

## Legal Research and Writing Resources: Recent Publications

### Compiled by Barbara Bintliff

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Linda J. Barris, *Understanding and Mastering The Bluebook: A Guide for Students and Practitioners* 2007. [Durham, NC: Carolina Academic Press, 136 p.]

A guide to the essential rules and sub-rules of *The Bluebook*, the text uses a “building block” approach with step-by-step instructions. Numerous illustrations, explanations, tips, hints, and cautions help users understand the rules and avoid common mistakes. It includes rule comparison charts and clear, bullet-point explanations.

Kirsten K. Davis, *Building Credibility in the Margins: An Ethos-Based Perspective for Commenting on Student Papers*, 12 *Legal Writing* 73–104 (2006).

This article discusses the importance of using an ethos, an ethical appeal to reason that reflects fairness and authenticity, in individualized evaluation and commentary on student writing. The author argues that legal writing faculty should provide feedback in a manner that leads to student perceptions of fairness, and provides guidance on how to accomplish this.

Matthew J. Festa, *Dueling Federalists: Supreme Court Decisions with Multiple Opinions Citing The Federalist, 1986–2007*, 31 *Seattle U. L. Rev.* 75–106 (2007).

“This Article examines the use of history in legal interpretation through an empirical analysis of one of the most prominent examples of historical evidence in law:

citations to *The Federalist* in Supreme Court Justices’ published opinions,” particularly when different justices cite the same historical source to support opposing interpretations. *Id.* While identifying numerous areas relating to the use of historical sources that need investigation, the author concludes that the most important task is “to focus on the more practical, methodological questions of how we can assure that when historical sources and methods are used in the law, they are used appropriately.” *Id.* at 106.

Tim Gallagher, *Recent Law Review Articles Concerning the Legal Profession*, 31 *J. Legal Prof.* 377–391 (2007).

A selectively annotated bibliography of law journal articles on numerous topics focusing on the subject of the legal profession.

*International Elder Law Research: A Bibliography*, 2 *J. Int’l Aging L. & Pol’y* 143–166 (2007).

A guide to agencies and organizations; conventions, documents, and reports; Web sites and databases; and journals and books related to international elder law journals. Most resources were produced in the last 10 years, but some older sources are included.

Jeanne Kaiser & Myra Orlen, *Using a Literary Case Study to Teach Lawyering Skills: How We Used Damages by Barry Werth in the First-Year Legal Writing Curriculum*, 12 *Legal Writing* 59–72 (2006).

The authors recount their experience using an account of complex litigation following a childbirth that went “horribly wrong,” (Barry Werth, *Damages: One Family’s Legal Struggles in the World of Medicine* (1999)) to teach legal research and writing. *Id.* at 63. The authors describe their pedagogical objectives, evaluate their use of literature to teach research and writing, and outline future plans.

Legal Research Series [Durham, NC: Carolina Academic Press]

Volumes in the Legal Research Series are state-based research guides that provide the essential elements of legal research in the state covered. Each volume includes an

overview of the research process. Standard sections in each volume include cases, statutes, legislative history, constitutions, administrative law, court rules, and secondary sources. There is limited coverage of federal law. Teacher's manuals are planned for each state. Teachers manuals are currently available for Arkansas (2007), Florida (2d ed. 2002), Georgia (2007), Illinois (2003), Michigan (2006), Missouri (2007), Oregon (2003), Pennsylvania (2007), Tennessee (2007), and Washington (2005). Forthcoming in 2008 are manuals for Arizona, California, Connecticut, Massachusetts, New York, and Ohio. Manuals for other states are planned.

Elizabeth Mertz, *The Language of Law School: Learning to "Think Like a Lawyer,"* 2007 [New York: Oxford University Press, 336 p.]

The author uses "anthropological linguistics" to reveal how the intellectual transformation from thinking of problems in moral and emotional terms to considering them in the framework of legal authorities takes place. "This move away from moral frameworks is key, she says, arguing that it represents an underlying worldview at the core not just of law education, but for better or worse, of the entire US legal system—which, while providing a useful source of legitimacy and a means to process conflict, fails to deal systematically with aspects of fairness and social justice. The latter part of her study shows how differences in race and gender makeup among law students and professors can subtly alter this process." Publisher's Information.

Stephen A. Newman, *Using Shakespeare to Teach Persuasive Advocacy,* 57 J. Legal Educ. 36–59 (2007).

The author describes his experience using speeches of the characters Brutus and Antony from Shakespeare's *Julius Caesar* to teach persuasive advocacy. He explains in detail how the speeches illustrate key concepts, and concludes that "[b]y examining the way each speaker relates to his audience, crafts his appeals, and communicates his central points, the student

can identify many of the essential elements of advocacy." *Id.* at 59.

Beth Simone Noveck, *Wikipedia and the Future of Legal Education,* 57 J. Legal Educ. 3–9 (2007).

The author argues that using wikis in law classes encourages students to deliberate with each other, to exchange and defend their ideas and arguments, and to enhance their expertise. Whether an internal, class-use-only wiki or a public forum, wikis encourage active learning rather than passive information consumption, and foster the democratic ideal of deliberation.

Lee F. Peoples, *Legal Ethics: A Legal Research Guide,* 2d ed., 2006 [Buffalo, NY: William S. Hein, 89 p.]

Updating a 1992 bibliography, the author offers a comprehensive, selectively annotated bibliography on legal ethics research. It includes coverage of issues arising under the Sarbanes-Oxley Act and a helpful section on researching legal ethics and the hierarchy of legal authorities.

Lee Faircloth Peoples, *Controlling the Common Law: A Comparative Analysis of No-Citation Rules and Publication Practices in England and the United States,* 17 Ind. Int'l & Comp. L. Rev. 307–354 (2007).

This article examines why England and America took divergent approaches in finding a balance between growth and restraint in the common law, based on publication and citation practices. It also explores the potential consequences for the common law, and "predicts the impact no-citation rules will have on the future of the common law through an examination of the precedential value of unreported and unpublished cases, the role of the judiciary in controlling the growth of the common law, jurisprudential theories, and the degree no-citation rules will be enforced in both jurisdictions." *Id.* at 308.

*Remote Sensing, Air, and Space Law International Bibliography 1930–2007: A Special Publication of the Journal of Space Law,* 33 J. Space L. iv–vi, 1–182 (2007).

A comprehensive bibliography of domestic and international literature, including articles and books, dissertations, reports, U.S. Supreme Court cases, proceedings and

symposia, and other materials published between 1930 and 2007. Most materials are in English, but many foreign language materials are included. Entries are placed in either subject-based categories (for example, space law and remote sensing and aviation) or format-based categories (space law international conventions and air law treaties and conventions). Some sections are annotated. The journal issue includes a searchable CD-ROM with the same bibliography.

Suzanne E. Rowe, *Reasonable Accommodations for Unreasonable Requests: The Americans with Disabilities Act in Legal Writing Courses*, 12 *Legal Writing* 3–57 (2006).

After explaining ADA requirements and exploring current literature in law and science concerning learning disabilities, this article “examines specific requests that may arise in courses with intensive writing, research, or skills components and analyzes appropriate responses to reasonable and unreasonable” ADA requests. *Id.* at 7. The author’s thesis is that “provision of *excessive* or *inappropriate* accommodations may harm students with learning disabilities by preventing them from developing the complete set of skills needed to practice law.” *Id.*; emphasis in original.

Sarah O’Rourke Schrup, *The Clinical Divide: Overcoming Barriers to Collaboration Between Clinics and Legal Writing Programs*, 14 *Clinical L. Rev.* 301–335 (2007).

“Increased communication between legal research and writing (‘LRW’) programs and clinical programs is desirable because it provides students with a seamless learning experience, enhances faculty teaching in both departments, and creates opportunities for collaboration that benefits a law-school community generally. . . . Clinical and LRW faculty can overcome these differences [in teaching approaches] with increased communication and a conscientious commitment to incorporate principles of each other’s teaching into their own pedagogy.” Abstract.

Troy Simpson, *Persuading Judges in Writing: Tips for Lawyers (And How Technology Can Help)*, LLRX.com, Oct. 30, 2007 (available online at <[www.llrx.com/features/persuadingjudgesinwriting.htm](http://www.llrx.com/features/persuadingjudgesinwriting.htm)>).

The author explains how good written advocacy can help lawyers in England, Australia, and America to persuade judges, and provides readers with some practical tips to accomplish this challenging task.

Thomas A. Smith, *The Web of Law*, 44 *San Diego L. Rev.* 309–354 (2007).

Taking inspiration from statistical physicists, the author reports on the highlights of a citation study he conducted that examines the shape of the American legal citation network of cases and other legal authorities. He posits that, by studying the overall shape of this network and its links, we can “learn new things about how law is organized” and how it evolves. *Id.* at 310. “Preliminary results strongly suggest that the American case law network has the overall structure that network theory predicts it would: a structure that visually and in general terms appears much like that of the Web and other citation networks, such as those of scientific papers. It shows that this structure, however its precise mathematical structure may ultimately be characterized, is present at virtually every jurisdictional level of our legal system, from the U.S. Supreme Court to the lower state courts.” *Id.* at 313.

Ken Strutin, *Criminal Resources: False Confessions*, LLRX.com, Nov. 24, 2007 (available online at <[www.llrx.com/features/falseconfessions.htm](http://www.llrx.com/features/falseconfessions.htm)>).

“This article surveys selected web-based resources and publications that shed light on the psychology and interrogation practices behind false confessions, as well as highlighting notable educational and bibliographic materials.” Introduction. Includes brief annotations to sources in the following categories: current awareness; false confession research; recording custodial interrogations; resources; PowerPoint presentations; and bibliographies.

*Teaching Writing and Teaching Doctrine: A Symbiotic Relationship?* (Symposium in celebration of the 25th anniversary of the Brooklyn Law School Legal Writing Program), 12 Legal Writing 171–292 (2006). Articles include:

Elizabeth Fajans, *Learning from Experience: Adding a Practicum to a Doctrinal Course*, 12 Legal Writing 215–228 (2006).

A discussion of a then-proposed practicum to be added to an administrative law course. Includes an intended syllabus.

Eric Goldman, *Integrating Contract Drafting Skills and Doctrine*, 12 Legal Writing 209–214 (2006).

An account of the author's experience in addressing the challenges of teaching concurrently contracts doctrine and drafting.

Claire R. Kelly, *An Evolutionary Endeavour: Teaching Scholarly Writing to Law Students*, 12 Legal Writing 285–292 (2006).

An outline of a seminar on scholarly writing for law students, with suggestions for adapting the model to a seminar on a doctrinal topic.

Pamela Lysaght, *Writing Across the Law School Curriculum in Practice: Considerations for Casebook Faculty*, 12 Legal Writing 191–207 (2006).

A discussion of the choices and considerations that might factor into a decision by doctrinal (“casebook”) faculty who are considering adding writing assignments to a course. The author includes a methodology for developing effective writing assignments.

Philip N. Meyer, *Vignettes from a Narrative Primer*, 12 Legal Writing 229–283 (2006).

The author provides an argument for teaching narrative to students, especially those hoping to become litigators. Then, using excerpts from a work in progress, he illustrates his argument with examples of what a pedagogy for teaching narrative might include.

Carol McCrehan Parker, *Writing Is Everybody's Business: Theoretical and Practical Justifications for Teaching Writing*

*Across the Law School Curriculum*, 12 Legal Writing 175–190 (2006).

The author discusses theoretical justifications for including legal writing across the curriculum, focusing on the curricular goals of teaching legal analysis, preparing professional documents, and developing legal imagination and professional voice. She also considers practical justifications that support including writing components of doctrinal classes.

*Thirty-Ninth Selected Bibliography on Computers, Technology, and the Law*, 33 Rutgers Computer & Tech. L.J. 367–431 (2007).

An unannotated annual compilation of the “most important and timely articles on computers, technology, and the law,” indexed by subject. *Id.* Subjects include computerized legal research and computers and legal reasoning.

Marcus P. Zillman, *Deep Web Research 2008*, LLRX.com, Nov. 24, 2007 (available online at <[www.llrx.com/features/deepweb2008.htm](http://www.llrx.com/features/deepweb2008.htm)>).

“The Deep Web covers somewhere in the vicinity of 900 billion pages of information located through the world wide web in various files and formats that the current search engines on the Internet either cannot find or have difficulty accessing. Search engines currently locate approximately 20 billion pages. . . . This article and guide is designed to give you the resources you need to better understand the history of the deep web research, as well as various classified resources that allow you to search through the currently available web to find those key sources of information nuggets only found by understanding how to search the ‘deep web.’”  
Introduction.

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