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Foreword to Scholarly Writing: Ideas, Examples, and Execution

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FOREWORD

JESSICA L. CLARK AND KRISTEN E. MURRAY
SCHOLARLY WRITING: IDEAS, EXAMPLES, AND EXECUTION
(CAROLINA ACADEMIC PRES, SECOND EDITION, 2012)

As an academic, few experiences are more gratifying than learning that a student's thesis, note, or paper has been accepted for publication. (If the student also won a large writing competition cash prize, so much the better.) At the opposite end of the spectrum, few tasks are more dispiriting than watching students toil for months only to produce unsatisfying work that, for all the right reasons, will never be published.

In our profession, strong writing skills prove tremendously helpful and, in many jobs, constitute the price of admission. As attorneys, the written word is the coin of our realm. Not surprisingly, the best student writers in our law schools enjoy a competitive advantage in the entry-level job market. In legal offices, strong writers quickly find themselves involved in the most challenging and important work. Quite simply, experience suggests that the best writers find that their skills offer them a fast track to professional opportunity and success.

The required first-year law school curriculum typically includes a highly structured and often formalistic introduction to the fundamentals of legal research and writing. Conversely, most law students embark upon their initial, upper-level scholarly writing experience with minimal faculty guidance concerning the writing process and a focus almost exclusively on the subject matter of their research. Inadequate preparation for the enterprise leads many students to underestimate and, thus, under-invest in, their scholarly writing projects. It's frustrating to see students squander this opportunity, because writing articles or scholarly papers offers students the chance to spread their wings in terms of their research, analysis, and writing.

Nonetheless, a surprisingly small number of law students actually publish research papers. While the last generation's proliferation of journals has expanded the number of student notes and comments published, students that publish remain the exception, not the rule. That's a shame. Performing in-depth, open-ended research offers a glimpse into the level of effort commonly expended by practitioners, particularly on large and important matters. Indeed, almost every step in the creation and—more importantly, the effort to achieve—perfection of a research paper helps prepare a law student to counsel and communicate effectively in practice. Moreover, publication enhances student authors' credentials by demonstrating a facility in critical skills (research, analysis, and writing), signaling an interest and a certain level of expertise in a subject-matter area, and adding eye-catching fodder to student resumes. In addition, publishable student papers may generate income (with steadily increasing sums on offer in numerous writing competitions) and, at times, provide students the opportunity to hone their advocacy and persuasion skills by presenting their research to knowledgeable audiences.

Still, the reality remains. Daunting impediments deter students from pursuing publication. Of course, writing publishable papers requires hard work. Huge amounts of time must be expended and, all too often, holiday breaks and weekends must be sacrificed. (The dominant law school trend to truncate the academic semester, from fifteen to fourteen, and, increasingly, thirteen weeks only exacerbates the challenge students face.) The structure and rhythm of law school work—ranging from syllabi and a convenient textbook to frequent class meetings and timed examinations—does not apply. The shared experience—with colleagues preparing, reviewing, and, frequently, bemoaning identical material—is lacking. As many academics realize, producing scholarship can prove a lonely experience.

Looking back, I remain immensely grateful to the mentors who guided me through the process of conceptualizing, researching, organizing, polishing, submitting, and publishing my student work. (To Glenn George, Charles Koch, Jules Rothlein, and David Shipley, *thanks again!*) Alas, few law students are lucky enough to find so many gifted teachers and role models available and willing to shepherd them through the process. As a result, most students embark upon their quest to produce scholarly work—an output with which they have limited familiarity—ill-equipped for their journey.

Supervising legions of LL.M. candidates as they struggle to complete a thesis, J.D. students attempting to fulfill the note requirement that dominates their *2L Law Review* or *Journal* experience, and J.D. and LL.M. candidates writing seminar papers (often to fulfill a mandatory upper-level writing requirement) or independent research and writing projects serves as a potent reminder that the *process* that leads to publishable legal research is not for the faint of heart. Faced with such a challenge, any type of helpful lifeline is a welcome sight.

Over the years, I worked with colleagues to draft, expand, and improve a set of thesis guidelines and advice for students, but this merely scratched the surface. Two early works, one by Eugene Volokh, and the other by Elizabeth Fajans and Mary R. Falk, now both in their fourth edition, made students' lives easier. The publication of Clark and Murray's *SCHOLARLY WRITING*, now in its second edition, offers students a wealth of choices. What I appreciate most about Clark and Murray's *SCHOLARLY WRITING* is that it guides the student each step of the way. Moreover, Clark and Murray do not simply try to *tell* the student how to overcome each hurdle, they anticipate challenges, offer alternative solutions, and *show* the student various examples of how to improve and what to aspire to.

Having said that, my purpose here is not to compare and contrast these three tools, but to leave no doubt in law students' minds that consulting (nay, embracing) one or more of them will dramatically enhance their likelihood of success, whatever their endeavor. After more than a decade working with student journal editors (and, alas, serving as an academic dean), I find it remarkable how few law schools, Law Reviews, and Journals recommend, let alone require, that students consult one or more of these texts. While history, tradition, or faculty largess may explain the legal academy's unique phenomenon of student management of Law Reviews and

Journals (as opposed to the more common and, arguably, credible peer review model), nothing justifies the all-too-common sink-or-swim pedagogy associated with student note and comment writing. Surely, the best students figure it out, and many produce excellent pieces. Far more fail, and most never again attempt to publish their work. Today, that's unnecessary.

I strongly recommend Clark and Murray's SCHOLARLY WRITING to law students and the faculty who mentor them. I can say—without reservation—that this book, and, more specifically, the method it espouses, has changed my life for the better. For more than a dozen years, I have supervised a large cadre of LL.M. thesis candidates, while simultaneously serving as the faculty advisor to the leading journal in my field. Since our students began a structured instructional program employing this book (and, again, its methodology), our students have:

- Consistently chosen better thesis, note, and paper topics;
- Written better theses, notes, and papers;
- Published more theses and articles in leading journals;
- Published more student notes in our school's journals; and
- Won *a lot* more money in writing competitions.

I could stop there. But I would be remiss if—in addressing my colleagues in the legal academy—I failed to mention how much more I enjoy reading and reviewing student theses, notes, and article drafts today. To my colleagues and friends, Jessica and Kristen, on behalf of myself, my colleagues, and my past, present, and future students: *Thank you!*

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