenoa L. Payne, *The Ethical Conundrums of Unpublished Opinions*, 44 *Willamette L. Rev.* 723–760 (2008).

Examines the background and history of unpublished and depublished opinions. The author examines the ethical implications of citing to such opinions and argues for a rule requiring uniform treatment of unpublished opinions, giving them persuasive authority based on four factors.

Almut Pfluger, *Legal Research in Practice—Empirical Legal Research and Research into Legal Facts*, 39 *IIC* 198–210 (2008).

The article explains that there are two main types of legal research in the context of intellectual property: empirical legal research and research into legal facts. The author states that empirical legal research is relevant mostly to competition and trademark law, and its sources include primarily surveys and expert opinions. Legal facts focus on “legal questions against a political background.” *Id.* at 198. This article focuses on how to properly conduct empirical legal research, especially that involving expert opinions.

Theodore A. Potter, General Editor, with Jane Colwin et al., *Legal Research in Wisconsin*, 2008 [Buffalo, N.Y.: William S. Hein & Co. 162 p.]

“[A] guide for attorneys, judges, paralegals, law librarians, students and others needing ready access to information contained in Wisconsin legal materials.” Introduction.

Brandon D. Quarles & Matthew C. Cordon, *Researching Texas Law*, 2008 [Buffalo, N.Y.: W.S. Hein, 339 p.]

This handbook is based on instructional materials prepared by the authors for courses in legal research. Includes chapters on case law, statutory, and administrative research; jury instructions; briefs and records; civil jury verdicts; and attorney general opinions, among other topics.

Bret Rappaport, *A Shot Across the Bow: How to Write an Effective Demand Letter*, 5 *J. Ass’n Legal Writing Directors* 32–57 (2008).

Outlines a specific methodology for preparing and writing a demand letter and provides an annotated example.

David T. Ritchie, *Mastering Legal Analysis and Communication*, 2008 [Durham, NC: Carolina Academic Press, 182 p.]

“This book is designed to help you master the analytical and communication skills you will need to become an expert in the legal profession.” Introduction.

Kristen Konrad Robbins-Tiscione, *From Snail Mail to E-Mail: The Traditional Legal Memorandum in the Twenty-First Century*, 58 *J. Legal Educ.* 32–60 (2008).

A 2006 survey of Georgetown University Law Center graduates indicates that among legal practitioners, traditional legal memoranda are being replaced by e-mail, telephone calls, and face-to-face discussions. Yet almost all first-year legal writing students are still required to write formal memos. This article explores the survey and provides recommendations for changing the first-year writing curricula to reflect changing law practice.

Robin Schard, *Legal Research in the Americas: Where to Begin*, 39 *U. Miami Inter-Am. L. Rev.* 269–274 (2008).

This guide provides “starting points” for legal research in the laws of the countries of the Americas. *Id.* at 269. It is not intended to be a comprehensive legal research guide. It notes good beginning points and general sources, and covers constitutional law and private international law resources.

Wayne Schiess, *The Art of Consumer Drafting*, 11 *Scribes J. Legal Writing* 1–23 (2007).

Consumer drafting is legal drafting aimed at nonlawyers. The author asserts that most of this type of writing is “bad” and that changes are needed to improve this kind of writing. *Id.* at 1. His theory is to change the drafters’ thinking, so they become more like an artist

than a lawyer, and he describes the steps he took to change his own thinking, offering it as a model for others.

Wayne Schiess, *Preparing Legal Documents Nonlawyers Can Read and Understand*, 2008 [Chicago, Ill.: American Bar Association, 127 p.]

The “goal of this book: to teach you how to convey binding legal content, in writing, to nonlawyers.” Introduction. Arranged in short, easy-to-read chapters with lots of examples.

Deborah A. Schmedemann, *Finding a Happy Medium: Teaching Contract Creation in the First Year*, 5 J. Ass’n Legal Writing Directors 177–192 (2008).

Defines contracts as a genre of legal writing and advocates first-year practice-oriented exercises, including contract drafting, as a “bridge between ... legal analysis and the more fluid expertise needed in professional work.” Abstract.

Helene S. Shapo, Marilyn R. Walter & Elizabeth Fajans, *Writing and Analysis in the Law*, 2008 [New York: Foundation Press; Eagan, Minn.: Thomson/West, 614 p.]

The authors “break the legal reasoning and writing process into manageable components to enable you to be conscious of that process and to be master of your thoughts and their expression ... [and to] make you less anxious when writing and more satisfied with your work when finished.” Preface. Includes exercises and examples throughout.

Troy Simpson, *The Art of Written Persuasion: The Problem with the Case Method and the Case for the Problem Method*, LLRX.com, Sept. 1, 2008 (available online at <www.llrx.com/columns/persuasion2.htm>).

The second article in a series, the author “suggests that the ‘case method’ of teaching law may help to explain why lawyers write badly. He then outlines some of the advantages of the ‘problem method’ of teaching law.” Publisher.

Troy Simpson, *The Art of Written Persuasion: From IRAC to FAILSAFE—A Compilation of Legal Problem-Solving Models*, LLRX.com, Oct. 11, 2008 (available online at <www.llrx.com/columns/persuasion3.htm>).

In this third article in a series, the author describes various problem-solving models often taught in legal writing classes.

Troy Simpson, *Art of Written Persuasion: Part IV—What Makes a Good Problem-Solving Model?*, LLRX.com, Jan. 19, 2009 (available online at <www.llrx.com/columns/persuasion4.htm>).

This fourth article in a series presents a “‘wish list’ of traits that I think any good legal problem-solving model should possess.” Introduction.

Ken Strutin, *Criminal Law Resources: DNA Post-Conviction Resources*, LLRX.com, Sept. 14, 2008 (available online at <www.llrx.com/features/dnapostconviction.htm>).

“[A] collection of recent and representative web-based materials concerning DNA technology developments and legal research on the impact of wrongful convictions and DNA exonerations on the justice system.” Publisher. Includes links for legislation, standards, reports, secondary resources, and training and education.

Ken Strutin, *Neurolaw and Criminal Justice*, LLRX.com, Dec. 28, 2008 (available online at <www.llrx.com/features/neurolaw.htm>).

“[H]ighlights selected recent publications, news sources and other online materials concerning the applications of cognitive research to criminal law as well as basic information on the science and technology involved.” Publisher.

Symposium: *Once upon a Legal Time: Developing the Skills of Storytelling in Law*, 14 *Legal Writing* 3–323 (2008). Articles of particular interest include:

Brian J. Foley, *Applied Legal Storytelling, Politics, and Factual Realism*, 14 *Legal Writing* 17–52 (2008).

Argues that applied legal storytelling (ALS) is not inherently politically left or right and is not politically motivated, although it deals with political issues. Discusses ALS in the context of factual realism, noting that

“ALS reflects a focus on fact and particularly on the indeterminacy of fact.” *Id.* at 19.

Kenneth D. Chestek, *The Plot Thickens: The Appellate Brief as Story*, 14 *Legal Writing* 127–169 (2008).

Begins with the premise that legal writing need not, and should not, be boring. Argues against a slavish adherence to IRAC and the like, but instead urges writers to organize their works as a narrative and bring people conspicuously into the picture. The author discusses basic elements of a story (such as point of view, plot, and theme) and explains how they can be incorporated into appellate briefs.

Elyse Pepper, *The Case for “Thinking Like a Filmmaker”: Using Lars von Trier’s Dogville as a Model for Writing a Statement of Facts*, 14 *Legal Writing* 171–205 (2008).

Begins by describing movies as a persuasive medium and an excellent teaching tool, and gives two examples of how *Dogville* could be used to create compelling statements of facts, one for a fictional criminal defendant and one for the state.

Stacy Caplow, *Putting the “I” in Writing: Drafting an Effective Personal Statement to Tell a Winning Refugee Story*, 14 *Legal Writing* 249–290 (2008).

“For lawyers representing asylum seekers, a narrative told in the first person is the central evidence in the case.” *Id.* at 249. Because first person singular is very rare in the law and in fact “seems to be bred out of first-year students,” the author offers a model for teaching the drafting of effective asylum affidavits. *Id.*

Patricia Grande Montana, *Better Revision: Encouraging Student Writers to See Through the Eyes of the Reader*, 14 *Legal Writing* 291–323 (2008).

Argues for teaching a recursive, rather than a linear, model for the writing process in an effort to improve the ability of law students to revise their work effectively.

Symposium: 21st Century International, Foreign and Comparative Law Research Issues, 35 *Syracuse J. Int’l L. & Com.* 159–428 (2008). Symposium is based primarily on a 2008 article by Lyonette Louis-Jacques, *What’s Wrong with International Law Scholarship?: Gaps in International Legal Literature*, reprinted herein at 35 *Syracuse J. Int’l L. & Com.* 165–173 (2008). Articles of particular interest include:

Marci Hoffman & Katherine Topulos, *Tyranny of the Available: Under-Represented Topics, Approaches, and Viewpoints*, 35 *Syracuse J. Int’l L. & Com.* 175–200 (2008).

“This article examines the effect on international law scholarship of current events, recent trends in legal scholarship generally, and the unprecedented amounts of materials made easily available by advances in technology and new media outlets.” *Id.* at 176. The authors attempt to determine whether some gaps in the international legal research field have been filled and whether new gaps have emerged. They conclude that “[i]nternational legal scholarship has evolved considerably.” *Id.* at 198.

Mary Rumsey, *Gauging the Impact of Online Legal Information on International Law: Two Tests*, 35 *Syracuse J. Int’l L. & Com.* 201–217 (2008).

First, the author examines the number of citations by international human rights tribunals to nongovernmental organizations (NGOs) over time, arguing that the increased frequency of citations to NGO documents is a result of increased availability of electronic information. Second, the author examines the relative number of citations by a particular international law journal to journals and books, concluding that the probable cause of the increased number of citations to journals was the availability of journal articles online.

Lyonette Louis-Jacques, *Gaps in International Legal Literature: A Skeptical Reappraisal*, 35 *Syracuse J. Int’l L. & Com.* 363–368 (2008).

A follow-up to the author’s 2000 article on gaps in international legal research. The author “reflect[s] on progress in filling the

gaps I observed, expound[s] upon some notable remaining gaps, and look[s] forward to future solutions.” *Id.* at 363.

Symposium: When Worlds Collide: Legal Writing and Clinical Programs, 4 J. Ass’n Legal Writing Directors 1–66 (2007). Articles of interest include:

Michael A. Millemann, *Using Actual Legal Work to Teach Legal Research and Writing*, 4 J. Ass’n Legal Writing Directors 9–20 (2007).

The author argues that legal writing professors should use real legal work to teach their classes. Gives examples of two experimental legal research and writing courses taught using real legal work and outlines the benefits of this approach.

Kate O’Neill, *But Who Will Teach Legal Reasoning and Synthesis?*, 4 J. Ass’n Legal Writing Directors 21–34 (2007).

Argues against integrating first-year legal writing courses with upper-level clinics based on concerns that students will miss out on legal reasoning skills.

Phyllis Goldfarb, *So Near and Yet So Far: Dreams of Collaboration Between Clinical and Legal Writing Programs*, 4 J. Ass’n Legal Writing Directors 35–44 (2007).

Although recognizing that combining a clinical course with a legal writing course could be “felicitous,” the author voices concerns that most programs would have too few resources to be effective. *Id.* at 37.

Darby Dickerson, *Building Bridges: A Call for Greater Collaboration Between Legal Writing and Clinical Professors*, 4 J. Ass’n Legal Writing Directors 45–55 (2007).

The author seeks to eliminate “silos”—“a mindset in which individuals or groups perceive that, by hoarding information and resources, they will elevate themselves and their positions”—and increase collaboration between legal writing and clinical faculty. *Id.* at 45.

Sarah E. Ricks & Susan C. Wawrose, *Comment: Survey of Cooperation Among Clinical, Pro Bono, Externship, and Legal Writing Faculty*, 4 J. Ass’n Legal Writing Directors 56–61 (2007).

Discusses a recent survey by the Legal Writing Institute of collaboration between legal writing faculty and clinical, externship, and pro bono faculty.

Carrie W. Teitcher, *Legal Writing Beyond Memos and Briefs: An Annotated Bibliography*, 5 J. Ass’n Legal Writing Directors 133–155 (2008).

“This [annotated] bibliography lists books or articles that address the drafting of a particular type of legal document or the use of a particular method of communication.” *Id.* at 134–135. Covers many different categories of documents, including alternative dispute resolution, corporate documents, e-mail, jury instructions and verdict forms, and settlement agreements.

Thirty-Ninth Selected Bibliography on Computers, Technology, and the Law, 34 Rutgers Computer & Tech. L.J. 460–556 (2008).

“[D]esigned to be a research guide to assist our readers in searching for recent articles on computer and technology law.” *Id.* at 460. Features more than 600 articles divided into 11 main sections. These sections are divided into more than 140 subsections ranging from video games to Internet gambling, DNA typing, and the Internal Revenue Service.

Marcus P. Zillman, *Deep Web Research 2009*, LLRX.com, Dec. 28, 2008 (available online at <www.llrx.com/features/deepweb2009.htm>).

The “Deep Web” consists of about 1 trillion pages of information that are difficult or impossible to access via a search engine, compared to about 20 billion pages search engines can find. This guide provides “various classified resources that allow you to search through the currently available web to find key sources of information located via an understanding of how to search the ‘deep web.’” Introduction.

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