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# Swimming with Broad Strokes: Publishing and Presenting Beyond the LW Discipline

By Robin Boyle-Laisure and Stephen Paskey\*

*Robin Boyle-Laisure of St. John's University School of Law and Stephen Paskey of University of Buffalo, School of Law.*

In our greater skills community, we share ideas, borrow and tweak theories from other disciplines, and create new approaches. It is understandable how our community may expand pedagogy to the brim of legal writing or explore topics outside of the field. Skills professors are, by nature, a creative collective who teach from the heart and enjoy writing and thinking. Our publishing pursuits can be boundless.

Both Authors of this Article share mutual experiences of dipping our toes in a pond beyond the legal writing continent. Our writing experiences have influenced our teaching, bringing these broader perspectives to our legal writing pedagogy. Part I provides our research and publication fields that we have individually explored and suggests why writing beyond the LRW curriculum could be beneficial. Part II gives examples of how our research has created synergies with our legal writing assignments and classroom exercises. Part III recommends resources readily available to our legal writing community for researching and writing on broader topics.

## I. Our Research, Writing, and Presentation Experiences Beyond the Legal Writing Discipline

Each of us working independently explored topics beyond the traditional syllabus of a first-year legal research and writing course. These explorations benefitted our classroom assignments and our professional growth.

Since the start of Robin's career, she has written articles in parallel universes—learning styles and legal writing pedagogy in one sphere<sup>1</sup> and legal

remedies for abusive high control groups, such as cults,<sup>2</sup> in another. What did these spheres have in common? Nothing at first glance. But Robin felt thoroughly immersed writing in both camps and soon learned to adapt these outside research opportunities into classroom assignments. Her research and published articles opened the door for Robin to present on topics such as human trafficking, undue influence, the recent criminal prosecution against the NXIVM cult, and the intersection of cults and immigration. She found herself presenting at international conferences and before a Harvard think tank.<sup>3</sup> More recently, Robin contributed a chapter for a book about generations, and her paper explored comparisons of the civil rights movement with the climate movement.<sup>4</sup> It has certainly been an interesting path. Along the way, Robin feels she's learned a lot about law

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Robin thanks her school for its generous support of her scholarship in the fields expressed in the Article and her faculty colleagues, particularly the skills faculty; she also thanks the International Cultic Studies Association. Stephen thanks his colleagues for their support of and interest in his work.

1 See, e.g., Robin Boyle & Rita Dunn, *Teaching Law Students Through Individual Learning Styles*, 62 ALB. L. REV. 213 (1998) (empirical study concluding that law students have diverse learning styles); Robin Boyle, *Law Students with Attention Deficit Disorder: How to Reach Them, How to Teach Them*, 39 J. MARSHALL L. REV. 349 (2006) (addressing pedagogical approaches (“ADD”).

2 See, e.g., Robin Boyle, *Preventing Predatory Alienation by High-Control Groups: The Application of Human Trafficking Laws to Groups Popularly Known as “Cults,” and Proposed Changes to Laws Regarding Federal Immigration, State Child Marriage, & Undue Influence*, 1 INT'L. J. COERCION, ABUSE, & MANIPULATION 27 (2021) (peer-reviewed); Robin Boyle, *Employing Trafficking Laws to Capture Elusive Leaders of Destructive Cults*, 17 OR. REV. INT'L L. 205 (2016); Robin Boyle Laisure & Andrea Laisure, *Staying Safe: Observing Warning Signs of a Dangerous Liaison*, 8(3) ICSA TODAY 6 (2017) (peer-reviewed).

3 Robin Boyle, Presenter, Program at the Harv. Med. Sch., Prog. In Psychiatry & L., Boston, Mass., *Litigating Against Cults: Avoiding Undue Influence Conundrum* (Sept. 2019) (invited).

4 Robin Boyle-Laisure, *The Times They are a Changin': Lessons Imparted from the 1960s Civil Rights Movement and the Current-Day Climate Movement*, in GENERATIONS IN AMERICAN POLITICS (forthcoming Univ. Mich. Press, Sally Friedman & David Schulz eds., 2023) (invited).

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\*Inspiration for this Article came from the Authors' presentation at the virtual 2021 Empire State Legal Writing Biennial Conference, “Swimming with Broad

practice by listening to practitioners, who shared courtroom tips of cases they have tried domestically and in other countries, and to conference speakers, who often shared victims' perspectives.

Like many scholars in our community, **Stephen** has a deep interest in storytelling in the context of law. His work is unique, however, in that he has often pursued that interest outside the legal academy. While writing a law review article about the challenges faced by trauma survivors who must tell their story in the process of seeking political asylum,<sup>5</sup> Stephen became fascinated with literary narrative theory, and particularly with the ways that scholarship on the structure of stories can deepen our understanding of what the law is and how it operates.

To deepen his understanding of narrative theory, Stephen began attending and presenting at the annual conferences of the International Society for the Study of Narrative (ISSN). He also attended two weeklong programs aimed at Ph.D. students working in narratology—one in Denmark, and the other held virtually. The fruit of that work has been scholarship that is deeply interdisciplinary and sometimes unconventional. In May 2021, the journal *Narrative*—a leading journal of literary theory—published Stephen's essay on narrative, rhetoric, and the structure of legal rules<sup>6</sup> as part of a special issue on “narrative in the public sphere.” And in the legal academy, Stephen recently published an 1,100-word fable—literally a fable—illustrating the relationship between law and storytelling.<sup>7</sup>

#### Why write beyond the legal writing discipline?

Several reasons. First, do it because you find it interesting. Two decades ago, Robin met with a big law partner who was litigating against a cult in upstate New York, and he warned her that it would be hard to leave behind the subject area of coercive control once she dug into researching

cases. And he was right—she finds it fascinating and 20 years later she is still presenting and writing about the topic. Trust yourself and your interests.

Second, do it because your school values publications. Check your university statutes, your school's standards for promotion, and the inclination of the faculty personnel committee. It may be impressive that the journals where you've placed your articles are peer-reviewed. Our profession is unusual in that student-run journals hold sway. If you are applying for promotion, it could be an opportune time to make the argument that bar journals and specialty journals should count because they are peer-reviewed. Co-authorship is also on the rise in legal academia; make sure you know how your institution values co-authored articles and do not discount the value that co-authoring can bring to your work and the methods available to you. For example, empirical methods lend themselves well to co-authorship.

A caveat—not all writing qualifies as promotion-worthy at every school, which is why we recommend checking your school's rules. Your institution might require that you publish in your teaching discipline in order to have your scholarship count towards promotion. However, given recent developments in the news and in academic scholarship, schools are more likely to embrace topics such as Black Lives Matter, the #MeToo movement, reproductive rights, and the climate movement.

Robin's portfolio for promotion in her earlier days of teaching included a mix of articles on learning styles and pedagogy,<sup>8</sup> as well as articles written in peer-review journals on topics of remedies for cult victims (Violence Against Women's Act,<sup>9</sup> laws pertaining to stalking, rape, and legal emancipation<sup>10</sup>). Over the years, as the legal

<sup>5</sup> Stephen Paskey, *Telling Refugee Stories: Trauma, Credibility, and the Adversarial Adjudication of Claims for Asylum*, 56 SANTA CLARA L. REV. 457 (2016).

<sup>6</sup> Stephen Paskey, *Reframing Law's Domain: Narrative, Rhetoric, and the Forms of Legal Rules*, 29 NARRATIVE 178 (May 2021).

<sup>7</sup> Stephen Paskey, *On Justice: An Origin Story*, 68 BUFF. L. REV. 1515 (2020).

<sup>8</sup> See e.g., Boyle & Dunn, *supra* note 1; Boyle, ADD, *supra* note 1; Robin Boyle & Joanne Ingham, *Generation X in Law School: How These Law Students Are Different from Those Who Teach Them*, 56 J. LEGAL EDUC. 281 (2006) (peer-reviewed).

<sup>9</sup> Robin Boyle, *Women, the Law, and Cults: Three Avenues of Legal Recourse—New Rape Laws, VAWA, and Anti-Stalking Laws*, 15 CULTIC STUD. J. 1 (1998) (peer-reviewed).

<sup>10</sup> Robin Boyle, *How Children in Cults May Use Emancipation Laws to Free Themselves*, 16 CULTIC STUD. J. 1 (1999) (peer-reviewed).

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writing faculty gained in status at her school, her publications were supported by summer research stipends. Her school has supported her travel to conferences domestically and internationally to present on topics pertaining to cults and laws in the United States. Thus, she has not experienced any negative consequence to writing or presenting on topics broader than LRW curriculum.

Third, do it because your work might make a difference in this world. It takes a certain individual to have the patience to teach skills and to believe, wholeheartedly, that skills can level a playing field. If you are teaching skills, then you already have a concern for others.

Finally, challenging yourself to develop new skills can bring a fresh perspective to your teaching as well, both in the substantive area that you are researching and writing on as well as pedagogically. Putting yourself in the role of beginner again can provide new insights and empathy for how that feels that can carry over into how you work with students beginning legal studies. Stephen literally put himself in the roles of both a student and an “outsider” by attending workshops aimed at students in another academic discipline.

## II. Infusing Broader Perspectives into Legal Writing Pedagogy

There are synergies between all types of scholarship and teaching, and perhaps even more so in a legal writing classroom. Because legal writing assignments and exercises can encompass so many topics, what we write about can find their way into our legal writing materials.

Robin’s scholarship and legal writing assignments have dovetailed on topics pertaining to immigration, human trafficking, and undue influence. In the earlier days of her scholarship and teaching, her empirical research on pedagogy informed her teaching methods.

For example, as an objective memorandum writing assignment, Robin provided a closed universe packet of cases and statutes on immigration law. Students explored the issue of whether a hypothetical undocumented immigrant met

one of the asylum criteria for “social group.” In the persuasive writing part of the first-year legal writing course, Robin on occasion has provided a hypothetical Appellate Record for students to find cases about social group and to write briefs on whether an individual met the asylum criteria.

A question regarding cults was infused in Robin’s objective memorandum assignment recently. The assignment was based upon cases in which undue influence was raised by plaintiffs in contexts where defendant churches or individuals exerted control over them. The issue of undue influence could be transformed into a motion brief or appellate brief assignment as well. The topic of undue influence is typically heavily fact-based and ripe for legal writing assignments.

Robin’s research on human trafficking statutes parlayed into questions used for her LRW class for formative assessment purposes. For a lesson on statutory interpretation, Robin created multiple choice questions involving the trafficking statutes<sup>11</sup> to test students’ careful reading of the textual language. For example, students were asked to interpret and apply the statutory phrase “anything of value.”<sup>12</sup>

Similarly, Stephen’s work on the relationship between storytelling and legal rules has informed the way he teaches both legal analysis and legal drafting. Before the fall semester begins, Stephen asks his first-year students to read his fable, which suggests that one might conceive of law and the courts as a mechanism for changing the ending of certain categories of real-life stories—or simply letting them be. In the context of legal analysis, Stephen stresses that his students must tell a story. He then asks them to think carefully about the stock story embedded in each rule;

<sup>11</sup> ROBIN BOYLE-LAISURE ET AL., *BECOMING A LEGAL WRITER: A WORKBOOK WITH EXPLANATIONS TO DEVELOP OBJECTIVE LEGAL ANALYSIS AND WRITING SKILLS* (2019) (formative assessment questions accompany this book on the Core Knowledge platform of Caroline Academic Press). The human trafficking statute was used in chapter 8.1.

<sup>12</sup> 18 U.S.C. § 1591(a) (2018). The statute reads,

(a) Whoever knowingly—(1) in or affecting interstate or foreign commerce . . . recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person; or (2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1).  
*Id.* (emphasis added).

“Putting yourself in the role of beginner again can provide new insights and empathy for how that feels that can carry over into how you work with students beginning legal studies.”

what sort of story they must tell if their client will prevail; what alternate stories one might construct from the same set of facts; and what different or additional facts might change the story's legal ending. Anecdotally, the upshot of this approach is an increased level of engagement and insight from students who might otherwise struggle with a more logic-oriented approach to legal rules and analysis.

That strategy seems especially salient in areas of the law where some version of the reasonable person standard is at play. For instance, under Fourth Amendment jurisprudence, a person has been seized by law enforcement when, considering a totality of the circumstances, a reasonable person in the individual's position is compelled to believe she is not free to leave, "decline the officers' request, or otherwise terminate the encounter."<sup>13</sup> Several years ago, Stephen created a brief problem in which a Black man is arrested for drug possession after being questioned and searched by police on the doorstep of his home, and students must litigate whether relations between police and the Black community (including police shootings of unarmed Black men) should be considered as part of the reasonable person calculus.<sup>14</sup> Students representing the Black defendant invariably tell a distinctly different story about the encounter than those representing the prosecution, and the differences between the stories compel the students to think more critically about the policy issues involved, and how the story they tell aligns with the purposes of the law.

In the context of contract drafting, Stephen asks his students to engage in a kind of "speculative" fiction—to imagine how the story *should* play out between the parties; what actions or happenings might derail the desired story; and how the story should proceed if something

unexpected or undesirable happens. Tina Stark's discussion of "endgame provisions" in contracts nicely illustrates the idea—especially with regard to unfriendly termination:

Again, the question is, *what if?* *What if* the author wants to publish other books under a pseudonym? *What if* the parent company files for bankruptcy? *What if* a natural disaster prevents deliver of time-critical construction material? *What if* a competitor wants to open a store in the same shopping mall? *What if* the play closes and two months later the producer wants to reopen in the same city but at a different theater?<sup>15</sup>

Because our students (like all of us) are so often immersed in stories, both real and imagined, framing the parties to a contract as characters in a story helps students imagine both the unexpected twists the story might take, and the various ways things could end badly and not as the parties hoped or intended.

### III. Our Robust Legal Writing Community Provides Ample Resources

If you are looking for topic ideas, our legal writing community has provided us with bibliographies and conferences to help you explore. Here are a few places to look for topics:

Feminist theory has been explored by many members in our community. For instance, *Feminist Judgments: Rewritten Opinions of the United States Supreme Court*<sup>16</sup> is a compilation with an expansive view of legal writing scholarship. The project involves hundreds of feminist law professors, many of whom are professors of legal research, legal writing, and lawyering.<sup>17</sup>

Race and social justice scholarship continues to develop. For instance, Leslie Patrice Culver

<sup>13</sup> Florida v. Bostick, 501 U.S. 429, 439 (1991)

<sup>14</sup> Somewhat surprisingly, only a few federal court decisions have addressed the issue, and the courts have reached opposite results. In *United States v. Washington*, 490 F.3d 765, 773–74 (9th Cir. 2007), for instance, the court's decision that a Black defendant had been seized by police was heavily influenced by recent incidences of police shooting (and in one instance, killing) unarmed Black citizens. Conversely, in *United States v. Easley*, 911 F.3d 1074, 1082 (10th Cir. 2018), the court refused to consider race under the reasonable person test because, it concluded, the life experiences of Black citizens are not uniform, and to consider race would undermine the benefits of an "objective" test.

<sup>15</sup> TINA STARK, DRAFTING CONTRACTS: HOW AND WHY LAWYERS DO WHAT THEY DO 197 (2d ed. 2014) (footnote omitted).

<sup>16</sup> KATHRYN STANCHI ET AL., FEMINIST JUDGMENTS: REWRITTEN OPINIONS OF THE UNITED STATES SUPREME COURT (2016).

<sup>17</sup> For more information about United States Feminist Judgments Project, go to <https://www.law.unlv.edu/us-feminist-judgments/series-projects>.

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has written on the topic of identity.<sup>18</sup> She has also written other articles on race and gender.<sup>19</sup> Relatively new to legal writing, but not new to teaching, is Renee Nicole Allen, who is writing about race, gender, and academy.<sup>20</sup>

Eight storytelling conferences have spawned a wealth of scholarship. Bibliographies<sup>21</sup> can direct you to articles on the use of stories—and of storytelling or narrative elements—in law practice, in law school pedagogy, and within the law generally. And there are other communities—such as Global Legal Skills, which has hosted international conferences and has inspired articles.<sup>22</sup>

Members of our community have written books on a range of topics. For instance, Heidi Brown has written about introverted lawyers.<sup>23</sup> Pam Jenoff has written historical fiction, with her books appearing on *The New York Times* Best Sellers list.<sup>24</sup>

Members of our community have also engaged in empirical studies. Twenty-five years ago, Robin conducted the first empirical study of learning styles in a law school classroom.<sup>25</sup> Stephen's work includes an analysis of 369 federal decisions in which political asylum was denied.<sup>26</sup> The Association of American Law Schools (AALS) has a section on Empirical Study of Legal Education and the Legal Profession. That section held a webinar in the summer of 2021 for beginning empiricists.<sup>27</sup> A virtual national reading group, called "Research Methods in Legal Communication," offered training modules. To date, these sessions have provided guidance on reading statistics in empirical research, developing research questions, and using cluster analysis.<sup>28</sup>

We hope we have encouraged you to explore and write about topics that interest you and that are in your heart.

“Members of our community have written books on a range of topics.”

<sup>18</sup> Leslie Patrice Culver, *(Un)Wicked Analytical Frameworks and the Cry for Identity*, 21 NEV. L.J. 655 (2021).

<sup>19</sup> *Conscious Identity Performance*, 55 SAN DIEGO L. REV. 577 (2018); *The Rise of Self-Sidelining*, 39 WOMEN'S RTS. L. REF. 173 (2018); *White Doors, Black Footsteps: Leveraging White Privilege to Benefit Law Students of Color*, 21 J. GENDER, RACE & JUSTICE 37 (2017).

<sup>20</sup> *From Academic Freedom to Cancel Culture: Silencing Black Women in the Legal Academy*, 68 UCLA L. REV. 364 (2021).

<sup>21</sup> A bibliography was included in the issue of Fall 2015 *Legal Communication & Rhetoric*. There is a more recent bibliography being assembled by Chris Rideout. The Applied Legal Storytelling movement is largely associated with a series of biennial academic conferences that began in 2007; the majority of the entries in this bibliography originated with presentations at one of those conferences.

<sup>22</sup> Contacts for Global Legal Skills are Mark Wojcik and David Austin.

<sup>23</sup> HEIDI K. BROWN, *THE INTROVERTED LAWYER: A SEVEN-STEP JOURNEY TOWARD AUTHENTICALLY EMPOWERED ADVOCACY* (2017). See also HEIDI K. BROWN, *UNTANGLING FEAR IN LAWYERING: A FOUR-STEP JOURNEY TOWARD POWERFUL ADVOCACY* (2019); HEIDI K. BROWN, *Healthy Hives: Can Replacing Hierarchies with Intergroup Teams Transform Our Profession?*, 107 ABA J., Apr.–May 2021, at 28.

<sup>24</sup> See, e.g., PAM JENOFF, *THE ORPHAN'S TALE* (2017).

<sup>25</sup> Boyle & Dunn, *supra* note 1. Other empirical studies include the following: Robin Boyle & Lynne Dolle, *Providing Structure to Law Students—Introducing the Programmed Learning Sequences as an Instructional Tool*, 8 LEGAL WRITING 59 (2002) (peer-reviewed); Robin Boyle et al., *Presenting a New Instructional Tool for Teaching Law-Related Courses: A Contract Activity Package for Motivated and Independent Learners*, 38 GONZAGA L. REV. 1 (2002–2003); see also Robin Boyle & Joanne Ingham, *Suggestions on How to Conduct Empirical Research; A Behind-the-Scenes View*, 15 PERSPS, 176 (2007) (peer-reviewed).

<sup>26</sup> See generally Paskey, *supra* note 5.

<sup>27</sup> For a webinar for beginning empiricists, see <https://www.aals.org/qa-for-beginner-empiricists>.

<sup>28</sup> For more information, contact Brian Larson at [brian.lwic@members.mobilize.io](mailto:brian.lwic@members.mobilize.io).