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# From Awkward Law Student to Articulate Attorney: Teaching the Oral Research Report

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## **From Awkward Law Student to Articulate Attorney: Teaching the Oral Research Report**

“To learn to be able to participate constructively in the conversation that is the law is essential to the practice of law.”<sup>1</sup>

### Introduction

Busy attorneys want results quickly and in a clear and organized manner. Many prefer associates to report their research results orally in a face-to-face conversation rather than a written memo.<sup>2</sup> In the first year of law school, however, there are not many opportunities for students to practice having conversations about the law in a thoughtful and professional manner.<sup>3</sup> While the Socratic dialogue common in most first year courses challenges students to think on their feet, this method does not teach students how to describe their research path, explain their analysis of a client’s legal issue, or make a recommendation on a course of action using the spoken word.<sup>4</sup>

For this reason, I have incorporated an exercise into my Legal Research and Writing course requiring students to orally present their research results and assessment of a client’s legal issue. In this article, I explain why I include an oral research report exercise in my Legal Research and Writing class, what this exercise entails,<sup>5</sup> and how legal writing professors are uniquely situated for teaching the oral research reporting skill.<sup>6</sup>

### The Problem: The Unprepared Associate

In Legal Research and Writing courses, students have plenty of opportunities to explain their research results in class or in conferences, but much like conversations that emerge through the Socratic method, discussions about research results are often unplanned and therefore incomplete and awkward. Students commonly refer to cases as the “fill in the blank” case (e.g., the “school bus” case or the “bicycle accident” case) instead of using the proper case name and frequently describe their research paths literally (e.g., “I clicked here or there”) instead of using technical terms like annotations or secondary sources. To a legal writing professor, this informal speech is somewhat expected. Understandably, students are more concerned comprehending the

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<sup>1</sup> Joseph A. Dickenson, *Understanding the Socratic Method in Law School Teaching After the Carnegies Foundation’s Educating Lawyers*, 31 W. New Eng. L. Rev. 97, 99 (2009).

<sup>2</sup> See Henry H. Perritt, Jr., *Taking Legal Communications Seriously*, 33 U. Tol. L. Rev. 137, 139 (2001) (noting that “[m]ost attorneys communicate orally more than they communicate in writing”). In an informal survey of first year law students conducted at the completion of their first summer legal job, nine students reported presenting the result of their research orally “most of” or “all of the time”, while 13 students reported presenting the results of their research orally “occasionally” or “some of the time.” Only three students reported that they “never” had to present their research results orally. Survey on file with author.

<sup>3</sup> See Perritt, supra note 1 at 138 (noting that few law school programs address oral communication skills outside of oral argument).

<sup>4</sup> See Jane Kron, *Teaching Talking: Oral Communications in a Law Course*, 54 J. Legal Ed. 588, 588 (2004) (explaining that responding to questions quickly and effectively is not the only oral communication skill that lawyers need).

<sup>5</sup> A similar topic generated a lot of email traffic this winter on the Legal Writing List-Serv and there are several variations of this type of exercise.

<sup>6</sup> The recent edition of one of my go-to books for legal writing includes a new chapter on this topic, further suggesting that presenting research orally is a skill our students need learn and practice. See Richard K. Neumann, Jr. and Kristen Konrad Tiscione, *Legal Reasoning and Legal Writing*, Wolters Kluwer (7th ed. 2013).

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issue and the law, rather than what they say and how they say it. But, in the real world, an unpolished tone has the potential to leave a negative impression on a supervising attorney.<sup>7</sup> For this reason, it is important for students to practice communicating orally like a “lawyer-in-training”<sup>8</sup> before their first summer.

### The Solution: The Oral Research Report

To prepare my students for communicating orally with a supervising attorney, I created an exercise in my first year legal research and writing class where students orally present their research results and an assessment of a client’s issue.<sup>9</sup> Before class students read the chapter “Orally Reporting Research Results” in Richard Neumann and Kristen Konrad Triscione’s text *Legal Reasoning and Legal Writing*.<sup>10</sup> As a class, students identify what every supervising attorney would want to know about an associate’s research, including the associate’s research path to the relevant authority. Students also recognize the attorney will also want the associate’s assessment of how and why this authority applies to the client’s situation. We also discuss the various formats in which this information could be conveyed: a legal memo, an email, and a face-to-face meeting.

In the context of the face-to-face meeting, we discuss the appropriate demeanor for the associate. The associate should appear enthusiastic, confident, and prepared. The attorney should be left with the impression that the associate thoroughly researched the issue and has located the most relevant authority.

My first-year students also hear from my former students, now second and third year students, who have worked in a variety of legal settings. My former students describe their experiences with oral research reports at their legal jobs. By the end of the class, my current students better appreciate the importance of oral reports and the frequency in which they occur in practice.

I implement the oral research report exercise during the second conference of the spring semester. To ensure that students are familiar with the legal issue, I have students report on one issue from their appellate brief. I join this exercise with already scheduled student conferences and extend each conference by fifteen minutes.

The oral report occurs at the beginning of the conference. I play the role of the supervising attorney and ask open-ended questions that allow students to “report” on the results of their research. I ask questions about the law (e.g., what factors will a court analyze) and the “associate’s” research (e.g., where did you look first), as well as questions specific to the client (e.g., can we win on this issue).

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<sup>7</sup> See Denis Nishi, “Soft Skills” Can Help You Get Ahead (May 18, 2013) available at <http://online.wsj.com/article/SB10001424127887324715704578481290888822474.html?mod=e2tw> (noting that soft skills like oral communications can help in the promotion process).

<sup>8</sup> See Lori Roberts and Elizabeth N. Jones, *Developing Students’ Identities as Legal Apprentices Through Interaction with Lawyers and Judges in a First Year Legal Writing Course*, The Second Draft (2011).

<sup>9</sup> The idea to include this exercise in my class was inspired by a presentation by Ann Shields and Jo Ellen Lewis of The Washington University School of Law at the 2012 Western Regional Legal Writing Conference.

<sup>10</sup> Richard K. Neumann, Jr. and Kristen Konrad Triscione, *Legal Reasoning and Legal Writing*, Wolters Kluwer (7th ed. 2013).

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The exercise is pass/fail and students are told that if they are prepared and give a good faith effort, they will pass; if they “wing it,” they will fail. They are prohibited from speaking with each other about the exercise until everyone has completed their report.

### The Implementer: The Legal Writing Professor

Legal writing professors are well-positioned to provide instruction on and to execute oral research exercises for several reasons. First, many of the oral argument skills legal writing professors teach are the same skills associates should use when presenting their research results to a supervising attorney. Regardless of whether the associate is talking to a judge or a supervising attorney, the associate should maintain good eye contact, speak clearly and slowly, use correct grammar and word choices, and be poised and organized. I particularly like this exercise, which I do in March, because it is an opportunity for students to practice and receive feedback on these presentation skills before the oral argument assignment at the end of the semester.

Second, legal writing professors already design thought-out exercises which require students to locate the relevant legal authority, synthesize the law from a variety of sources, and apply the law to a hypothetical client. The oral report exercise simply requires students to present this understanding orally in a coherent manner. There is no need to create a new fact pattern or to spend time discussing a new legal issue. An existing memo or brief problem can easily serve as the foundation for this exercise.

Third, incorporating this exercise is not logistically complicated. Legal writing professors already regularly meet with students to review their written work. An extended conference is all that is required to complete this exercise.

### Conclusion

The ability to participate constructively in conversations about the law has become an essential skill for students to acquire during law school. The evolving legal environment now requires that new attorneys are able to provide supervising attorneys with both a written and oral analysis of their research. Fortunately, legal writing professors can provide instruction on both, further assisting in the transition from awkward law student to articulate attorney.