

TOP 10 WAYS TO USE HUMOR IN TEACHING LEGAL WRITING¹

BY SHEILA SIMON

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Brutal Choices in Curricular Design ... is a regular feature of Perspectives, designed to explore the difficult curricular decisions that teachers of legal research and writing courses are often forced to make in light of the realities of limited budgets, time, personnel, and other resources. Readers are invited to comment on the opinions expressed in this column and to suggest other "brutal choices" that should be considered in future issues. Please submit material to Helene Shapo, Northwestern University School of Law, 357 East Chicago Avenue, Chicago, IL 60611, phone: (312) 503-8454, or to Mary Lawrence, University of Oregon School of Law, 1515 Agate Street, Eugene, OR 97403, phone: (541) 346-3848.

Hey—think on a gut level with me for just a minute. Do you do a better job as a teacher when you're having fun? Of course! And do your students learn better if they're having fun? Sure! I'll get to the pointy-headed stuff later, but for now keep going with your instincts and check out my top 10 ways of using humor in the legal writing classroom:

10. Question of the Day

Instead of taking attendance I ask the students a question at the start of each class. It takes some time, but it helps me to get to know each student. When I can, I match the question to the class topic. On the first day of class I ask for the best book they read in the last year. It makes a perfect introduction to our topic for the first day, reading the law. When there's no direct match I ask something I'm curious about, like what job would the student do if she or he couldn't be a lawyer.

¹ This paper was prepared in connection with a presentation at the Legal Writing Institute conference in May 2002, in Knoxville, Tennessee.

Although I started this process for my own benefit, the students enjoy it as well. They come to my class knowing they will be called upon, and that they will know the answer. That's a good confidence booster for a first-year student.

9. Cast a Case

Students have to be good legal readers before they can be good legal writers. One of the ways I encourage careful reading is to have students cast the movie of the case.² Is the plaintiff a Danny DeVito or maybe a Denzel Washington? Is the defendant a Jennifer Lopez or a Helen Mirren? It takes just a few minutes of class time and it pays off. Each student now has a tool to use to make the facts of any case more vivid.

8. Who Wants to Be a Citationaire?

What's more exciting than learning the citation manual? Just about anything. To make paying attention to the detail in the *ALWD Citation Manual* a bit more interesting, we have our students compete in a *Who Wants to Be a Millionaire* format game show. They compete for tacky prizes provided by research service vendors. Game show formats are nothing new. Professors James Duggan and Frank Houdek here at Southern Illinois University have produced *Jeopardy*-style games before. Currently I'm mulling over a weekly citation game—*Survivor: Summer Associate*. People could be eliminated from the firm when they fail a citation challenge. Kind of a spelling bee grown up and on steroids.

7. Food Analogies

The comparison of the structure of legal writing and lasagna is probably obvious, but I'll explain it anyway. Lasagna is a layered food. When we order lasagna we expect that there will be certain ingredients and that they will be layered. But what if you ordered lasagna and got a pile of noodles on the right, cheese on the left, and some spinach on a separate saucer? Or, worse yet, what if all the lasagna ingredients were put into a blender! This analogy helps students understand that having all the right ingredients for a memo means pretty little

² For a more complete explanation of how to cast a case in class see Sheila Simon, *Teaching Active Reading*, *The Law Teacher* 11 (Spring 2001).

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without the structure that the legal reader is expecting.

How to deliver this lasagna message is the next question. The visual nature of the message seemed to lend itself to still pictures. Check out <www.law.siu.edu/ssimon/sheila.htm> for pictures of my extremely cooperative husband serving up lasagna in regular, disorganized, and blender formats. Taking this idea a step further, Professor Kenneth Chestek actually made lasagna for his class this fall.

Another tasty analogy comes from Professor Sophie Sparrow. She tells students that a first draft is like a club sandwich. Revising a first draft is not as simple as adding a little mustard. It can be remaking the sandwich into a casserole. Mmmmm.

6. Real Examples of Reader Error

Do you try to keep your students from writing things that can be interpreted more than one way? Of course. One way I demonstrate how this kind of reader error happens is with an example of me as the thoughtless reader. I read to the students an e-mail message from Professor Richard Neumann on the legal writing e-mail discussion list. I explain to the students that Professor Neumann is a top dog³ and I'm going to read every word of his message. The message started like this:

“The following rap [emphasis added to show the exact moment of reader error] helps, if delivered in the first class of the semester and then repeated (as though it were tape recorded and the ‘play’ button had been pushed) every time a student is heard saying something self-indulgent.”

So I'm ready to read on:

“No matter what you do for a living, people will pay you money only if your work adds value to a situation. To earn a professional's salary, you have to add professional value. ...”

But where's the rhyme scheme? Where's the meter? This guy writes a fine text but he really

³ Richard K. Neumann Jr., *Legal Reasoning and Legal Writing: Structure, Strategy, and Style* (4th ed., Aspen Law & Business 2001).

stinks as a rap artist ... oh ... he didn't mean that kind of rap. Never mind. This helps me explain the writer's oath: first, generate no unintended belly laughs.

5. Real Examples of Poor Editing

Everyone has examples of poor editing from practice. My two favorites come from my days as an assistant state's attorney. First, I show a motion to suppress based on an officer's failure to provide a “memoranda warning.” That kind of warning might be appropriate for us to give at the beginning of the semester, but it's rarely useful to a drunk driver. Second, I describe how one defense attorney submitted a “motion for continence.” The students appreciate how much fun I had standing up in court and stating, “The people have no objection to continence.”

4. The Legal Reader

Many students have no earthly idea of how a lawyer or judge reads a memo or brief, so I give students an image from outer space—Mystery Theater 3000. If you've ever wasted time surfing channels late at night you may have seen the silhouetted figures that comment on old sci-fi movies as the movies are shown. The characters make comments like, “Love the pants,” and “I can't believe those sideburns!” One flash of this image and students have a more complete understanding of their audience. The legal reader might say, “Look at the misplaced apostrophe!”

3. Plunge into Persuasion

To help students shift from objective to persuasive writing, I start the spring semester with an exercise in which students use ordinary, everyday persuasion.⁴ The first student is told that she is a babysitter, and she must get a child to go to bed. The next student is told that she is the parent and she must get the child to bed. It turns out that everyone understands the difference in levels of authority! By changing the scenarios slightly from one student to the next, the students' own

⁴ For more explanation on how to use this persuasion exercise, see Sheila Simon, *Take My Garbage—Please! Teaching Persuasion Through Arguments Anyone Can Make* 16 *The Second Draft*, Bulletin of the Legal Writing Institute 7 (December 2001).

arguments show that they come equipped with an understanding of concepts like levels of authority, selection of key facts, and when sometimes the best course is to choose not to argue a sure loser.

2. Use Fun Movie Clips

Movie clips can help introduce new skills. I use a set of clips to introduce appellate argument. First I show two clips of a common image of lawyers making an argument—closing statements made by Atticus Finch in *To Kill a Mockingbird* and a closing argument from the *Saturday Night Live* skit “Unfrozen Cave Man Lawyer.” Those clips get students hooked in and thinking of their images of lawyers at work in the courtroom. Then I give students a more accurate picture of appellate advocacy. I show part of an argument from one of the Florida Supreme Court bouts with *Bush v. Gore*. The clip is short, but it has a good sampling of questions from the bench and answers from the attorney. This gives the students a visual model from a case that they know was significant.

1. Sing Your Syllabus

Singing your syllabus is the key to an accurate first impression. Nothing says, “I’m an approachable person” quite so well as a banjo strapped to your shoulder. Who cares if you can’t sing. This year the SIU Lawyering Skills Chorale⁵ sang “These Skills Were Made for You and Me” at first-year orientation. With apologies to Woody Guthrie, students and faculty joined in on the chorus, which goes as follows:

These skills are your skills, these skills are my skills

From basic reading, to the case you try skills

From handy guidebooks, to good authority,

These skills were made for you and me.

Show the students that you are willing to laugh with them, and at yourself when it’s appropriate.

And now, as promised, a note for the pointy-headed. Fun isn’t just for fun—it helps your students learn. There is no doubt that stress is a part of law school, a big fat negative part of law school. Professors Lawrence Krieger and Ruth Ann

⁵ The Lawyering Skills Chorale, composed of Sue Liemer, Adria Olmi, Melissa Shafer, Laurel Wendt, and the author, is available for any events where legal research and writing skills are prized and musical talent is less significant.

McKinney have written about the particular pressures that law schools choose to impose on people, and how we can begin to make some better choices.⁶ And Professor James Levy has identified teacher enthusiasm as a key to student learning.⁷ But the easiest way to measure how humor can help in the classroom is to use the list that Professor Gerry Hess has developed for creating an effective learning environment.⁸ The elements of a good learning environment are respect, expectation, support, collaboration, inclusion, engagement, delight, and feedback.⁹ Just about all of the top 10 methods described here provide delight—a sense of enthusiasm that can be contagious. Inclusion and engagement are an important part of casting a case, playing the Citationaire game, and doing persuasion exercises. And the question of the day is all about respect. Through one question in each class, you can learn more than just the students’ names; you can learn a little bit about what motivates the students. And the students learn that you focus on them.

Consider this top 10 list as a starter, like that sourdough you got from a friend. Let it sit around for a while, then make something of your own out of it. Use humor as it fits your personality and your syllabus. Go have some fun already!

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⁶ Lawrence Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 J. Legal Educ. 112 (2002), and Ruth Ann McKinney, *Depression and Anxiety in Law Students: Searching for Solutions*, 8 Legal Writing ____ (forthcoming).

⁷ James Levy, *The Cobbler Wears No Shoes: A Lesson for Research Instruction*, 51 J. Legal Educ. 39 (2001).

⁸ Gerry Hess, *Heads and Hearts: The Teaching and Learning Environment in Law School*, 52 J. Legal Educ. 75 (2002). Gerry wrote such a good article that you should read it right now; well, maybe just after you finish reading this one.

⁹ *Id.* at 87.

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