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ESSAY

THE ROOKIE SEASON

Ilhyung Lee*

I have fought the good fight,
I have finished the course,
I have kept the faith.¹

Nine years out of law school, I made a career change from private law practice to academia. It was a decision based on nothing more than intuition (perhaps a hope) that law teaching and scholarship would be the field in which I could most contribute, and, at the same time, find most rewarding. I had planned to get into academia for some time; indeed, I thought seriously about it even when I was a law student. After some experience practicing law, I was ready. But things rarely work out as actually planned, and I was forced to postpone the move for personal reasons. After a few years turned to several, I reached the point where I could no longer wait. Each year of delay would entail some cost. The time was now.

¹ Timothy 4:7. In some versions, including the Revised Standard Version, “race” is substituted for “course.”
Full-time tenure-track faculty positions in law schools were hard to come by when I entered the market. Not willing to delay the move into academia any longer, and wanting to get teaching experience in hopes of landing a permanent law faculty position in the near future, I accepted an offer to teach legal research and writing at a "top fifty" law school.

2. Each year, the Association of American Law Schools (AALS) sponsors a recruitment process for both schools and applicants. Those interested in full-time faculty positions at ABA accredited law schools submit a one-page resume or biographical form. The forms are duplicated, collected in the Faculty Appointments Register (Register), and distributed to all AALS member schools, which use it to recruit candidates for their faculties. See Association of American Law Schools, 1998-99 Faculty Recruitment Services Information (visited Oct. 28, 1998) <http://www.aals.org/aalsfrs/>; Richard A. White, The Gender and Minority Composition of New Law Teachers and AALS Faculty Appointments Register Candidates, 1994 J. LEGAL EDUC. 424, 427 (1994). In the 1996-1997 Register, there were 958 candidates for faculty positions. See Richard A. White, Association of American Law Schools Statistical Report on Law School Faculty and Candidates for Law Faculty Positions, 1996-97 (visited October 28, 1998) <http://www.aals.org/statistics/> (Table 7A) [hereinafter White, Statistical Report]. Of these, 49 obtained positions beginning the fall of 1997 as assistant or associate professors, the most common entry level tenure-track position. See id. (Table 8A).

3. My characterization has support in the much ballyhooed, sometimes controversial, but often read law school ratings by U.S. News & World Report. Exclusive Rankings: Schools of Law, U.S. NEWS & WORLD REPORT, Mar. 2, 1998, at 78 [hereinafter U.S. News]. The rankings for 1998 were met with the usual discomfiture within the academic community. See Terry Carter, Ranked by the Rankings, 84 A.B.A. J. 46 (Mar. 1998); Jan Hoffman, Judge Not, Law Schools Demand of a Magazine that Ranks Them, N.Y. TIMES, Feb. 19, 1998, at A1. Before the rankings were released, a letter entitled “Law School Rankings May Be Hazardous to Your Health!,” signed by the deans of 164 of the nation's 179 law schools, was sent to the 93,000 prospective law school applicants. Id. The deans urged applicants to “minimize the influence of rankings on [their] own judgment.” Letter entitled Law School Rankings May Be Hazardous to Your Health!, at 1. The letter also criticized the methodology in the rankings system used by U.S. News. Id. at app.

Those law school applicants contemplating a career in legal academia should probably be aware of rankings of another type, the ones that list the schools from where the majority of law professors graduate. Two studies, one published in 1980 and the second, eleven years later, both show that nearly one-third of all full-time law teachers received their J.D. degrees from a group of only five law schools, and that almost 60% were graduates of 20 law schools. See Donna Fossum, Law Professors: A Profile of the Teaching Branch of the Legal Profession, 1980 AM. B. FOUND. RES. J. 501, 507; Robert J. Borthwick & Jordan R. Schau, Gatekeepers of the Profession: An Empirical Profile of the Nation's Law Professors, 25 U. MICH. J.L. REFORM. 191, 226 (1991). Furthermore, in 1990, 46% of the professors aged 30-39 earned their J.D. degrees from “a top-seven school.” Id. at 229-30. There seems to be some correlation between the top law schools in the U.S. News rankings and the lists of the top law professor-
agreed to a one-year contract that was renewable for a second year upon mutual agreement.\footnote{This staffing model is seen in many law schools where legal research and writing is taught by full-time instructors hired on renewable short-term contracts, without consideration for tenure. See J. Christopher Rideout & Jill J. Ramsfield, Legal Writing: A Revised View, 69 WASH. L. REV. 35, 38 n.8 (1994).}

I announced my decision to colleagues at the firm where I was then employed, and many offered their general best wishes. A few even complimented me for the “courage,” to leave a position with some status and remunerative rewards, for one that offered a lower salary but more job satisfaction. But the words of two individuals, both of whom I considered friends, left a more lasting impression. “Legal research and writing,” one began, and after a pause, “Aren’t you over-

producing schools in the Fossum and Borthwick & Schau studies:

<table>
<thead>
<tr>
<th>School</th>
<th>U.S. News ranking</th>
<th>Fossum list</th>
<th>Borthwick &amp; Schau list</th>
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<tr>
<td>Yale</td>
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<td>Harvard</td>
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<td>Duke</td>
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<td>Cornell</td>
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<tr>
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<td>Minnesota</td>
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<td>Washington &amp; Lee</td>
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<td>George Washington</td>
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<td>Illinois</td>
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<td>Boston College</td>
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<td>Mississippi</td>
<td>Third tier</td>
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<td>16 (tie)</td>
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U.S. News, supra at 76, 82, 83; Fossum, supra at 507 (Table 2); Borthwick & Schau, supra at 227 (Table 27).
qualified for that job?"

Given the chance, I would have explained that the notions many of us had when we were law students about the status of legal research and writing teachers were, on the whole, outdated. To be sure, some law schools still employ recent law graduates or practicing lawyers as adjunct faculty to teach this required course, but this staffing model has given way to one with full-time instructors. In recent years, with growing disillusionment in private practice, the number of applicants for teaching jobs has increased sharply. Moreover, as a result of the sparse number of tenure-track openings, legal research and writing positions are also being filled by aspiring law professors who see the instructor position as a stepping stone. That was precisely my thinking. I, however, was not able to offer these thoughts in response to my colleague, who continued: "Where I went to law school, third-year law students taught legal research and writing."

I do not know if my colleague realized how his remarks, taken together, could have been inferred. In his view, nearly a decade after completing my law degree and having the good fortune to include in my experiences coveted positions at well-respected law firms in both North America and Asia, I

5. See Maureen J. Arrigo, Hierarchy Maintained: Status and Gender Issues in Legal Writing Programs, 70 TEMP. L. REV. 117, 144, 145 n.125 (1997); Pamela Edwards, Teaching Legal Writing as Women's Work: Life on the Fringes of the Academy, 4 CARDOZO WOMEN'S L.J. 75, 79 (1997). Professor Arrigo's Hierarchy Maintained will likely be a standard in the legal research and writing field. It should be required reading for all law educators.

6. See Arrigo, supra note 5, at 122 n.21 ("LRW programs staffed by full-time instructors with J.D. degrees [are] the model taking over the academy").

7. See id. at 142. A faculty member at another law school from which I received an offer informed me that her school received over 750 applicants for a single legal research and writing position there.

8. I was far too naive. See infra note 77. Later, I learned that, statistically, I had about a one in ten chance. See infra note 11. As in other contexts, to be that chosen one is cherished indeed. Cf. Luke 17:19 (To the one in ten: "Rise, and go your way; your faith has made you well.").

9. My colleague was apparently among the last at his law school to be taught legal research and writing by upper-class students. Shortly thereafter, his school adopted a program with full-time instructors. See infra note 91. A 1996 survey, in which 132 law schools responded, reported that three law schools still use students exclusively to teach the subject. See Jill J. Ramsfield & Florence Super Davis, 1996 Survey Results, at 9 (1997) (unpublished survey, on file with author).
was giving it all up—to do what a 3L could do.\textsuperscript{10} Before I could offer a response, my other colleague chimed in, “Well, I guess you have to start somewhere.”\textsuperscript{11}

The comments of my two contemporaries were a two-punch combination that absolutely floored me. Having made my long-awaited decision to enter my preferred field, the unambiguous reaction from my two reviewers was that my new position was, at best, a step down.\textsuperscript{12} But they were only calling it as they saw it and had no axe to grind. As I learned later, the views of my two colleagues were not extreme or particularly negative. In fact, their comments were relatively tame compared to others in practice, and paled in comparison to those in academia itself. The reality is that the legal research and writing subject and those who teach it occupy a secondary place in today's legal academy.\textsuperscript{13} My colleagues had given me sufficient warning, but all too naive and enthusiastic about my new position, I declined to acknowledge it at the time.

My first (and probably last) year of teaching legal research and writing as a member of a law faculty\textsuperscript{14} is now

\begin{itemize}
\item \textsuperscript{10} Trying not to belittle my new position, my colleague backtracked, offering, “They weren't just any third years. They were on law review.” But it had already been nine years since I completed my responsibilities as a law review editor, and my colleague's attempt to soften his earlier blow fell short.
\item \textsuperscript{11} My second colleague told me that I flat out made “the wrong decision” in accepting the offer to teach legal research and writing. He described my chances for an ultimate tenure-track position as a “long shot.” These were hardly encouraging words, but again, not without basis. In recent years, for those seeking full-time faculty positions using the AALS-sponsored Faculty Appointments Register, the success rate is less than 10%. See White, Statistical Report, supra note 2 (Table 7A) (listing a 12.0% success rate for candidates in 1994-1995 Register, a 9.8% success rate for those in 1995-1996 Register, and a 7.2% success rate in 1996-1997 Register). One professor described a tenure-track position under the current market conditions as “an elusive prize.”
\item \textsuperscript{12} Apparently, the two were not the only ones to hold this view. Professor Arrigo relates the story of one full-time non-tenure-track legal research and writing instructor who was “stunned at the lack of institutional respect from the non-LRW faculty. This person assumed that not being a tenure track academic might be analogous to being an associate, rather than a partner, in a law firm. It was a shock to be treated something like a paralegal—not a professional at all.” Arrigo, supra note 5, at 142 n.113.
\item \textsuperscript{13} See infra text accompanying notes 52-84.
\item \textsuperscript{14} There is apparently some question as to whether those who teach legal research and writing qualify as “faculty” or “real faculty” or “regular faculty.” See Arrigo, supra note 5, at 143. Professor Arrigo appears to favor the term “doctrinal faculty” for those who do not teach legal research and writing. Id. at
complete. Through this essay, I seek to encourage continued
dialogue on the role of legal research and writing in today’s
law school curriculum and those selected to teach the subject.
In Part I, I briefly describe the special challenges of teaching
the course, offering anecdotal evidence. In Part II, I recount
the well-documented inferior status of the subject and its
teachers within the academic hierarchy, and give a compara-
tive comment on my own position. In Part III, I propose
(actually, plead) that the traditional view of the subject and
its teacher again be re-examined, and that legal research and
writing be given the institutional respect that it deserves,
with at least equal standing with other subjects in the first-
year curriculum.

I. LRW

After accepting the offer for the legal research and writ-
ing position, I convinced myself that I would be given the re-
sponsibility of teaching the single most important course in
the first year of law school.16 It was a self-serving exercise,
perhaps, but there was a strong case for my view.17 For a be-
eginning law student, few things could be more important
than mastering the tasks of identifying the precise legal is-
slue, ascertaining the governing law and the applicable pri-
mary and secondary authorities, completing and updating re-
search, and most importantly, presenting one’s analysis in
writing,18 in a clear, concise, and coherent form.19 Good

143 n.117. I will use “regular faculty” and “doctrinal faculty” interchangeably
herein.

15. In many schools, the course is entitled “Legal Research and Writing.”
The “LRW” abbreviation is often seen in the literature. In describing the course
generally, I use “legal research and writing,” “research and writing,” and “legal
writing” interchangeably.

16. All ABA-accredited law schools have legal writing or similar programs.
See Rideout & Ramsfield, supra note 4, at 36 n.2.

17. See, e.g., Allen Boyer, Legal Writing Programs Reviewed: Merits, Flaws,
Costs, and Essentials, 62 CHI.-KENT L. REV. 23, 24 (1985) (“[L]egal writing is an
essential part of legal education.”); Lucia Ann Silecchia, Legal Skills Training
in the First Year of Law School: Research? Writing? Analysis? Or More?, 100
DICK. L. REV. 245, 269 (1996) (“[R]esearch and writing—along with analysis—
have been repeatedly identified as the two most basic skills needed by compe-
tent attorneys.”).

18. Is there a difference between writing and legal writing? In an oft-
quoted article, one commentator urged that there is not. See Willard H. Pe-
drick, Should Permanent Faculty Teach First-Year Legal Writing? A Debate.
writing is a crucially important task for the lawyer, a skill that the beginning law student should develop at the earliest opportunity. But many law graduates, practitioners, and judges do not write proficiently. Perhaps this should not be

No., 32 J. LEGAL EDUC. 413, 413 (1982). Professor Pedrick insisted that “writing is writing,” id. at 414, and that “there is no such thing as ‘legalwriting,’” id. at 413. If indeed “writing is writing,” Professors Rideout and Ramsfield ask “why some of the worst law school papers and exams are written by previously published authors and scholars,” and “why, even when grammar mistakes are repeatedly corrected, students’ legal writing does not improve.” Rideout & Ramsfield, supra note 4, at 42.

One commentator has noted that legal writing is a different skill, in that it is part of the early law school process that “involves learning and mastering a new language—the language of law and legal analysis.” Frank Pommersheim, Voices, Values, and Community: Some Reflections on Legal Writing, 12 LEGAL STUD. F. 477, 477 (1988) (emphasis added).

19. See CHARLES R. CALLEROS, LEGAL METHOD AND WRITING 3 (3d ed. 1998) (“The two most important characteristics of good legal writing style are clarity and conciseness.”).

20. See Arrigo, supra note 5, at 119; John D. Feerick, Writing Like a Lawyer, 21 FORDHAM URB. L.J. 381, 381 (1994) (“Good legal writing is a virtual necessity for good lawyering.”); Mary Ellen Gale, Legal Writing: The Impossible Takes a Little Longer, 44 ALB. L. REV. 298, 300-01 (1980) (“A lawyer who cannot master his own language (and when necessary, translate it for the laity)—in writing—is crippled in nearly every task he performs outside the fading oral customs of the law.”); William L. Prosser, English As She Is Wrote, 7 J. LEGAL EDUC. 155, 156 (1954) (portion of article is reprint of piece originally published in 28 ENG. J. 38 (1939)) (“One might hazard the supposition that the average lawyer in the course of a lifetime does more writing than a novelist. He [or she] must draw contracts, wills, and pleadings, write opinions, briefs, and letters, and set thousands of words on paper where the most meticulous accuracy is of supreme importance . . . .”); Anne Stein, Job Hunting? Exude Confidence, A.B.A. J., Nov. 30, 1993, at 40 (reporting 1991 survey of Chicago lawyers who were asked what skills a law graduate should bring to the job or that should be developed in practice; 90% of the respondents indicated that writing communication should be brought to the job, compared to the 30% who thought the same for knowledge of substantive law and 28% for knowledge of procedural law).

21. See Jack Achtenberg, Legal Writing and Research: The Neglected Orphan of the First Year, 29 U. MIAMI L. REV. 218, 221 (1975) (reporting statement of extraordinary writ clerk of California District Court of Appeals, San Francisco that over half of the writs he read were poorly drafted); Feerick, supra note 20, at 381 (“[T]here is a problem of bad legal writing—one that is far more serious than we recognize or are willing to admit.”); Gale, supra note 20, at 301 (“It has been observed that the single greatest deficiency of new lawyers today is their lack of writing skills.”); Roger J. Miner, Confronting the Communication Crisis in the Legal Profession, 34 N.Y.L. SCH. L. REV. 1, 9 (1989) (by Circuit Judge, United States Court of Appeals for the Second Circuit) (“Despite the availability of some excellent guides to brief writing, the noted deficiencies persist and the end of the crisis in this area is nowhere in sight.”); Rideout & Ramsfield, supra note 4, at 37 n.3 (“[T]he more lawyers write, the more their readers complain.”); Steven Stark, Why Lawyers Can’t Write, 97 HARV. L. REV.
surprising, in light of the decline in emphasis on writing at all but the most advanced levels;\(^\text{22}\) sadly, too many well-schooled individuals do not write competently.\(^\text{23}\)

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1389, 1389 (1984) ("[T]urn to any page of most legal briefs, judicial opinions, or law review articles to find convoluted sentences, tortuous phrasing, and boring passages filled with passive verbs."); Stanley A. Weigel, *Legal Education and the English Language*, 10 NOVA L.J. 887, 887 (1986) (by District Judge, United States District Court, Northern District of California) ("[T]he sad fact is that far too many students ... have not acquired the ability to write good English either upon admission into the law school or upon graduation from it."); *The Teaching of Legal Writing and Legal Research—A Panel*, 52 L. LIBR. J. 350, 351 (1959) (panel discussion at fifty-second annual meeting of American Association of Law Libraries) (remarks of William C. Warren, Dean, Columbia University School of Law) ("Most members of law firms tell me that the young men who are coming to them today cannot write well. I think the situation has reached almost epidemic proportions."). See generally Norman Brand, *Legal Writing, Reasoning and Research: An Introduction*, 44 ALB. L. REV. 292 (1980).

22. See Michael Botein, *Re-Writing First-Year Legal Writing Programs*, 30 J. LEGAL EDUC. 184, 185-86 (1979) ("College graduates' general level of writing ability ... has declined steadily for the last decade."); Miner, *supra* note 21, at 5 ("Modern education seems to provide an insufficient foundation in English grammar, style, and usage."); Silecchia, *supra* note 17, at 270 ("[S]tudents spend less and less time learning basic writing in their pre-law school education.").

23. "As a law teacher, I have been astounded by some of the inadequacies in written and oral expression demonstrated by the brightest students." Miner, *supra* note 21, at 5. "Students ought to be expected to come to law school able to write. Many, however, do not, even at the most elite universities." Lorne Sossin, *Discourse Politics: Research and Writing's Search for a Pedagogy of Its Own*, 29 NEW ENG. L. REV. 883, 890 n.28 (1995).

In 1939, Professor Prosser deplored the "appalling lack of ability to organize a paragraph or even a sentence" in many of his students. Prosser, *supra* note 20, at 158. He offered his thoughts on the reasons for the state of affairs:

I might venture the suggestion that the almost universal use of the "objective" type of examination question, from grade school through college, has done nothing to further the cause of literacy. The very obvious labor-saving convenience of presenting the student with a mimeographed, predigested set of answers, on which he places a check mark after "true" or "false," selects one out of a multiple set, or writes a single word to complete a sentence, so that the whole may be graded by any assistant janitor who has the key—this, together with the comforting assurance that he is either right or wrong, that no element of individual judgment can enter into the final grade, and that there can be no unfairness and no argument about it afterward—has thrust far into the background the much more difficult method of requiring the man to tell you what he knows. . . .

What is to be done about all this? I wish that I knew. There is little enough that we can do in the law school, except to be pretty brutal and to see that the professional gates are guarded well. The damage has been done long ago. Standing close to the end of the road and looking back upon an entire educational system, it is easy to see that in
Thus, on the first day of class, my very first as a law teacher, I boldly declared to a group of then impressionable students: "This is the most important course that you will take in law school." Thereafter, in conferences with individual students over the course of the year, I frequently commented, "You might have noticed that I take writing rather personally. That's because when people see your written word—even if it's a two-page letter—they make judgments about you. Not only about your legal analysis and thought process, but also about you as a person. Your sincerity. Your character. Your judgment." It is with this mindset that I approached the teaching of the subject.

Although reasonable minds may differ as to whether any one course is more important than others in the curriculum, legal research and writing appears to be the source of the greatest frustration and anxiety for first-year law students. Any survey of beginning students in the first semester will likely confirm this. Part of the reason is that "[l]earning effective legal research and writing is a long, hard, and dull

one respect, at least, it might be improved. I wish that these people could be taught to write English. Or, failing that, I wish that they would not come to study law.

Id. at 160. Sixteen years later, Professor Prosser wrote in a postscript, "There is ... nothing in my subsequent experience that would lead me to alter what is said." Id. at 161. "The difference is one in degree only, not in kind." Id.

24. Then trying some levity, I noted that "there are professors who say that their course is the most important, but they don't really mean it." Later, I repeated this story to a tenured professor on the faculty, who, quite inclined to agree with my views, matter of factly added, "Those who say that their course is the most important and mean it, don't speak the truth." Although this professor could easily be won over on the value of the legal research and writing course, others are more difficult. Professor Arrigo notes the "alienation and exhaustion" of trying to convince others of the importance of the subject. Arrigo, supra note 5, at 178-79 and n.261.

25. At my school, legal research and writing was a year-long course, the only two-semester course in the first-year curriculum. I taught two sections, meeting with each once a week.

26. Although I did not devote significant time to rules of basic grammar and composition, I discussed briefly in class, and included in handouts, common errors that I saw on student papers. There was some resentment to such comment and correction. One student complained, "This is a law course and not a grammar course." I found startling the number of students who told me that they had not written an essay of any significant length since freshman English composition. The sad reality is that after the first year, many of them could easily complete law school without taking another course with a writing requirement.

27. See Pommersheim, supra note 18, at 480.
process." Beginning law students want certainty, and starved for guidance, would gladly give their attention for instruction on the correct way to write a legal memorandum or brief. But the subject of legal writing is not conducive to objective standards and sound-bite responses to "how to" questions, further frustrating students.

In addition, unlike other first-year courses, in which the grade is determined by a single three or four-hour examination at the end of the semester, the research and writing course includes periodic research assignments and multiple papers. This does not go unnoticed by students. Thus, legal research and writing students receive critiquing comments and grades early on in the semester and throughout

28. The Teaching of Legal Writing and Legal Research—A Panel, supra note 21, at 359 (remarks of Albert P. Blaustein, Professor, Rutgers University School of Law).
30. See Maureen Arrigo-Ward, How To Please Most of the People Most of the Time: Directing (or Teaching in) a First-Year Legal Writing Program, 29 VAL. U. L. REV. 557, 559 and n.10 (1995); Edwards, supra note 5, at 86. Over the course of the year, I assigned various research or practice assignments, on: citation form using the "Bluebook," BLUEBOOK: A UNIFORM SYSTEM OF CITATION (16th ed. 1996); secondary sources of authority; use of digests; Shepard's Citations and "Shepardizing"; use of Lexis and WESTLAW; use of forms; agency and administrative law; statutes; and legislative history. These assignments were graded on a check plus, check, check minus scale, and did not count towards the final grade. The course grade was determined by the student's work on five major writing assignments: closed memorandum (or "closed universe" memorandum), re-write of closed memorandum, and research memorandum in the fall semester; and motion memorandum and appellate brief in the spring semester. I also required two oral arguments, one based on the motion memorandum, and the other on the appellate brief. The percentage allocation of the individual assignments toward calculating the final grade was left to the discretion of the individual instructor.
31. In October, one of my students confirmed, "Your course is the only one so far where we've had to do something." Another, one of the most easy-going, told me, "I have twenty problems with law school, and nineteen of them have to do with your class."
32. "Criticism often hurts," and can lead to student resentment against the instructor. Philip C. Kissam, Thinking (by Writing) About Legal Writing, 40 VAND. L. REV. 135, 149 (1987). Professor Kissam suggests that the mere acts of requiring written assignments and providing comments thereon can lead to declining student ratings of the professor, even if the assignments are not graded. He gives the following example:

In the spring of 1985, under the influence of writing across the curriculum program at the University of Kansas, I asked my students in constitutional law to complete four short, ungraded writing exercises
the course.\textsuperscript{33}

Then there is the matter of the law school grading curve. First-year law students as a general rule were quite successful in most or all of their previous academic pursuits; many were at the top of their undergraduate classes. Indeed, they were offered admission for this very reason. Once in law school, many students find themselves competing within a more selective pool. It is the legal research and writing course that gives them the first exposure to the grading curve, and often, lower grades than to which they are accustomed.\textsuperscript{34}

My students voiced the complaint frequently made by many first-year students that the course requires far more time than its share of the academic load.\textsuperscript{35} My previous statement emphasizing the importance of the course had lost its first day impact, and many students complained that as-

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during the semester in addition to writing a Bluebook examination or take-home examination for their grades. I returned each of these exercises with brief written comments. In that semester my aggregate student evaluation ratings declined substantially from what they had been in the previous semester. Subsequently, I have taught constitutional law twice without requiring these exercise, and my aggregate ratings by students returned to their previous level. At least one faculty member elsewhere at the University of Kansas reported a similar experience from using ungraded writing exercises to help teach a basic survey course . . . .
\end{flushleft}

\textit{Id. n.40.}

33. \textit{See Arrigo-Ward, supra note 30, at 559.}

34. For me, one of the most memorable moments in the year occurred in the class session immediately after I returned the first major writing assignment. Normally, before beginning class, I had to raise my hand or ask for a halt of the conversations. But this time, an uncomfortable and immediate pall took over the classroom as I approached the lectern. When I had walked into the classroom moments before, one of my student assistants jokingly asked that I keep my distance, as she did not wish to get caught in the “sniper fire.” A few days after that class, one of my students reported that after the first memorandum was returned, a group of students had prepared a draft of a letter to me, stating that they were “not given a fair shake” on the grades for that assignment. The particular student informed me that for his part, he changed his mind about joining in the grievance after we went over the memorandum in class. I never received the protesting letter. Grade inflation is up in the nation’s universities, and with rising tuition costs, many students and parents are demanding—and getting—more for their tuition dollar. \textit{See Brent Staples, Why Colleges Shower Their Students with A’s, N.Y. TIMES, Mar. 8, 1998, at 16.}

signments for my course were taking away valuable study time from their other courses. I suspect I would have had little success in persuading them that legal research and writing deserved the time they were spending on it, given that the course accounted for only three of thirty-one credits in the first year. It may well be true that "[g]rades in substantive courses help students obtain starting positions, but it is research and writing skills that make careers."36 For first-year students, however, grades and starting positions are more urgent on the horizon than the more abstract "careers."37

As an aside, with respect to legal research and writing, perhaps not much had changed since I was a law student. Over the course of the academic year, I could empathize with many of my students, as I saw myself reflected in them in various situations. As I recall, the students in my instructor's research and writing class were an insufferable lot.38 We were all convinced that we already knew how to write, and that to satisfy course requirements, we needed only to insert the appropriate legal terms. Then came reality: receiving our first written assignments with our printed words barely recognizable under the flood of the instructor's comments; trying to understand why Bluebook form was necessary; pouring hours of effort into a course that accounted for only one-tenth of the credits; doing what we thought the instructor wanted, then being told that it was not enough, then trying again, and seeing little or no improvement on the grading curve, or doing better and not knowing why. I seem to recall a few of my classmates, who, exasperated with the work load, useless reading assignments, unsatisfactory grades, and what they felt were vague, evasive, or inadequate answers to specific questions, openly lambasted our instructor in class.39 Perhaps it is the very nature of the course that

37. One student offered a different approach, stating that since the course was worth only three credits, he would not be obsessed with the grade. "But I do want to know how to write a memo by the time the course is over," he said.
38. For many of us, we went through the first semester with a few certainties: civil procedure was a mix of organic chemistry and Greek; we were all going to get an "A" in torts; and legal research and writing was either a waste of our time, annoying "busy work," or both.
39. As the academic year wore on, I toyed with the idea of contacting my
can make the legal research and writing teacher the most hated member of the first-year faculty.\footnote{40}

For me, by far the most painstaking part of teaching legal research and writing was grading student papers. Though I had the assistance of third-year student assistants who gave me invaluable comments on the students' works,\footnote{41} I saw grading as my ultimate responsibility,\footnote{42} and made sure that the written feedback and the grade on each assignment would come from me alone.\footnote{43} Students value comment and feedback; such review can be the basis for improvement on their next assignment. I took the task seriously.

In early October, I began grading the first set of papers, the closed memorandum. At first, the exercise gave me a feeling of some authority. But the feeling faded quickly. Each paper required a word by word, line by line review, similar to an edit. The same issue would appear, over and over again, and often, I would write the same comments, over and over. The exercise quickly turned to tedium, then something bordering on drawn-out torture as the process wore on. Feelings of despair would set in after about the fiftieth memorandum, only to realize that I was but two-thirds of the way there. Shortly thereafter, I could feel the early stages of tendinitis below the wrist of my writing hand.\footnote{44} With over

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\footnote{40}{At the end of the year, one student wrote on the anonymous course evaluation: "Don't build it up so much as the bain [sic] of every one-L's existence." Legal Research and Writing Evaluation (copy on file with author).}

\footnote{41}{My four student assistants held weekly office hours, and were available to meet with students on any questions they had.}

\footnote{42}{Students do not like to receive grades from other students, even upper-class students. See Arrigo, supra note 5.}

\footnote{43}{Thus, over the course of the year, I graded: 77 four-page "mini-memoranda"; some 300 memoranda of 8 to 12 pages in length; and 74 appellate briefs of approximately 20 pages each. This was in addition to grading one- to two-page research or practice exercises (about 450 in total), and judging or evaluating 50 oral arguments.}

\footnote{44}{To prevent writer's cramp, I experimented on one assignment with}
seventy-five students and five separate major writing assignments, I would have to repeat this grading process four more times the rest of the year. Thankfully, class sessions, creating assignments, and conferences with students prevented the year from being one of non-stop grading. Still, grading was a physically exhausting and mentally draining exercise. And too often, I failed in my pledge to myself to not return any paper without some positive comment on it.

Some may question whether grading memoranda is so different than grading exam answers, the least favored task of all law teachers. The account of one property professor, who, as an experiment, added a ten-page graded written assignment in addition to the end-of-semester examination, poignantly highlights the more elaborate task of grading memoranda:

The additional weight of [the] ten-page papers was more than I could bear.

Unlike the mind-numbing, routine, and rhythmic grading of [exam answers], these papers required my full attention. Each one represented hours of human effort. I could not approach them with indifference. I did not know how to take their words lightly, and so had to bear them heavily, subject to the earth’s terrible pull of gravity.

The grading went on, week after week, month after month . . . . It was a desperate feeling, to watch the hours

writing only specific corrections on the papers themselves, and typing into the office computer more general comments on research strategy, organization, and analysis. But this task was more tedious than I thought, and my comments being printed, instead of handwritten, I found myself editing and re-writing my comments, thereby adding more time to the process.

45. I began the year with 79 students; three students withdrew in the fall, and two more in the spring.

46. My experiences were much like those of Professor Meyer, who wrote: I diligently edited these papers—every sentence, every line—as if my life depended upon it. I wrote page after page of comments and precious feedback. I’d take a pile of the next round of papers and sneak up on them one at a time . . . . The same thing over and over and over. Like penance. I counted them like the repetitions of soul-building exercise, completing one full round, catching my breath, resting momentarily, and then beginning another.

Meyer, supra note 29, at 38.

47. “Positive comments are well received and are building blocks for improvement.” Arrigo-Ward, supra note 30, at 580. Professor Arrigo advises instructors “not to return any paper without something positive,” even if they have to stretch to find it. Id.
THE ROOKIE SEASON

of each day slip away, paper by paper. I felt as if I were moving through molasses, and no matter how diligent I intended to be, the time allowed was never enough . . .

. . . When I raised my head to look around, I found myself angry, senselessly angry—about anything in my profession that I could find to be angry about.48

Those who have taught legal research and writing describe it as a work of contrasts.49 So too were my experiences. I remain most honored to be associated with a top law school, and entrusted with the great responsibility of teaching beginning students research and writing. I also took great pride in contributing to the development of students in their early legal training, and making a difference. I recall vividly the contrast between the very first class (briefing a case) and the last assignment (appellate oral argument). For the latter, my students argued before a panel of three judges, which included practitioners and members of the regular faculty, on sophisticated points of law.50 Some of the judging faculty told me later that they were quite impressed with the quality of argument.

I enjoyed greatly the contact with students, especially those who came by my office to ask questions, seek comments, and get clarification. On some assignments, the most agonizing matters for them were easily resolved with a brief exchange of question and explanation. The students solicited my thoughts on job applications, preparation of resumes and writing samples, and deciding between job offers. I was honored. This contact with students is a great part of why I wished to become a law teacher.

At the same time, the job was often overwhelming. After


49. "While . . . the job is rewarding, . . . it is [also] complex, challenging, stimulating, frustrating, and even baffling." Arrigo-Ward, supra note 30, at 559. See Meyer, supra note 29, at 38-40.

50. The two issues covered in the appellate brief, on which my students were assigned a side and required to argue, involved: qualified immunity under 42 U.S.C. § 1983 (1994) in a retaliatory discharge setting, see Badia v. City of Miami, 133 F.3d 1443, 1446 (11th Cir. 1998) (per curiam); and the district court's authority to impose non-compensatory sanctions without a finding of contempt under Fed. R. Civ. P. 37, see Satcorp Int'l Group v. China Nat'l Import & Export Corp., 101 F.3d 3, 5 (2d Cir. 1996) (per curiam).
designing research and writing assignments, holding individual conferences, and grading papers, there was little time for anything else. Until the very last paper was graded, and the grades turned in early in the summer, I had no opportunity to conduct independent research or to produce a scholarly work. One professor at another law school asked me whether my student load left any time to write. After all, those who wish to become full-time academics must publish. Ironically, my own research and writing projects came to an abrupt halt when I became a legal research and writing instructor.

For me as a new teacher, the year was excellent training. I believe that anyone wishing to be a first-rate law professor should have the experience of teaching legal research and writing. But I performed my duties knowing that much of the bar and the academy saw those in my position as not “real” law teachers.

II. “TO: FACULTY, DEANS, AND LEGAL RESEARCH AND WRITING INSTRUCTORS”

During the academic year, a tenure-track professor at another law school asked me if legal research and writing instructors where I was teaching were treated as if they were “second class citizens.” At the time, I thought the particular phrasing to describe professionals on a law faculty rather curious. The legal academy, after all, is an institution that aggressively exposes and critiques classifications that impinge on individual equality. Perhaps the class reference was more cynical than real, and if expressed, then only in hushed quarters. But I heard the same characterization again from others, then later found it to be well-documented in the commentary.52

51. “One who succeeds at teaching LRW is likely to be able to succeed at teaching anything.” Arrigo, supra note 5, at 147 n.134.

52. See Edwards, supra note 5, at 77 (quoting Anita Bernstein, A Letter to a Female Colleague, 68 CHI.-KENT L. REV. 317, 318 (1992)); Jan M. Levine, Voices in the Wilderness: Tenured and Tenure-Track Directors and Teachers in Legal Research and Writing Programs, 45 J. LEGAL EDUC. 530, 530 (1995) [hereinafter Levine, Voices in the Wilderness]; see also Meyer, supra note 29, at 28; Pedrick, supra note 18, at 414. This portrayal of second class status is a serious matter. Perhaps legal academicians should take note of the very class distinctions that they study, and see their implications within the academy.
In reality, both the legal writing subject and its teacher have been much maligned by the legal academy. In an oft-quoted passage, Professor Gale has noted that “nearly everyone who writes about legal writing courses duly records faculty disdain for the subject matter and administrative dislike of the expense.” Others state that some institutions continue to exhibit negativity and “outright hostility” toward the need to teach the subject. Legal research and writing “gets no respect,” and is a subject of “institutionalized contempt.” It has been described as “the least glamorous subject to teach in law school,” lacking any “intellectual stimulation.” Indeed, Professors Rideout and Ramsfield have observed that some in the academy “go so far as to say that the subject is anti-intellectual because it distracts students from the real business of learning substantive law by com-

Professor Arrigo notes:

[A]s civil rights case law has pointed out, the experience of lowered status can actually convince people of their inferiority. The sense of inferiority then decreases motivation that would lead to greater achievement. . . . Having for years personally "bought into" the notion that I must be less academically qualified because I was teaching LRW, I can attest to the debilitating psychological effects and the intellectual inhibition engendered by the attitude of the non-LRW majority. Arrigo-Ward, supra note 30, at 592 n.89. See also Arrigo, supra note 5, at 175-76.


54. Such negativity is “expressed through structural and functional aspects of legal writing jobs.” Arrigo, supra note 5, at 121; see id. at 143-51.

55. Id. at 137.


57. Id. (citing Reed Dickerson, Teaching Legal Writing in the Law Schools (with a Special Nod to Legal Drafting), 16 IDAHO L. REV. 85, 85-86 (1979)).

58. Edwards, supra note 5, at 77; see Gale, supra note 20, at 320.


60. Id. (quoting Boalt Hall professor); see Rideout & Ramsfield, supra note 4, at 47 (explaining traditional view that “[t]eaching legal writing is not intellectual”); see also Marjorie Dick Rombauer, Regular Faculty Staffing for a Expanded First-Year Research and Writing Course: A Post Mortem, 44 ALB. L. REV. 392, 398 (1980) [hereinafter Rombauer, Post Mortem]. Professor Rombauer asks if the legal writing course is any less stimulating than a course in tax or property. Id. at 409.
peting with the rest of the curriculum for their study time.”

Perhaps the most biting commentary is reserved for those who teach the subject. It has been written that only “an incompetent or a borderline crackpot” could have an interest in a long-term commitment to teaching the subject. The work of a legal research and writing instructor is “donkey work” that no one on the permanent faculty should be forced to do, since it would damage her self-image.

Indeed, the traditional view was that “no intelligent J.D. with academic aspirations really wants to teach a subject like LRW that is beneath the dignity of a law professor.”

One hopes that few members of the current academy would continue to speak so harshly against the subject, and that such hyperbole is attributed to a bygone and outdated generation in academia. But institutional attitudes die hard, and some of the traditional sentiments appear to linger.

61. Rideout & Ramsfield, supra note 4, at 47 (emphases added). Shockingly, some faculty members even warn their students “to minimize their time in writing courses . . . and routinely announce in their classes that students should dismiss legal writing assignments as unimportant.” Id. at 48.

62. Achtenberg, supra note 21, at 218 (quoting law school dean).

63. Pedrick, supra note 18, at 414.

64. Id. at 413. Professor Pedrick offered this brutally candid assessment:

[T]he young law teacher sees assignment to legal writing instruction as a kind of second-level assignment and one that represents a real threat to success in achieving genuine legitimacy as a law teacher in the accepted image. . . . [T]his is not really the kind of thing that a law teacher is properly expected to do.

Id. at 414 (emphasis added).

65. Arrigo, supra note 5, at 141-42.

66. One example is seen in a law school’s refusal to consider its own legal research and writing instructors when there is an opening for a tenure-track position on the regular faculty. Most, if not all schools, appear to have an unwritten, but firm, policy of not considering their research and writing teachers as potential applicants, regardless of their expertise, experience or interest in the given field. The mere fact that they are research and writing instructors at that school seems to disqualify them. One professor at another law school explained candidly: “A messenger in the mailroom of a law firm has no hope of becoming partner. A field hand cannot become the plantation owner.”

An ABA commission report supports this cynicism: “Even if a writing instructor . . . wants to produce the scholarship and meet the expectations necessary to be a regular ‘classroom’ faculty member, many schools will not consider promoting anyone from these positions to a tenure-track position.” ABA COMM’N ON WOMEN IN THE PROFESSION, ELUSIVE EQUALITY: THE EXPERIENCES OF WOMEN IN THE LEGAL EDUCATION 33 (1996) (footnote and citation omitted) [hereinafter ABA COMM’N ON WOMEN IN THE PROFESSION], quoted in Edwards, supra note 5, at 95.
Professor Arrigo has noted that at some law schools, those who teach legal research and writing are still subject to "ongoing petty indignities" from the administration and regular faculty:

[W]hile all the other law teachers are addressed as "Professor So-and-[-]So," LRWs are addressed as "Mr./Ms. So-and-So," or, more commonly, by their first names. LRWs may be denied faculty office space, or are relegated to windowless cubicles in the basements or libraries where they remain separated physically from ongoing intellectually-sustaining interactions with the "real" faculty. One LRW reported being chastised for taking a donut from the law school's faculty lounge. LRWs typically have no vote at faculty meetings. Voting or not, they frequently feel they are denied real voice because, having little to no power, their views are deemed unworthy of notice by the voting faculty. They may find themselves being ignored, interrupted, or attended to with benign tolerance bordering on indifference.  

Given this backdrop, I was fortunate to be in the setting where I was. At my school, the four legal research and writing instructors had offices with the same dimensions, features, and location as every other faculty member. We had access to the faculty lounge, were each given a key, and could partake in the refreshments. We were invited to all faculty luncheons and monthly presentations given by individual faculty members on ongoing works; indeed, we could, if we wished, give presentations of our own. In addition to our salary, which was higher than the national average, we were 

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Professor Levine reports that even if the law school decides to change its legal research and writing positions from non-tenure-track to tenure-track, it would not likely consider its current instructors for the new tenure-track positions, opting for outside applicants instead. Levine, Voices in the Wilderness, supra note 52, at 543. He further states: "It appears that new tenure-track slots are more likely to be filled by recruitment from outside the institution, or by converting a teacher recently hired after an outside search for a non-tenure track legal writing professional." Id.

67. Arrigo, supra note 5, at 150.

68. Id. (emphasis added). Professor Levine provides a similar list of "gratuitous insults" to which legal research and writing instructors are subjected. Levine, "You Can't Please Every One," supra note 35, at 637 & n.84.

69. My office was on the third floor, with a window and a nice view.

70. Feedback and comments from the faculty would be precious in preparations for interviews for positions at other law schools.
given the same allowances that the regular faculty had for job-related travel and books. With respect to research assistants, library materials, and access to computer and e-mail services, the writing instructors had the same benefits as the regular faculty.

Still, I was a legal research and writing instructor, and not a regular faculty member. My salary, though livable, was not comparable to that of the junior regular faculty, even those of my age or law school graduating class. I was not invited to faculty meetings and had no vote on decisions relating to the administration or operation of the law school. And rather than a formal "Professor" title, my position was that of "Teaching Fellow." Frankly, none of this troubled me. For the time being, I was content with the view that I was hired and paid to be a faculty member, though not a regular professor, to teach students in an important subject area. I enjoyed the position and the many benefits, which included the close proximity and accessibility to recognized professors in various specialties and their willingness to advise a beginning law teacher. The matter of my official title and related status and voting right were perquisites that I had not yet earned. Those things come with a tenure-track position, a faculty appointment.

On the one hand, no one could possibly enjoy second class status. On the other hand, everyone who teaches the subject knows very well that in the law school hierarchy, the legal writing instructor is simply not in the same category as those in tenure-track positions. I had no delusions about my role. In accepting the position, I recognized it as a step below where I wished to be ultimately. Turning to sport, I saw a convenient metaphor: my situation was similar to a minor

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71. Faculty meetings were scheduled at the very time that the legal research and writing class was taught. I took the scheduling coincidence as a blessing when I first heard of it, and maintained that view throughout the academic year.

72. As a matter of courtesy, all of my students, with no more than two or three exceptions, addressed me as "Professor." It was a title that I had not yet earned, at least under the rules of the school.

73. The business cards that I was issued listed my title as "Instructor."

74. My identification card read "Faculty" next to my picture. I was listed under the "Faculty" (as opposed to the "Staff") section in the law school telephone directory. I was issued a "Faculty" parking sticker.

75. Like most metaphors, the comparisons and parallels are not always per-
league baseball player yearning for a chance at the majors. I thought the minor league metaphor apt, in my case, for it was my first year of teaching, and I equated a tenure-track position to a spot on a major league roster.

Perhaps there is another parallel between minor league baseball and legal research and writing positions, in that for both, the chances for upward mobility—to the big leagues and tenure-track positions—are low. Out of ten minor league players, only one makes it to the majors. The figure is about the same for LRW instructors who become law professors. And the longer one toils at the lower level, the realistic chances of moving up decline. With respect to the teaching arena, some in the academy warn legal writing instructors "that staying too long in such a position will endanger their careers and prevent them from developing intellectually."

    See infra note 81 and accompanying text.

76. Virtually every major league baseball player has spent at least some time in the minor leagues, developing his skills, and waiting for the opportunity to be called up to the "big leagues." See JOE MORGAN & RICHARD LALLY, BASEBALL FOR DUMMIES 231 (1998); Kevin A. Rings, Baseball Free Agency and Salary Arbitration, 3 OHIO ST. J. DISP. RESOL. 243, 248 n.30 (1987); Deborah L. Spander, The Impact of Piazza on the Baseball Antitrust Exemption, 2 UCLA ENT. L. REV. 113, 129 (1995). Every major league organization has a "farm system," a hierarchy of minor league teams beginning from the Rookie League, then progressing in skill to A, AA, and AAA Leagues. See Rings, supra, at 248 n.30; see also ARTHUR T. JOHNSON, MINOR LEAGUE BASEBALL AND LOCAL ECONOMIC DEVELOPMENT 11 (1993); MORGAN & LALLY, supra, at 232.

Minor league players who are called up to the major league parent team say that they are going to "The Show." See Erik M. Jensen, A Monologue on the Taxation of Business Gifts, 1992 BYU L. REV. 397, 403 and n.44. Of course, there are limited positions in the major leagues, and many who yearn for the opportunity fall short and must give up their dreams. See Aloysius Siow, Tenure and Other Unusual Personnel Practices in Academia, 14 J.L. ECON. & ORG. 152, 158 & n.14 (1998). Some players spend their entire professional baseball careers in the minor leagues without an opportunity to play in the majors. See Spander, supra, at 129-30.

77. Not until later did I learn that the notion that teaching legal writing is an effective first step to landing a tenure-track position teaching substantive courses may be "a myth." See Edwards, supra note 5, at 95. Professor Edwards writes that "[o]n the contrary, the vast majority of legal writing teachers who leave their position leave teaching entirely." Id. See also Arrigo, supra note 5, at 147 ("Some literature suggests that teaching LRW may be of little to no value as 'law teaching experience' for one wishing to move on to non-LRW teaching.").

78. See Spander, supra note 76, at 129-30.
79. See supra note 11.
80. Rideout & Ramsfield, supra note 4, at 47-48; see Arrigo, supra note 4, at
I hasten to add that the minor league metaphor applied to my personal situation only. It was a convenient if imperfect way to describe my position—a law teacher without the title, status, salary, or authority of a regular professor, yearning for a tenure-track position. By the minor league reference, I do not mean to denigrate the subject of legal research and writing to an inferior status. Quite the contrary, I am on record as having stated that legal research and writing is the single most important course in today's law school. The traditional contempt and disdain for the subject and those who teach it are beyond me. Such rhetoric only demeans the law school institution as a whole. The residual remnants of such sentiments must be removed. In this light, perhaps I should not have been so self-effacing on those occasions during the year when my genuine faculty status was questioned.

147.

81. For one, "[a] growing number of schools are granting tenure-track status to its legal writing instructors." Edwards, supra note 5, at 101; see Levine, Voices in the Wilderness, supra note 52, at 537 (reporting that 31 to 35 ABA-accredited law schools (or about 20% of the total) have tenure-track programs for legal research and writing teachers).

82. In 1998, Ila Borders became the very first woman to play in a minor league baseball game. 60 Minutes (CBS television broadcast, Oct. 4, 1998). Some will see my selection of minor league baseball players as an odd, or perhaps worse, a cruel choice for a metaphor, since two out of three legal research and writing instructors are female. See Arrigo, supra note 5, at 119. Professor Arrigo wonders why this is the case, when only 28% of faculty and administrative positions and 16% of tenured positions are held by women. Id. (citing ABA COMM'N ON WOMEN IN THE PROFESSION, supra note 66, at 23). Commentators have noted the growing view in the academy that teaching legal research and writing is "women's work." Edwards, supra note 5 (citing Richard H. Chused, The Hiring and Retention of Minorities and Women on American Law School Faculties, 137 U. PA. L. REV. 537, 548 (1988)). Professor Edwards notes: "[o]ne law school dean was quoted as saying that law schools can get legal writing teachers 'for cheap because we can hire people on the mommy track.'" Edwards, supra note 5, at 87 (quoting ABA COMM'N ON WOMEN IN THE PROFESSION, supra note 66, at 33). Some commentators argue that women are tracked into such positions, where they face low salary, low status, low morale, and, due to the maximum number of years one may serve in many schools, a high turnover rate. See Arrigo, supra note 5, at 121; Edwards, supra note 5, at 77, 91, 96. In addition to all of this, "Students are more likely to complain about female teachers than male teachers." Levine, "You Can't Please Everyone," supra note 35, at 615; see Arrigo, supra note 5, at 177 ("Women faculty receive more negative evaluations from students.").

83. See supra text accompanying notes 10 and 24.

84. One nearly comical incident occurred on graduation day. Having been a teacher of first-year students only, none of my students would be among the
III. FIELD OF DREAMS

Given the harsh commentary on the poor writing skills of law graduates and the clamor to do something about it,\(^8\) it is odd indeed that “[l]aw school seems to be the only place where legal research and writing is not taken seriously.”\(^9\) The time has come for law schools to devote proper resources to the subject. At a minimum, the academy will have to take some action, “since the public and the profession no longer appear willing to accept an explanation that we can do nothing to make up for the writing failures of sixteen years of education.”\(^8\) In my view, the first and most pressing task in addressing the situation is to elevate the status of those selected to teach the subject. Therefore, legal research and writing should be taught by regular faculty or those who teach the subject should be accorded the status of full-time professors. In the former, I mean that doctrinal faculty should teach legal research and writing, either separately or integrated with their substantive courses. The latter would entail giving professor status to those who teach the subject, on an equal footing with the rest of the tenured or tenure-track faculty.\(^8\)

My proposal is stated in the disjunctive, because as Professor Boyer has noted, “No one staffing pattern is absolutely best for all law schools at all times.”\(^8\) The institutional mission differs from law school to law school. But if legal writing graduates, but I wished to attend nevertheless. It was an honor to be present with the regular faculty. I also wished to congratulate in person my third-year student assistants, whose labors during the year made my job easier. At the appointed hour, I walked into the faculty robing room. Inside, two individuals whom I recognized as law school staff both vigorously pointed their index fingers over my head and behind me, without saying a word. I knew instantly that they were instructing me to go across the hallway, where the student robing room was located. I wondered if I should remove my faculty identification card from my wallet. Rather, I made light of the situation, and complimented the two for thinking that I look much younger than my years.

\(^{85}\) See supra notes 21-23 and accompanying text.
\(^{86}\) Sossin, supra note 23, at 885.
\(^{87}\) Brand, supra note 21, at 294. See also Boyer, supra note 17; Feerick, supra note 20; Gale, supra note 20, at 301.
\(^{88}\) In either situation, carefully selected student assistants can contribute immensely to the teaching and learning process. See generally Julie M. Cheslik, Teaching Assistants: A Study of Their Use in Law School Research and Writing Programs, 44 J. LEGAL EDUC. 394 (1994).
\(^{89}\) Boyer, supra note 17, at 24-25.
programs continue to be staffed by temporary, part-time teachers who are perceived as less than professors, the legal academy will continue to produce graduates who do not write competently.\textsuperscript{90} The subject should not be taught by other students\textsuperscript{91} or adjuncts.\textsuperscript{92} The only benefit of such staffing is financial cost, while a heavy price is paid on other fronts.\textsuperscript{93} Chiefly, students of legal research and writing will not take the subject seriously and will not devote the necessary time and effort "where the writing program, its assignments, and its personnel are not highly regarded by the rest of the faculty."\textsuperscript{94} And "students taught to think of writing and research as second-level tasks will perform as if they are."\textsuperscript{95} If the goal of the legal research and writing program is to teach critically important skills for all beginning lawyers, then it should be taught by nothing less than a law professor.\textsuperscript{96} Professor Boyer put it

\textsuperscript{90} See Levine, Voices in the Wilderness, supra note 52, at 550.

\textsuperscript{91} With respect to student teachers, Professor Boyer has commented on "the psychological trouble caused by having students teach students: laxness, favoritism or arrogance among the instructors, bad morale and insecurity among the first-year students being taught." Boyer, supra note 17, at 35. Thus, "No school should persuade itself that legal writing can be left to the students. On their own, students know too little about law and teaching; to entrust a program to student instructors means that instruction will be haphazard in method and poor in quality." Id. at 50.

After my friend (see supra text accompanying note 9) completed his first year as a law student, his school abandoned the teaching of the legal research and writing course with upper-class students, in favor of full-time instructors. See Boyer, supra note 17, at 50 n.96 ("In the last year, [this] law school has moved from a wholly student-taught program to one in which legal writing instructors work with and through teaching fellows."). Currently, the course is taught at that institution by full-time "Associate Professors of Legal Research and Writing," who are assisted by second- and third-year students, or "Law Fellows."

\textsuperscript{92} The problems with both are "legion." Arrigo, supra note 5, at 135.

\textsuperscript{93} Id. at 135-37; Levine, Voices in the Wilderness, supra note 52, at 548.

\textsuperscript{94} Achtenberg, supra note 21, at 221; William A. Reppy, Should Permanent Faculty Teach First-Year Legal Writing? A Debate. Yes., 32 J. LEGAL EDUC. 421, 423 (1982).

\textsuperscript{95} Gale, supra note 20, at 322; see Brand, supra note 21, at 296-97.

\textsuperscript{96} Having declared to my students on the first day of class that legal research and writing is "the most important course you will take in law school," imagine my predicament had a student asked me, "Then why is it taught by the least experienced member of the faculty, by a non-professor, a temporary contract employee?" Put another way, if legal research and writing is a "real" course, "why don't law schools keep people who teach it?" Brand, supra note 21, at 296 (quoting Remarks of Dean E. Donald Shapiro, Scribes Institute on
best: "Having full-time, tenure-track faculty teach legal writing is an ideal, and a real option for schools which choose to make a substantial commitment." 97

The pedagogic advantages of having regular faculty teach the course separately or integrated with their substantive courses are obvious and well-documented in the literature. 98 If all regular faculty, or at least those who teach first-year courses, were required to teach the subject, it would no longer be a stigma or a blow to one's self image to teach it. 99

It has been pointed out that having permanent faculty teach the course would not significantly reduce scholarly output, 100 or if it does, it would affect each participating faculty member or institution equally. 101

Despite the great advantages of having doctrinal faculty teach legal research and writing, there appears to be little question of whether they would want to do so. They clearly do not. 102 "[M]any doctrinal faculty view teaching legal writing as beneath their dignity—in a sense, degrading." 103 Indeed, some professors would rather seek a position at another law school, or failing that, leave the profession altogether,


98. The Teaching of Legal Writing and Legal Research—A Panel, supra note 21, at 420, quoted in Boyer, supra note 17, at 27-28; Michelle S. Simon, Teaching Writing Through Substance: The Integration of Legal Writing with All Deliberate Speed, 42 DePaul L. Rev. 619, 625-26 (1992). Professor Levine wonders if the model of having regular faculty teach legal writing as a part of their substantive courses "may be destined to fail, or at least to promote faculty and student discontent." Levine, Voices in the Wilderness, supra note 52, at 536 n.24. In any event, he notes that the model is not gaining many new supporters. Id. Professor Arrigo notes that to date, the suggestion that regular faculty teaching the subject is the best staffing model "seems more honored in the breach than in the execution." Arrigo-Ward, supra note 30, at 564 n.28. Indeed, in some places, it has failed. See Rombauer, Post Mortem, supra note 60.

99. Boyer, supra note 17, at 32.

100. This addresses Professor Pedrick's concern that a law school with permanent faculty teaching the course "will pay a price in terms of the productive scholarship of its faculty." Pedrick, supra note 18, at 414.

101. Such staffing, however, would likely reduce the number of upper-class seminars that schools could offer. See Boyer, supra note 17, at 32.

102. "They should but they won't." Boyer, supra note 17, at 26 (quoting Comment of Professor Arthur Murphy of Columbia Law School, Mar. 4, 1985); see Marjorie Dick Rombauer, First Year Legal Research and Writing: Then and Now, 25 J. Legal Educ. 538, 538, 546-47 (1973).

103. Arrigo, supra note 5, at 185; see Pedrick, supra note 18.
than teach legal research and writing. Commentators have suggested that many of these professors, often graduates of the elite schools, never had a course in the subject and "did just fine." They do not see the need to devote significant resources to the legal writing course, and thus, an assignment to teach the subject may be enough for them to resign. An entirely different question is whether such members of the faculty are at all competent to teach the subject matter.

Teaching legal research and writing is hard work. It is "an extremely difficult type of teaching," an "art of the impossible." It requires "a substantial amount of time and energy." The conventional Socratic method has little utility in a writing class. Thus, it has long been suggested that the teaching of legal research and writing entails special skills that the academy should recognize. In 1959, Professor Albert P. Blaustein stated:

104. See The Teaching of Legal Writing and Legal Research—A Panel, supra note 21, at 355; see also Boyer, supra note 17, at 26; Feerick, supra note 20, at 385.
105. See supra note 3.
106. Rideout & Ramsfield, supra note 4, at 40. "It is likely that these educators were at the top of their law school classes. This implies that their orientation to the discourse was so swift that they may be unaware of the steps in the process, a phenomenon of which the other 90 percent of the class was keenly aware." Id. n.16 (citation omitted).
108. Chief Justice Rehnquist once stated that as "war [is] too important a matter to be left to the generals" (paraphrasing Clemenceau), "justice is too important a matter to be left to the judges or even the lawyers." William H. Rehnquist, Chief Justice, Federal Courts Study Committee News Conference (Apr. 2, 1990). Perhaps legal research and writing is not important enough for law professors. In any event, it is far too important to be left to second class citizens.
109. See Boyer, supra note 17, at 26.
110. See Edwards, supra note 5, at 78 ("It is a difficult course to teach. One must teach it several times to be proficient.").
111. Achtenberg, supra note 5, at 223. "It is very time consuming, enervating, and sometimes fruitless." Id. See also Levine, Voices in the Wilderness, supra note 52, at 531.
112. Gale, supra note 20, at 299.
113. Achtenberg, supra note 21, at 221.
114. See Gale, supra note 20, at 323-24.
115. See The Teaching of Legal Writing and Legal Research—A Panel, supra note 21, at 358 (remarks of Professor Blaustein).
I think the first principle which we must pursue is to recognize that there is an area of instruction in legal research and writing, and that this entire field is a high-grade specialty which should be left to specialists.

By this I mean we should say to those charged with the responsibility of teaching legal research and legal writing, "We give you the same authority, the same salary, the same everything, to teach these subjects that we give to those who teach torts or contracts, etc."[116]

Since the teaching of this subject requires recognizably different skills than those required for doctrinal courses, "[n]ew criteria must be drawn up to evaluate legal writing teachers, both as job applicants and as candidates for tenure."[117] The available literature is replete with discussion on the qualifications necessary to teach the course,[118] suggestions for creating an effective program from scratch or enhancing existing programs,[119] and commentary on innovative teaching methods to make the process more beneficial for students.[120]

The principal reason given against having tenure-track legal research and writing positions—that law schools lack the resources to have such staffing—must be re-examined in light of the declining ability of law graduates to write. Indeed, this purported justification for the status quo has been explicitly rejected in some quarters.[121] In recent years, more

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116. *Id.* Professor Blaustein added: "This isn't done, and we know the end product is a sorry one." *Id.*


118. Professor Achtenberg notes that three major skills are required for legal research and writing teachers: substantial administration skills; sophistication in the nuances of writing; some competence in several areas of substantive law. Achtenberg, *supra* note 21, at 219. Professor Arrigo offers a more elaborate list of qualifying characteristics: outstanding legal research, writing, and analysis ability; effective oral and writing communication skills; sufficient time for teaching and counseling; team spirit; willingness to help first-year students; flexibility, resiliency, and a sense of humor. Arrigo-Ward, *supra* note 30, at 567-71.


121. Professor Arrigo describes as "non-sense" the argument that schools cannot afford to put legal research and writing instructors on tenure-track because it is too expensive. Arrigo, *supra* note 5, at 171. She explains: "It is not impossible to pay LRW teachers more money, but doing so requires a realloca-
law schools are taking note, re-allocationg resources, and recognizing legal research and writing teachers as full members of the regular faculty. 122 "Tenure-track appointments for LRW teachers may simply be an idea whose time has finally come." 123

IV. EPILOGUE AND CONCLUSION

While nearing the end of my first year of teaching legal research and writing, I received an offer for a tenure-track position at another law school to teach upper-level courses. I was happy beyond belief. In baseball parlance, I had been called to "The Show." 124 I shared the news with my supporters, including the dean of the school where I was teaching, who lobbied hardest for my application and was my chief sponsor. An advisor from another law school wrote in response to my news: "Welcome to the academy." Others repeated the very phrase. 125 They were being gracious and extending a hand to bring me into their own. They expressed words of which I could only have dreamed just weeks before, at a time when the market for new law professors, was, and continues to be, dreadful. And the words were from mentors and role models, whose achievements, style, and presence I wish to emulate.

Under any other circumstances, I would have been willing to conclude on that happy note. But I had just completed a year of teaching legal research and writing, and some knowledge is always dangerous. 126 The words, "Welcome to

122. Levine, Voices in the Wilderness, supra note 52, at 548.
123. Id. at 538. Approximately one out of five ABA-accredited law schools have tenure-track research and writing programs. Id. at 537. Professor Levine notes that schools in the bottom half of the U.S. News rankings are more likely to have tenure-track positions for legal research and writing teachers. Id. at 539. "The lack of tenure-track or tenured legal writing appointments at the higher ranking schools may reflect a subtle interplay of long-held faculty views about legal writing, typical faculty hiring patterns, and the elite schools' historic lack of attention to legal research and writing." Id. at 540. Finally, he predicts: "[T]he student law review editors at elite schools are likely to share the faculty views and to reject articles about legal writing." Id. (emphasis added).
124. See supra note 76.
125. One (female) professor offered, "Welcome to the fraternity."
126. See JOHN BARTLETT, FAMILIAR QUOTATIONS 505 (16th ed. 1992) (quoting Thomas Henry Huxley, ON ELEMENTAL INSTRUCTION IN PHYSIOLOGY
the academy," like many of my experiences as a legal research and writing instructor, had a bittersweet ring. For one to be "welcomed" to the academy suggests that he was never in it previously. The implication (as unmistakable as it was unintended) is that those who teach the subject are not part of the hallowed academy.\footnote{127}

In reality, the teaching of legal writing entails developing in students the skills required of every law graduate, skills that are to be used throughout her professional lifetime. This teaching requires, at a minimum: countless hours in preparation, conferences, and grading; a good amount of faith; and great patience. Whether such work qualifies for membership in the academy ought not be a matter for continuing debate.

I taught legal research and writing for only one academic year. What of those professionals who have taught the subject for many more years, making it their vocation, their expertise, their lives? Have they made no contribution to the academy?

Legal research and writing should no longer be considered a minor activity on the fringes of the law academy. Legal research and writing, like the speaker in the scriptural reference at the beginning of this essay, has endured. For too long under-appreciated and under-valued, it is time to give the subject the recognition that it is due.

\footnote{127. Thus, I ended the year much the same way that I began, with words from advisors intimating that one who teaches legal research and writing is not a teacher at all. See supra text accompanying notes 9-11.}