

## Scholarship Advice for New Law Professors in the Electronic Age

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### Introduction

The nature of legal scholarship is changing. Law professors are publishing in more interdisciplinary journals than ever before.<sup>1</sup> They are also creating web sites,<sup>2</sup> web-based teaching materials,<sup>3</sup> web books and courses,<sup>4</sup> and blogs (or “blawgs” in the case of web logs about law).<sup>5</sup> Law reviews are beginning to impose strict word and page count limits on the articles they publish.<sup>6</sup> Those journals also make available various processes to expedite review of articles.<sup>7</sup> Several electronic services provide the opportunities for

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<sup>1</sup> See, e.g., Michael Heise, *Brown v. Board of Education, Footnote 11, and Multidisciplinarity*, 90 CORNELL L. REV. 279, 308, 315-16 (2005); Richard A. Posner, *Legal Scholarship Today*, 115 HARV. L. REV. 1314, 1316-17 (2002).

<sup>2</sup> See, e.g., Douglas O. Linder, *Famous Trials (2006)*, <http://www.law.umkc.edu/faculty/projects/ftrials/ftrials.htm> (last visited July 30, 2006) (web site gets over six million hits per month).

<sup>3</sup> See generally Robert Laurence, *Casebooks Are Toast*, 26 SEATTLE U. L. REV. 1 (2002); William R. Slomanson, *Electronic Lawyering and the Academy*, 48 J. LEGAL EDUC. 216 (1998).

<sup>4</sup> See, e.g., Diana R. Donahoe, *Bridging the Digital Divide Between Law Professor and Law Student*, 5 VA. J.L. & TECH. 13, 29-42 (2000); Michael A. Geist, *Where Can You Go Today? The Computerization of Legal Education from Workbooks to the Web*, 11 HARV. J.L. & TECH. 141, 164-82 (1997); Shelley Ross Saxer, *One Professor’s Approach to Increasing Technology Use in Legal Education*, 6 RICH. J.L. & TECH. 1, 5 (2000). For examples of web-based course materials, see Barbara Glesner Fines, *Teaching and Learning Law: Resources for Legal Education*, <http://www.law.umkc.edu/faculty/profiles/glesnerfines/bgf-edu.htm> (last visited Aug. 2, 2006); Doug Linder, *Exploring Constitutional Law (2006)*, <http://www.law.umkc.edu/faculty/projects/ftrials/conlaw/home.html> (last visited Aug. 2, 2006).

<sup>5</sup> See Dick Dahl, *Lawyer Blogs Keep Practitioners, Law Professors Up to Date*, MO. LAW. WKLY, June 5, 2006, at 11 (listing the top 25 most frequently visited legal blogs, the most popular of which is law professor Eugene Volokh’s *The Volokh Conspiracy*, [www.volokh.com](http://www.volokh.com), which records 25,000 visitors per day); *Law Professor Blogs*, <http://www.lawprofessorblogs.com>; *Prawfsblawg*, <http://prawfsblawg.blogs.com>.

<sup>6</sup> See *infra* text at notes 34-35.

<sup>7</sup> See *infra* text at notes 111-12, 115 (discussing expedited review systems and summer expedite programs)

pre-publication posting of articles for feedback.<sup>8</sup> The scholarly process is moving more rapidly than ever before—electronic devices and widespread internet access mean that much research can be conducted virtually anywhere and at any time. Publication now often occurs without the intermediaries of peer review or law review edits.<sup>9</sup>

Professors just joining the legal academy may feel caught in a time of transition between promotion and tenure rules based on traditional methods of publication and contemporary electronic and interdisciplinary possibilities for publication. A number of good articles exist that contain recommendations for newer law professors about the process of scholarship,<sup>10</sup> but most of those articles are between five and twenty years old and do not address publishing in the age of blogs, expedited reviews, electronic submissions, and open-access databases.<sup>11</sup> The substance and length of what law professors write, the formats in which they do so, and the fora in which they publish are evolving. This essay offers advice for new law professors on how to comply with promotion and tenure guidelines while taking advantage of publishing opportunities in the electronic age.

The discussion is not limited to issues raised by new technology, although it gives special emphasis to those sorts of issues. The essay is organized simply as a series of suggestions about the process of scholarship. For the most part, they are arranged

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<sup>8</sup> See *infra* text at notes 82-87.

<sup>9</sup> See Lawrence B. Solum, *Blogging and the Transformation of Legal Scholarship*, Apr. 21, 2006, <http://papers.ssrn.com/abstract=898168> (discussing the disintermediation of legal scholarship).

<sup>10</sup> See generally Mary Beth Beazley & Linda H. Edwards, *The Process and the Product: A Bibliography of Scholarship About Legal Scholarship*, 49 *MERCER L. REV.* 741 (1998); Richard Delgado, *How to Write a Law Review Article*, 20 *U.S.F. L. REV.* 445 (1986); Mary Kay Kane, *Some Thoughts on Scholarship for Beginning Teachers*, 37 *J. LEGAL EDUC.* 14 (1987); Aviam Soifer, *Musing*, 37 *J. LEGAL EDUC.* 20 (1987).

<sup>11</sup> The open access publishing movement is a commitment by journals, authors, and universities to make their works accessible in digital media, often for free. A primary example is the Creative Commons Project. See, e.g., *Creative Commons*, <http://creativecommons.org> (last visited Aug. 2, 2006). See also Dan Hunter, *Walled Gardens*, 62 *WASH. & LEE L. REV.* 607 (2006) (“The most significant recent development in scholarly publishing is the open-access movement, which seeks to provide free online access to scholarly literature.”)

chronologically in terms of the progression of writing, ranging from knowing the promotion and tenure guidelines about scholarship and selecting a topic to sending articles out for publication. The suggestions contained here are less about techniques of writing<sup>12</sup> and more about the process of producing scholarship. They are also not exhaustive, but the footnotes of this essay will refer you to a number of other repositories of helpful advice about scholarship.

### 1. Know the rules.

Review your law school's promotion and tenure guidelines. Many schools' guidelines explicitly state the number of publications required for promotion and tenure.<sup>13</sup> In addition to the quantitative threshold, many schools also impose a qualitative requirement, that may "depend on a number of factors including: positive reads by the senior faculty members in her field, a good journal placement for the article, lots of citations, and approval from outside readers."<sup>14</sup>

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<sup>12</sup> A number of excellent references on this subject already exist. See, e.g., EUGENE VOLOKH, *ACADEMIC LEGAL WRITING: LAW REVIEW ARTICLES, STUDENT NOTES, AND SEMINAR PAPERS* (2004); Delgado, *supra* note 10; Pamela Samuelson, *Good Legal Writing: Of Orwell and Window Panes*, 46 U. PITT. L. REV. 149 (1984). See also *infra* text at notes 56-57.

<sup>13</sup> Devon Carbado & Mitu Gulati, *Tenure*, 53 J. LEGAL EDUC. 157, 160 (2003) (stating that tenure requires "between two and four articles in roughly five years at most schools"). See, e.g., Emory University Office of the Provost, *Emory Law School Procedures and Criteria for Appointment, Promotion and Tenure*, [http://www.emory.edu/PROVOST/tenurepromotion\\_files/tp\\_law.htm#VIII](http://www.emory.edu/PROVOST/tenurepromotion_files/tp_law.htm#VIII) (last visited Aug. 2, 2006) ("rarely will a candidate who produces not more than the equivalent of two law review articles during the period of limited appointment be recommended for continuous appointment"); Washington and Lee University, *Law School Faculty Appointment, Tenure and Promotion Procedures*, at V.C.2., <http://thecollege.wlu.edu/administration/handbook/law-pt.htm#Evaluation> (last visited Aug. 2, 2006) ("Ordinarily, at least one piece of substantial scholarship and one other writing that reflects at least a significant scholarly effort, although of lesser scope, will be required in order to meet the standard for scholarship.").

<sup>14</sup> *Id.*

Some schools only have qualitative guidelines,<sup>15</sup> or a mixture of qualitative and quantitative.<sup>16</sup> Since the qualitative dimension may be ill-defined and variable, depending on the subjective assessments of individual decision-makers, talk to the more senior faculty in your school about what the formal expectations mean in practice—in other words, what are the unwritten requirements? Be aware of the particulars: for instance, whether articles published (or written) before the candidate arrives at the tenuring institution will count toward tenure.<sup>17</sup> Also, find out if the standards require that each

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<sup>15</sup> Some of the qualitative standards simply reference the assessment by professionals in the field. *See, e.g.*, Northwestern University School of Law, *Law School Promotion and Tenure Standards and Procedures*, May 14, 1998, at II.1, [http://www.law.northwestern.edu/faculty/recruitment/Standards\\_Tenure.pdf](http://www.law.northwestern.edu/faculty/recruitment/Standards_Tenure.pdf) (“Candidates for promotion or tenure must demonstrate excellence in scholarship. . . . The members of the committee will read and evaluate the candidate’s publications, . . . will urge the faculty to do likewise. . . . [N]o fewer than five professors in peer institutions, who are well qualified to evaluate the candidate’s published work, [will] submit written evaluations.”). For others, the qualitative standard invites a comparison of the candidate’s work with the contributions of peers and/or with the stated mission of the law school. *See, e.g.*, Emory Law School, *Emory Law School Procedures and Criteria for Appointment, Promotion and Tenure*, [http://www.emory.edu/PROVOST/tenurepromotion\\_files/tp\\_law.htm#VIII](http://www.emory.edu/PROVOST/tenurepromotion_files/tp_law.htm#VIII) (last visited Aug. 2, 2006) (asking whether the candidate’s publications “constitute significant contributions to learning in the candidate’s area of work as measured by national, or, where appropriate, international standards,” and stating that “[t]he committee also should take into account the relative standing of the candidate in comparison with other scholars of the same generation who are doing comparable work. In addition, the committee should consider how the candidate’s work contributes to the advancement of the mission of the Law School and the University.”).

<sup>16</sup> The University of Missouri-Kansas City School of Law offers an example of both quantitative and qualitative dimensions. The quantitative standards of the UMKC Promotion and Tenure Regulations require “three scholarly works which can be regarded as significant contributions to the knowledge of the field” for tenure. *UMKC Promotion & Tenure By-Laws*, May 1997, Std. X.4. Since the regulations recognize that “[t]he extensive variety of subjects and forms of legal scholarship necessitates the application of general standards such as accuracy, integrity, comprehensiveness, creativity, and thoughtfulness,” the qualitative threshold under the UMKC regulations is a gestalt analysis made with reference to academic community standards, stating “For tenure, a candidate’s work should be regarded as a significant contribution to the knowledge in the field.” *Id.* at Std. X.1. The notes to the bylaw elaborate: “The focus of scholarship may deal with numerous aspects of the legal spectrum such as statutes, case law, policy, government, educational techniques, history, jurisprudence, and interdisciplinary linkages. Likewise, the range of scholarly methods is broad and may include empirical research, analysis, synthesis, and innovation; it can involve the practical as well as the abstract or creative. Writing for practitioners can be relevant for tenure or promotion considerations but candidates are advised that such writing should show depth, analysis, synthesis, or organization that is distinctive. Articles published in reputable academic journals other than law reviews may be treated as equivalent to articles published in law reviews.” *Id.*

<sup>17</sup> Explore what “count” means in terms of the quantity requirement: included in the file or in the outside review, perhaps, but not as a complete substitute for an on-site piece for tenure.

article must already be in print at the time of the candidate's consideration for tenure or promotion, or simply be completed or accepted for publication.<sup>18</sup>

Does your school expect to predict, at the end of your tenure-track period, whether you are likely to become a leading scholar in your chosen area? Are you expected to publish in just one area? May you publish in a backwater area, populated by only a few scholars? Will your salary and tenure posture be enhanced by writing that has a significant public policy impact? Is there a local preference for empirical work? Does your school tend not to answer such questions in advance, presumably giving you more latitude in topic selection?<sup>19</sup>

One other consideration is that various evaluators may have different perceptions of works depending on their formats. Even among scholarly works published in traditional print media, reviewers may have different opinions about the relative academic value of articles, monographs, chapters, essays, practice-oriented materials, and book reviews. They may estimate the value of a piece of writing differently, depending on whether it was solicited for a symposium, or whether it appears in a specialty or general journal in law or in a publication in a discipline outside of law.

A very important consideration on most faculties—but one that is only rarely spelled out in the governing rules—is the importance of a steady stream of publications (rather than the same amount of work done at the last minute).<sup>20</sup> Tenuring bodies are

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<sup>18</sup> The “in print” requirement presents some dangers due to the author’s lack of control over the publication process. Symposium issues and books will proceed at the pace of the slowest author.

<sup>19</sup> William R. Slomanson, *Legal Scholarship Blueprint*, 50 J. LEGAL EDUC. 431, 437-38 (2000).

<sup>20</sup> Wayne State University Law School is one of the exceptions. See *Wayne State University Promotion and Tenure Procedures and Factors for Faculty*, <http://www.law.wayne.edu/docs/P&TFactorsFaculty.pdf>, at 6 (last visited Aug. 1, 2006):

looking for indications that candidates are interested in writing and will be productive scholars over an academic lifetime. A last minute rush to meet a numeric quota before a tenure deadline is often considered negatively in the tenure decision.

The legal academy is experiencing a movement toward shorter pieces generally, including shorter articles (the subject of the next suggestion), essays, blogs, think pieces posted on the web, as well as collaborative encyclopedic ventures like Wikipedia.<sup>21</sup> Increasingly, law professors are turning to blogging and self-publication on the internet as a means of more rapidly disseminating their ideas.<sup>22</sup> Paralleling this development, judges writing legal decisions as well as law professors publishing articles in law reviews are both increasingly citing to blogs.<sup>23</sup> The Law Professor Blogs Network hosts over thirty blogs in specific subject matter areas, such as tax or sentencing law and policy.<sup>24</sup> Blogs and other web-based materials can have an enormous readership: “Over time, a blog that offers thoughtful commentary or easy access to interesting legal news and case developments can generate a readership numbering in the thousands to tens of thousands per day, far outstripping the number of people who will read the typical law review

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[A]n applicant for tenure should not only have achieved excellence in teaching, scholarship, and service, but he/she should also have done so with a degree of continuity and in a sufficient variety of ways through the pre-tenure period to demonstrate a very strong commitment to academic work, creativity in identifying and meeting new challenges, and adaptability to the changing demands of his/her field. In scholarship, for instance, a single piece of excellent work should not be sufficient to show future prospects. Rather a continuity of excellent scholarship, a demonstration of the ability to identify and pursue new issues worth investigation, and a willingness to create or master new methods of research pertinent to new subjects of investigation are strong indicators of future prospects for excellence in scholarly achievement.

<sup>21</sup> Solum, *supra* note 9, at 13.

<sup>22</sup> See Harvard Law School, Symposium, *Bloggership: How Blogs Are Transforming Legal Scholarship*, Apr. 28, 2006, <http://cyber.law.harvard.edu/home/bloggership>. See also Solum, *supra* note 9, at 10.

<sup>23</sup> See Ian Best, *Cases Citing to Legal Blogs*, 3L Epiphany, Apr. 15, 2006, [http://3lepiphany.typepad.com/3l\\_epiphany/cases\\_citing\\_legal\\_blogs/index.html](http://3lepiphany.typepad.com/3l_epiphany/cases_citing_legal_blogs/index.html); Ian Best, *A Collection of Law Review Articles Citing Legal Blogs*, 3L Epiphany, Apr. 19, 2006, [http://3lepiphany.typepad.com/3l\\_epiphany/law\\_review\\_articles\\_citing\\_legal\\_blogs/index.html](http://3lepiphany.typepad.com/3l_epiphany/law_review_articles_citing_legal_blogs/index.html). Judicial citation is likely to help legitimize blogs for the tenure review process.

<sup>24</sup> Howard J. Bashman, *The Battle Over the Soul of Law Professor Blogs*, 233 LEGAL INTELLIGENCER, May 8, 2006, at 5.

article.”<sup>25</sup> Have conversations with more senior members of your faculty about what “counts” as legal scholarship.<sup>26</sup> When in doubt, for the first several articles, it may be wise to favor more traditional media of publication.

Many people will fully develop an article idea in a major piece—with a conscious choice of methodology and a vetting of drafts—and then almost contemporaneously promote the ideas in that piece in separate op-eds, book reviews, or blogs. These are actually complementary ways of disseminating ideas: the shorter spins of ideas become good promotional marketing for the more developed treatment.

Try to meet the general expectations in the field. You may want to change institutions at some point in your career. Also, when articles go out for peer review, external legal academic community standards, rather than internal institution standards, may apply.<sup>27</sup> The Association of American Law Schools has, from time to time, produced reports on changing expectations for tenure across the field.<sup>28</sup> Also, be aware of university expectations versus law school expectations.<sup>29</sup> University promotion and tenure committees are comprised of professors from across numerous disciplines. Particularly in the sciences, the publication pattern consists of a large number of very

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<sup>25</sup> Bashman, *supra* note 24, at 5.

<sup>26</sup> Solum, *supra* note 9, at 4 (“The blog or weblog is really just a form of publication on the Internet that utilizes the World Wide Web and software to reduce the costs of self-publishing.”). *But see* Leigh Jones, *Mixed Reviews for Blogging Law Professors*, 4 INTERNET L. & STRATEGY 3 (2006) (noting that “182 law professors have blogs,” and citing the remarks of Professor Douglas Berman who says that “exchanging ideas with other scholars and practitioners and keeping as current as possible on specific topics can enhance traditional scholarship,” but also citing Professor John Eastman as saying that blogging is “not very thoughtful,” because “[t]he immediacy of the medium . . . does not lend itself to intellectualism.”).

<sup>27</sup> *See, e.g., UMKC Promotion & Tenure By-Laws*, *supra* note 16, Std. IX.6. (“Outside evaluators will be asked to indicate, in the review, whether the candidate’s achievements would meet the basic qualifications for tenure or promotion at the evaluator’s institution.”).

<sup>28</sup> *See* Association of American Law Schools, *Report of the AALS Special Committee on Tenure and the Tenuring Process*, 42 LEGAL EDUC. 477 (1992). *See also* Richard A. White, *The Promotion, Retention, and Tenuring of Law School Faculty: Comparing Faculty Hired in 1990 and 1991 to Faculty Hired in 1996 and 1997*, Dec. 14, 2004, <http://www.aals.org/documents/2005recruitmentreport.pdf>.

<sup>29</sup> *See id.* at 485 (noting that among the 141 schools responding, almost half observed a trend toward greater university denials of law school tenure recommendations).

short articles. While presumably university committees become familiar with the expectations of different disciplines (and also the law school's promotion and tenure representative will explain the guidelines in the legal academy), it may be wise to ask if any different set of standard is applied on your campus.<sup>30</sup>

## 2. Size matters.

While professors are evaluated according to the body of work they produce, a number of advisors suggest that the first article should be a substantial and fairly traditional doctrinal piece.<sup>31</sup> Don't begin by writing op eds and don't begin with a book. The former may not "count" as serious scholarship<sup>32</sup>; the latter is too daunting, and if it is a textbook or hornbook, it may not be considered sufficiently analytical.<sup>33</sup>

In 2005, fifteen prominent law reviews (California-Berkeley, Columbia, Cornell, Duke, Georgetown, Harvard, Michigan, New York University, Northwestern, Stanford, Texas, Pennsylvania, Virginia, and Yale) adopted a joint statement encouraging law faculty to write articles in the range of 40-70 pages.<sup>34</sup> The individual reviews have

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<sup>30</sup> Donald J. Weidner, *Law School Engagement in Professionalism and Improved Bar Relations*, 72 FLA. B.J. 40, 44 (July/Aug. 1998) ("Schools vary greatly on what will be valued by university promotion and tenure committees and by university provosts and presidents. It is clear that, on some campuses, faculty portfolios will be enhanced by speeches and shorter papers, which will also remind other university faculty that law faculty are players in the legal marketplace. On other campuses, the situation is less clear.").

<sup>31</sup> Cheryl Hanna, *The Nuts and Bolts of Scholarship or the Rules for Legal Scholars*, June 23, 2001, at <http://www.aals.org/profdev/nlt2001/hanna.html> (suggesting that the first article should be approximately 50-80 pages in length, with 200-400 footnotes). In light of recent law review limitations on the length of articles they will publish, *see infra* notes 34-35, this suggestion may be slightly too lengthy.

<sup>32</sup> Dennis L. Colbert, *Broadening Scholarship: Embracing Law Reform and Justice*, 52 J. LEGAL EDUC. 540, 546 (2002) (noting that while "[t]raditionally, the academy does not regard the op-ed piece as scholarship . . . this is an ideal way to further the public's understanding of a legal issue that requires immediate attention").

<sup>33</sup> Association of American Law Schools, *supra* note 28, at 490.

<sup>34</sup> Joint Statement Regarding Articles Length, <http://lawreview.stanford.edu/submissions/articles/index.htm> ("The vast majority of law review articles can effectively convey their arguments within the range of 40-70 law review pages, and any impression that law reviews only publish or strongly prefer lengthier articles should be dispelled.") (noting that fifteen law journals adopted this). *See also* University of California-Berkeley, <http://www.boalt.org/clr/pages/submissions.php> ("The vast majority of law review articles can

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effectively convey their arguments within 40-70 pages. The California Law Review (CLR) seeks to dispel any impression that it prefers longer articles. CLR is rethinking its policies and will modify them to discourage submission and publication of excessively lengthy articles.”); University of California–Los Angeles, <http://www.uclalawreview.org/submissions> (“The UCLA Law Review will give preference to articles under 25,000 words in length—the equivalent of 50 law review pages—including text and footnotes. We will not publish articles exceeding 35,000 words—the equivalent of 70-75 law review pages—except in extraordinary circumstances.”); Columbia University, <http://www.columbialawreview.org> (“Effective February 28, 2005, the *Columbia Law Review* will no longer review nor publish articles or essays in excess of 37,000 words in length (including text and footnotes; measured by Microsoft Word’s word count feature), barring exceptional circumstances. In addition, we will give preference to articles and essays submitted under 32,000 words in length.”); Cornell University, <http://organizations.lawschool.cornell.edu/clr/CLRStatement.htm> (“[W]e have a strong preference for submissions that can be published at under 30,000 words (including text and footnotes).”) Duke University, <http://students.law.duke.edu/journals/dlj/article.html> (“*DLJ* has a strong preference for Articles of fewer than 35,000 words (or roughly 70 law review pages), including footnotes; longer articles will only be published in exceptional circumstances.”); Georgetown University, <http://www.law.georgetown.edu/journals/glj/JointStatement.html> (endorsing the Joint Statement); Harvard University, <http://www.harvardlawreview.org/manuscript.shtml> (“The *Review* will give preference to articles under 25,000 words in length—the equivalent of 50 law review pages—including text and footnotes. The *Review* will not publish articles exceeding 35,000 words—the equivalent of 70-75 law review pages—except in extraordinary circumstances.”) University of Michigan, [http://students.law.umich.edu/mlr/submit\\_articlelength.htm](http://students.law.umich.edu/mlr/submit_articlelength.htm) (“We exhibit a preference for publishing a heterogeneous collection of essay-length pieces (30 published pages or less) and article-length pieces (approximately 30 to 50 published pages). In the first five issues of Volume 104, the average article length was 45 pages . . . [B]y Volume 107 we would prefer that more than half of our accepted articles are 30 pages or less. We are looking to publish pieces that are less than 25,000 words, including footnotes. We have not instituted a firm cap on article length at this time for two reasons. First, the exceptional article may justify a high word count. Second, articles of every length can be excessively long for the argument they make. We consider length only a proxy measurement for conciseness, which is our ultimate goal.”); New York University, <http://www.law.nyu.edu/journals/lawreview/submissions.html> (“The *N.Y.U. Law Review* emphasizes that our journal has no minimum or maximum page requirements for submissions. However, we also strongly believe that the vast majority of law review articles can convey their arguments effectively in 40-70 journal pages (between 20,000 and 35,000 words including text and footnotes) and encourage authors to target the lengths of their submissions to this range.”); Northwestern University, <http://www.law.northwestern.edu/journals/lawreview/submissions.html> (“[W]e . . . endorse the position that most Law Review articles can effectively convey their arguments within the range of 40-70 journal pages. We believe that establishing page limit guidelines will enhance the quality of legal scholarship, and also shorten and improve the editing process. To that end, we strongly encourage authors submitting articles for our consideration to limit their pieces to 35,000 words, including footnotes. Authors submitting essays for our consideration are encouraged to limit their pieces to 20,000 words, including footnotes.”); University of Pennsylvania, <http://www.pennlawreview.com/jointstatement.php> (“We strongly prefer articles under 35,000 words (including footnotes). We will continue to publish manuscripts over 35,000 words if the length is merited.”); Stanford University, <http://lawreview.stanford.edu/submissions/articles/index.htm> (“The Stanford Law Review considers submissions of all lengths, but gives preference to articles of fewer than 30,000 words.”); University of Texas, <http://www.utexas.edu/law/journals/tlr/submissions.html> (endorsing the joint statement, but “emphasiz[ing] . . . that we will not be imposing an absolute cap on the length of articles at this time.”); University of Virginia, <http://www.virginialawreview.org/page.php?s=submissions&p=articles> (“We strongly prefer Articles under 25,000 words (including footnotes). We will publish manuscripts over 25,000 words only under exceptional circumstances.”); Yale University, <http://www.yalelawjournal.org/submissions.html> (“The *Journal* strongly encourages submissions of less than 30,000 words (roughly 60 *Journal* pages) and strongly discourages submissions of more than 35,000 words (roughly 70 *Journal* pages).”). Interestingly, the University of Chicago Law Review, home of the minimalist *Maroon Book*, does not specify any word or page limits. See <http://lawreview.uchicago.edu/submissions>.

adopted various policies, ranging from encouraging a target page or word count limit to more stringent rules of refusing to publish articles in excess of a certain length except in extraordinary circumstances. Early indications are that these limits are constraining the length of articles.<sup>35</sup> Since these law review-imposed limits are rather new, it is too early to tell whether they will alter upward the number of publications law schools require for promotion or tenure.

### 3. Topic selection.

You may already have a “scholarly agenda.” After all, if a law school hired you in today’s competitive market, it is likely that you discussed this agenda in interviews to get the teaching job in the first place and that you have already published in an area. But topic selection can be a recurring issue. One of the easiest ways to find a topic you can address with some degree of authority is to consider what you did in practice before becoming a professor. Even if one of the reasons you left practice was the lack of intellectual excitement, presumably you contemplated some novel and interesting issues when you practiced law—issues that never had a good answer or concrete resolution, particularly issues that had interesting policy implications. But beware of writing a piece that will be perceived as a practice oriented piece, or the sort of thing that would be written in practice such as an extended memorandum—as valuable as they are, they may not be accorded sufficient value within the academic community.

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<sup>35</sup> Matt Bodie, *Article Length Limits: Some Early Results*, Prawfsblawg, [http://prawfsblawg.blogs.com/prawfsblawg/2006/07/article\\_length.html](http://prawfsblawg.blogs.com/prawfsblawg/2006/07/article_length.html), July 24, 2006 (conducting a survey of the 230 articles published in seven of the law reviews signing the joint statement—Columbia, Harvard, Pennsylvania, Stanford, Texas, Virginia, and Yale—between 2003 and 2006 and finding: “For those articles published in the 2005-2006 editorial season, the average length was 67.13 pages. The median article was 67 pages long. In contrast, those articles published during the 2004-2005 and 2003-2004 seasons averaged 87.76 pages. The median article was 84 pages long.”).

Certainly one can search for topics by examining recent court decisions (especially circuit splits, varying state approaches, and individual cases with dissents), thinking about the legal implications of current events, and talking to colleagues. Scholars are often most successful at developing law review articles when they hone in on the legal issues arising in a topic that appeals to them personally, socially or political—they have a high interest level, a determination to know more, and an ability to think more contextually about the issues.

One suggestion is to look for topics as you do preparation work for courses. Keep an eye out for legal issues for which there is no clear answer yet. The “notes” portion of textbooks may be a good place to look for emerging issues.<sup>36</sup> Another suggestion is to examine publications oriented toward practitioners in specific areas of practice. For example, academics interested in cutting edge torts issues might consult the Association of Trial Lawyers of America’s *Trial* magazine.<sup>37</sup> You might find nascent claims or issues that practicing lawyers have generated, but which academics have not yet addressed with any scholarly treatments.

One other avenue to search for topics is to shelf-read at a general university library or a specialized science library. While the timing may be changing, for many years ideas originating in other disciplines, such as the sciences and social sciences, faced a huge lag time before legal academics addressed them.<sup>38</sup> Walk down the aisles housing the latest periodicals in related disciplines and browse some of the recent scholarship. For instance, if you are interested in writing in the area of feminist legal theory, skim

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<sup>36</sup> For instance, if a case has theoretical implications that academics have not yet explored, there might be a note that says “Query whether courts would decide these cases the same way if . . . .” or “What would happen if such-and-such were different?” See Delgado, *supra* note 10, at 449.

<sup>37</sup> ATLA, *Trial*, <http://www.atla.org/publications/trial/0608/contents.aspx> (last visited Aug. 2, 2006).

<sup>38</sup> Kathleen M. Sullivan, *Foreword: Interdisciplinarity*, 100 MICH. L. REV. 1217, 1225 (2002).

some of the latest issues of *Signs: Journal of Women in Culture and Society*, *Feminist Studies*, *Advocate: The National Gay and Lesbian Magazine*, *Journal of Marriage and the Family*, or *Psychology of Women Quarterly*. New scholars would also be well advised to look at economics, sociology, anthropology, and political science journals as well. While economic theory is often counterpoised to feminism, modern economics lends substantial support to many feminist arguments.<sup>39</sup> International comparative works in these areas are a way of generating highly creative analysis and synthetic theory. As another example, evidence law could be changed greatly by modern developments in neuropsychology.<sup>40</sup> There are also perennial issues in evidence about child or adolescent witnesses into which specialized cognitive psych journals may provide insights.<sup>41</sup>

You do not even have to walk over to a general university library, since you can now research and electronically shelf-read under many law schools' agreements with a database aggregator, such as Serials Solutions: Full Text Electronic Journals.<sup>42</sup> This is a subject-arranged gateway to journals in specific areas, such as Business and Public Administration, Health Sciences, Humanities, Law or Social Sciences.<sup>43</sup> This is a product that will be available on most campuses by that same name but access will be limited to on campus computers or through an authenticated log-in and password from an off-campus location. You can browse by journal title or by particular words in a journal title.

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<sup>39</sup> See, e.g., WORLD BANK, ENGENDERING DEVELOPMENT THROUGH GENDER EQUALITY IN RIGHTS, RESOURCES, AND VOICE (2001).

<sup>40</sup> See, e.g., Social Neuroscience, [www.social-neuroscience.com](http://www.social-neuroscience.com) (last visited Aug. 2, 2006). A "link to links" site for cognitive psych journals can be found at: <http://www.psychology.org/links/Publications/Cognitive> (last visited Aug. 2, 2006).

<sup>41</sup> See, e.g., *Journal of Experimental Child Psychology*, <http://www.sciencedirect.com/science/journal/00220965>. See generally [http://www.google.com/Top/Science/Social\\_Sciences/Psychology/Child\\_Psychology/Publications](http://www.google.com/Top/Science/Social_Sciences/Psychology/Child_Psychology/Publications).

<sup>42</sup> See, e.g., UMKC, Databases, Serials Solutions, <http://pc8ga3qq6a.search.serialssolutions.com>.

<sup>43</sup> See, e.g., UMKC, Databases: Subject List, <http://www.umkc.edu/lib/online/DatabasesSubject.htm>.

You are looking for a topic on which you can write a substantial, but manageable, article. Professor Richard Delgado makes the suggestion that legal writers should “find one new point, one new insight, one new way of looking at a piece of law, and organize your entire article around that. One insight from another discipline, one application of simple logic to a problem where it has never been made before is all you need.”<sup>44</sup>

#### **4. Of research agendas and intellectual gigolos.**

In a prominent defamation case, Jeffrey Masson sued the New Yorker writer who said he had called himself an “intellectual gigolo.”<sup>45</sup> It could, of course, have been considered a compliment. Is intellectual promiscuity really a bad thing?

One question that emerges fairly quickly is whether to write in one area or many. Should your subsequent topics relate to your first? Many advisors urge beginning writers to develop a body of work by building on the writer’s own prior works: “producing several smaller works that build in scope and difficulty is appropriate and valuable at the outset of a writing career.”<sup>46</sup> Publishing in one area or a series of related areas creates proficiency more quickly than developing expertise in far-flung arenas. The writing then may become more efficient, since you will already have familiarity with many of the basic themes in the field. Developing expertise in a particular area is also a way to become known and obtain invitations to conferences, and it makes peer review easier. The twin dangers are boredom and a narrowness of focus or perspective.<sup>47</sup>

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<sup>44</sup> Delgado, *supra* note 10, at 448.

<sup>45</sup> Masson v. New Yorker Magazine, Inc., 501 U.S. 496, 502 (1991).

<sup>46</sup> Abrams, *supra* note 26, at 1.

<sup>47</sup> Slomanson, *supra* note 16, at 435.

If your interests are diverse, the alternative is to pursue new paths whenever the curiosity arises; and being more of a generalist may create a stronger foundation. The political reality is that, at least initially, your school's promotion and tenure standard may dictate whether you can indulge in more eclectic intellectual pursuits: "Some schools want to predict, at the close of the tenure-track period, whether you will be a leader in a particular field. Branching out could be disastrous. . . .The world-renowned scholar who has published in multiple areas is the exception, not the rule."<sup>48</sup> The best advice is to write about something that truly interests you; if you try to force it or comport with what you think you should be writing rather than following your interests, you may find you lack both motivation and inspiration in your work.

It may be useful to formulate some plan or writing agenda—to map out the areas in which you think you want to develop as a scholar and the larger concepts you want to address—but to avoid rigid adherence to a program that locks your writing in for the next five years. One other point is that a research agenda or the thematic connections among a scholar's writing may emerge only in retrospect—the scholar sees the connecting themes most clearly in looking back at a body of work.<sup>49</sup>

## **5. Block out time for writing.**

Writing takes time. Good writing takes even more time.<sup>50</sup> Too often newer faculty members are siphoned into teaching and service. Newer professors often want to

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<sup>48</sup> *Id.*

<sup>49</sup> Susan Carle made this point at the Southeastern Association of Law Schools, Promoting Scholarship Within a Faculty panel, July 19, 2006.

<sup>50</sup> As Blaise Pascal, seventeenth century philosopher and mathematician, once wrote to a friend, "I have made this letter long than usual, only because I have not had time to make it shorter." Barbara Schmidt, *Directory of Mark Twain's Maxims, Quotations, and Various Opinions*, <http://www.twainquotes.com/Letters.html> (last visited Aug. 2, 2006).

feel engaged and enjoy the feedback that comes with in-person interactions. More established professors are often eager to involve new colleagues in committee work. It is difficult to keep in mind the allocation of significance that most faculties attach to the different portions of academic jobs. Many faculties expect that about 40 percent of faculty time will go toward scholarship, 40 percent toward teaching and 20 percent toward service.<sup>51</sup> Other faculties may evaluate the components differently.<sup>52</sup> It is very easy to do lots of busywork tasks, to chat with colleagues, and to chat with students and never get writing done.

Many writers work well with a timetable: a self-set expectation of when they will have a thesis and outline crafted, when they will have a rough first draft, and when they expect to be able to send an article out for publication.<sup>53</sup> Some writers ask colleagues to help them adhere to their timetable by seeing if a colleague will have the time to review an outline or a draft or a portion of a draft on a certain date and then using that date as a due date. Other writers set page limits for themselves. Perhaps the best advice is to simply set aside time for writing every day or several days each week, as the teaching schedule permits, rather than waiting for the muse to visit: “the actual creative writing process is not characterized by large leaps of genius and bursts of frantic activity but by a far more methodical routine.”<sup>54</sup>

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<sup>51</sup> See, e.g., Norman Redlich, *Law School Faculty Hiring Under Title VII: How a Judge Might Decide a Disparate Impact Case*, 41 J. LEGAL EDUC. 135 (1991).

<sup>52</sup> See, e.g., Carbado & Gulati, *supra* note 12, at 159 (“The two most important and, therefore, most discussed elements of the tenure decision are the evaluations of scholarship and teaching. Scant attention is paid to service, the third element of most law school tenure decisions. Yet service is important not only as an independent criterion for tenure (the ‘foreground’ function of service) but also as a prism through which teaching and scholarship are evaluated (the ‘background’ function of service).”).

<sup>53</sup> See *infra* text at note 92 about windows of law reviews for article acceptance.

<sup>54</sup> Robert H. Abrams, *Sing Muse: Legal Scholarship for New Law Teachers*, 37 J. LEGAL EDUC. 1, 1 (1987).

Techniques to carve out writing time include putting it on your calendar or into your Palm Pilot. If the blocking out means hanging a Do Not Disturb sign on your office door, finding a separate study room or cubicle in the law library, or staying at home to avoid distractions, do those things. Other suggestions include maintaining a separate calendar to note progress and things to do on writing projects. It can be helpful to touch the piece you are working on every day—even if it is only to fill in a few citations—to maintain momentum on the article and a connection to it, and to avoid having to ramp up again when you return to it. These ways of committing time to writing are just suggestions for different varieties of self-imposed structures. They come with one caveat: do not forget to have lunch with colleagues—it is politically useful—perhaps even necessary<sup>55</sup>—and you can run scholarship issues by them.

## **6. Just do it.**

Just start writing. At times new law professors become concerned that before they write authoritatively, they have to track down every possible word on a subject. As a result, they follow endless bunny trails of research and end up not writing. Start writing even when the research is incomplete. In fact, often you cannot know in what new directions the research must go until you have started doing some writing

Particularly in light of law review interest in shorter articles, it is less important than in the past to comprehensively address all of the works in the area that precede your piece. Of course, it is important to cite to the prior works that you use, but make your

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<sup>55</sup> See Mary Ann Connell & Frederick G. Savage, *The Role of Collegiality in Higher Education Tenure, Promotion, and Termination Decisions*, 27 J.C & U.L. 833, 843 (2001). See also Stephen M. Griffin, *The Last Hierarchy: Confronting the Tenure Process as Vice Dean*, 73 UMKC L. REV. 289, 291 (2004) (reminding junior faculty not to “flunk lunch”).

article less a compendium of the ideas that have gone before and hone in quickly on the new analysis you are contributing to the literature.

Too often, beginning writers think that their initial launch must be a breathtaking magnum opus. The Dean at Florida State University College of Law, Donald Weidner, urges new faculty to avoid “the Moby Dick syndrome, the tendency to assume that your first article must be of monumental length and significance.”<sup>56</sup> For those who prefer sports over literary analogies, one of my colleagues passed along some advice that was given to him: For your first article, don’t set out to hit a home run. That can be paralyzing. You’ll never want to go to the plate. Just make contact and get a single. Put the ball in play.<sup>57</sup>

## **7. Push the print button.**

A corollary of number six is to just send it. Far too often newer professors have difficulty sending a manuscript out for publication because they think it is “not good enough” or “not quite finished” or, worse, “not yet perfect.” This can result in long delays in submitting manuscripts.<sup>58</sup> The caution here is to make the manuscript a clean and error-free copy. Do try to polish the final draft of the article and make sure the footnotes are appropriately Bluebooked. The law review student editors who will be doing the editing and Bluebooking are the ones making the publication decisions, and, as between substantively equal articles, will probably pick the one on which they foresee

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<sup>56</sup> *A Dean’s Letter to New Law Faculty About Scholarship*, 44 J. LEGAL EDUC. 440, 443 (1994).

<sup>57</sup> Thanks to my colleague Allen Rostron for this metaphor.

<sup>58</sup> *See, e.g.*, Gail Levin Richmond, *Advice to the Untenured*, 13 NOVA L. REV. 79, 83 (1988) (“There is always one more source to consult, one more tangent to explore. Too many faculty members follow these tangents, accumulating footnotes but never reaching the end. Meanwhile the clock ticks on; while you are exploring, another faculty member is publishing ‘your’ article.”).

having to do less work. For peer review pieces, such as book chapters or articles for peer reviewed journals, expect that the editors will engage in a substantive critique that will require further analytical work.

## 8. Read about writing

This bit of advice might logically come before suggestions 3-7 on writing, but I do not want to undercut the importance of number 6 (“Just do it!”). Reading about writing could become a form of major league pencil-sharpening that enables you to put off writing. Read about it as you go. Furthermore, reading about theories of writing only makes sense in an operational context—you will understand the suggestions better if you are already ensconced in writing. Otherwise, it is like reading about the theory of running an 800 meter race without ever lacing up a pair of spikes and toeing the line.

Presumably you’ve read numerous examples of good articles—articles that make an innovative point, spend more time on analysis than recapitulation of existing doctrine or history, are well-organized, and are written with flair. Taking a few hours to read about the process of developing a convincing thesis and supporting it persuasively is well worth the time spent. Two of the best books on the writing process are Elizabeth Fajans and Mary Falk’s *Scholarly Writing for Law Students: Seminar Papers, Law Review Notes and Law Review Competition Papers* and Eugene Volokh’s *Academic Legal Writing: Law Review Articles, Student Notes, and Seminar Papers*.<sup>59</sup> A number of other books, articles, and web sites also offer helpful advice.<sup>60</sup>

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<sup>59</sup> ELIZABETH FAJANS & MARY R. FALK, *SCHOLARLY WRITING FOR LAW STUDENTS: SEMINAR PAPERS, LAW REVIEW NOTES AND LAW REVIEW COMPETITION PAPERS* (2d ed. 2000); VOLOKH, *supra* note 12.

<sup>60</sup> *See, e.g.*, BETSY LERNER, *THE FOREST FOR THE TREES : AN EDITOR’S ADVICE TO WRITERS* (2002); Christian C. Day, *In Search of the Read Footnote: Techniques for Writing Legal Scholarship and Having It*

## 9. Attend “rookie camp”

Another way of becoming a better scholar is to attend programs about scholarship. A number of different organizations sponsor conferences that provide advice on scholarship and teaching, specifically for newer law professors. For the past twenty-four years, the Association of American Law Schools has hosted a summer workshop for new law professors.<sup>61</sup> These workshops address issues relating to scholarship and teaching, such as interactive teaching methods, selecting topics, writing for different audiences, using research assistants, manuscript submission, and so on. Gonzaga’s Institute for Law School Teaching has also created programs and conferences specifically to enhance teaching effectiveness.<sup>62</sup> The better and more easily a professor navigates the classroom, the more time is freed up for scholarship—and the two endeavors feed each other.<sup>63</sup>

Regional organization may host workshops for beginning scholars. For example, the Southeastern Association of Law Schools (SEALS) hosts a New Scholars Workshop each year, which assigns individual mentors from other schools for newer scholars to introduce them to present their works in progress and to offer constructive advice on

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*Published*, 6 J. LEGAL WRIT. INST. 229 (2000) (providing good recommendations about finding a mentor, banking a file of ideas, creating an article outline and abstract, the wisdom of co-authorship, and the use of research assistants); Diane Jonte-Pace, *Becoming a More Productive Scholar*, <http://www.scu.edu/provost/facultydevelopment/Scholarship.cfm> (last visited July 29, 2006) (listing various internet articles); Susan M. Taylor, *Students as (Re)Visionaries: Or, Revision, Revision, Revision*, 21 TOURO L. REV. 265, 271-76 (2005) (offering some excellent diagnostic tools for stylistic self-edits).

<sup>61</sup> See The Association for American Law Schools, *AALS Workshops for New Law Teachers*, [http://www.aals.org/events\\_nlt.php](http://www.aals.org/events_nlt.php) (last visited July 27, 2006).

<sup>62</sup> Gonzaga University School of Law, *Institute for Law School Teaching*, <http://www.law.gonzaga.edu/About+Gonzaga+Law/Inst%20for%20Law%20School%20Teaching/default.asp> (last visited July 27, 2006).

<sup>63</sup> See, e.g., David L. Gregory, *The Assault on Scholarship*, 32 WM. & MARY L. REV. 993, 999 (1991); Peter A. Joy, *Clinical Scholarship: Improving the Practice of Law*, 2 CLINICAL L. REV. 385, 394 (1996).

those developing articles.<sup>64</sup> The SEALS Program for 2006 also contained advice about the mechanics of publishing, the process of writing, and ideas for mentoring faculty members.<sup>65</sup>

Academic organizations may also offer research and writing workshops for those new to the field. For example, the American Society of Comparative Law, the University of Michigan Law School, and the University of Illinois College of Law co-sponsored the *Michigan-Illinois Workshop: Comparative Law Work in Progress*, for those new to the field.<sup>66</sup> It is expected that this workshop will become a regular event, and the next one is already in the planning stages.<sup>67</sup>

Workshops and conferences do more than provide helpful advice on scholarship and teaching. They introduce you to your peer group—with whom you can build bonds as you proceed on in teaching—as well as to those who have been teaching and writing in your substantive area for some time. They also may introduce your work to many of those who are likely to be asked to review your work at tenure time.

It may be impossible to teach people how to be professors—to write, to teach, and to engage in service projects—in a training program, since most of the key things about the job are not something that anyone can easily describe how to do in a speech. They are instead techniques that have to be learned over time from a combination of instinct, trial and error, and more long-term, gradual mentoring. While the presentations at these workshops may seem too general to be extremely valuable in any precise or practical

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<sup>64</sup> See Southeastern Association of Law Schools, *New Scholars Workshop Information*, 2002, <http://www.nsulaw.nova.edu/seals/scholars.htm> (last visited July 26, 2006).

<sup>65</sup> Southeastern Association of Law Schools, *Annual Meeting Program*, July 16-21, 2006, <http://www.nsulaw.nova.edu/seals/program06June26.pdf>.

<sup>66</sup> Michigan-Illinois Workshop: Comparative Law Work in Progress, 21-23 April 2006, Ann Arbor, Michigan, <http://www.comparativelaw.org/past-conf06.html#Workshop>.

<sup>67</sup> E-mail from Colin Picker, July 31, 2006.

sense, they serve motivational purposes and offer the reassurance that if you do not really know what you are doing immediately, that is normal.<sup>68</sup>

#### **10. Make friends with your librarians.**

Tap the wonderful resource of reference librarians.<sup>69</sup> Law libraries support faculty scholarship in numerous ways, and the nature of librarianship is changing. Many libraries provide specialized training about information technology and ways to use electronic research tools and document repositories.<sup>70</sup> A number of libraries have programs to train research assistants.<sup>71</sup> Numerous professors have had successes in asking librarians to help steer their research assistants: “working with a librarian experienced in electronic searching will result in cost savings and better information retrieval.”<sup>72</sup> Some libraries ask reference librarians to provide more targeted research assistance directly to professors.<sup>73</sup>

These days, librarians are able to help with advanced information gathering. It is not just Lexis and WESTLAW anymore. A host of new electronic resources—Hein-on-Line, Gale’s Making of the Modern Law, Gale’s Eighteenth Century Collections Online, Early English Books Online, Law Library Microfilm Consortium (LLMC) Digital Collections, Gale’s Supreme Court Records and Briefs, Early English Books, Readex’s

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<sup>68</sup> I am indebted to Allen Rostron for this point.

<sup>69</sup> Slomanson, *supra* note 19, at 430 (“Be sure to take your [reference librarian] to lunch, early and often—not to mention a thank you in your published article.”).

<sup>70</sup> See Herbert E. Cihak, *Law Libraries: Maximizing Their Impact and Resources*, 97 LAW LIBR. J. 405, 408-09 (2005).

<sup>71</sup> See, e.g., UMKC School of Law, *Legal Research Bootcamp*, May 8, 2006, [www.law.umkc.edu/bootcamp.htm](http://www.law.umkc.edu/bootcamp.htm) (training program for research assistants). See also Paul D. Callister, *Electronic Resources Beyond Lexis and Westlaw*, 2005, <http://www1.law.umkc.edu/faculty/callister/bootcamp/ppt/BeyondWexis.ppt>.

<sup>72</sup> Barbara Bintliff, *What Can the Faculty Expect from the Library of the Twenty-First Century?*, 96 LAW LIBR. J. 507, 510 (2004).

<sup>73</sup> See Margaret A. Leary, *Library Support for Faculty Research*, 53 J. LEGAL EDUC. 192 (2003).

U.S. Congressional Serials Set, Lexis-Nexis Congressional Research Digital Collection, the Inter-University Consortium for Political and Social Science Research, the Internet Archives, and the increasing digitization of government documents and archives—open new, and yet unrealized, avenues of legal and interdisciplinary research.<sup>74</sup> Government agencies are obligated under the Electronic Freedom of Information Act Amendments of 1996 to make records that “the agency determines have become or are likely to become the subject of subsequent requests” about regulations, agency activities, and regulated industries available in “electronic reading rooms.”<sup>75</sup> Research that would have been difficult and cumbersome to do a decade ago is much easier given the availability of a number of these electronic databases with online access to hundreds of thousands of titles.

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<sup>74</sup> See, e.g., *Making of the Modern Law: Legal Treatises 1800-1926* (Thomson Gale), which has over 10 million pages or 21,000 full-text online treatises from the nineteenth and twentieth centuries. THOMSON GALE, *MAKING OF THE MODERN LAW: THE NEWEST EDITION TO THE TO GALE DIGITAL COLLECTIONS 2* (2004), <http://www.gale.com/pdf/facts/MOML.pdf> (for a complete list of titles, see the 1497 page *Making of the Modern Law Author’s Index*, <http://www.gale.com/tlist/moml.pdf>). Supported as a collaboration involving most law school libraries, the Law Library Microfilm Consortium (LLMC) Digital Combined Collections currently consists of 650 titles, 13,454 volumes, and 9,314,530 pages, with a goal of 100 million pages by 2015. See LLMC, *View All Holdings* (2005), <http://www.llmc.com/Collection.asp>, and *About LLMC Digital* (2005), <http://www.llmcdigital.com/AboutLLMCDigital.asp>. The material is from LLMC’s microfilm archives of state, federal, and international primary source materials as well as important subject treatises and commentary. Gale’s Eighteenth Century Collection consists of 150,000 volumes and over 26 million pages of important works from the eighteenth century, including almost 10,000 law titles. See THOMSON GALE, *EIGHTEENTH CENTURY COLLECTION ONLINE: THE MOST IMPORTANT REVOLUTION 1* (2005), <http://www.gale.com/pdf/facts/ECCO.pdf>. Readex’s U.S. Serial Set, 1817-1980, will eventually hold almost 13,800 volumes (and 12 million pages) of congressional journals, reports, and other documents, including documents from the executive branch. See <http://www.newsbank.com/readex/> (last visited July 26, 2006) (follow link to Digital Collections, then “U.S. Serials Set, 1817-1980”). LexisNexis has a similar product, known as the LexisNexis U.S. Serial Set Digital Collection. See <http://www.lexisnexis.com/academic/serialset>. A parallel compilation, known as the LexisNexis Congressional Research Digital Collection, consists of all of the committee prints from 1830 and CRS Reports (the Congressional Research Service is essentially a Library of Congress “Think Tank” working for Congress), commencing in 1916, representing about 50,000 documents and four million pages, as of 2003. See LEXISNEXIS CONGRESSIONAL RESEARCH SERVICE DIGITAL COLLECTION 2 (2005), at <http://www.lexisnexis.com/academic/1univ/crdc/NXE00750-0.pdf>. The Director of the UMKC Law Library, Professor Paul Callister, contributed the material in this footnote.

<sup>75</sup> 5 U.S.C. § 552(a)(2) (2000). See also A-Z Index of U.S. Government Departments and Agencies, [http://www.us.gov/Agencies/Federal/All\\_Agencies/index.shtml](http://www.us.gov/Agencies/Federal/All_Agencies/index.shtml) (last visited Aug. 2, 2006); U.S. Dept. of Justice, Other Federal Agencies’ FOIA Web Sites, [http://www.usdoj.gov/04foia/other\\_age.htm](http://www.usdoj.gov/04foia/other_age.htm) (last visited Aug. 2, 2006).

Besides considering new online digital resources, the emphasis on both interdisciplinary research<sup>76</sup> and legal empiricism<sup>77</sup> have drawn new attention to primary source materials and data, including archival holdings of the National Archives and Records Administration (NARA) and various state archives.<sup>78</sup> The NARA's holdings consist of a rich repository of federal court trial records, agency archives (such as the Indian Management Bureau), and even prison records. In sum, the sources for interdisciplinary materials are vast, and their accessibility is becoming infinitely easier in the age of electronic research.

#### 11. **Seek feedback on drafts.**

Although writing is a solitary venture, you will probably find much more support for feedback on and editing of your scholarship than you might expect. Asking colleagues at your home law school, particularly those in or near your subject matter area or those known to be helpful commentators, to review one draft of your article is a good idea.<sup>79</sup> You can also request that favor from someone you know in your area at another school (and of course, be prepared to reciprocate). To the extent that a piece may be controversial, it may be worth considering seeking an early review from potentially

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<sup>76</sup> See, e.g., J. M. Balkin, *Interdisciplinarity as Colonization*, 53 WASH. & LEE L. REV. 969, 950 (1996) (“Interdisciplinary scholarship is now an expected part of a serious scholar’s work at most of the elite law schools in this country.”).

<sup>77</sup> See, e.g., Association of American Law Schools Annual Meeting, *Empirical Scholarship: What Should We Study and How Should We Study It?*, Jan. 3-7, 2006, <http://www.aals.org/am2006/program.html>; The Empirical Legal Studies Blog, [http://www.elsblog.org/the\\_empirical\\_legal\\_studi](http://www.elsblog.org/the_empirical_legal_studi); The Journal of Empirical Legal Studies, <http://www.blackwellpublishing.com/journal.asp?ref=1740-1453&site=1>.

<sup>78</sup> *National Archives and Records Administration Symposium*, 76 UMKC L. REV. 1 (forthcoming 2006).

<sup>79</sup> Witness the thanks given in the first footnote of this and almost every other published article.

troublesome future reviewers. Professor Ron Wright offers the excellent tip to seek friendly and supportive advice first, and then later seek more critical advice on a piece.<sup>80</sup>

Many law schools offer some form of faculty colloquia or writers' workshop at which you can noodle ideas for an article, test drive a speech, or present works-in-progress in various stages to colleagues and obtain feedback.<sup>81</sup> Different law schools have varying customs about how complete an idea or paper needs to be to be presented at a lunch workshop.

You can also obtain feedback and comments—and simply make your work more accessible, particularly outside the legal academy—by posting a close to final draft on an open-access archive.<sup>82</sup> A number of freely accessible electronic repositories house abstracts and articles.<sup>83</sup> They also contain drafts of working papers, permit downloads, and allow feedback on articles in their early stages.<sup>84</sup> “One effect of SSRN and its ilk is well-known: they help create a new scholarly culture, where early distribution of work is not only acceptable, but expected.”<sup>85</sup>

Posting is easy. Just check your publication contract to make sure prior (if the article has not yet been published) or subsequent (if it has) posting is acceptable. Even if your contract seems to prohibit early posting, this may be a contract feature that law

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<sup>80</sup> Ron Wright, *Delivering the Ideas: Comments for New Legal Scholars*, June 23-26, 2005, <http://www.aals.org/nlt2005/RonaldWrightOutline.pdf>.

<sup>81</sup> James Lindgren, *Fifty Ways to Promote Scholarship*, 49 J. LEGAL EDUC. 126 (1999).

<sup>82</sup> Dan Hunter, *Walled Gardens*, 62 WASH. & LEE L. REV. 607, 607 (2005) (“The most significant recent development in scholarly publishing is the open-access movement, which seeks to provide free online access to scholarly literature.”).

<sup>83</sup> Bepress Legal Repository, (The Berkeley Electronic Press) (1999-2006), <http://law.bepress.com/repository>; Social Science Research Network, (Social Science Electronic Publishing, Inc.) (2006), <http://www.ssrn.com>.

<sup>84</sup> As of July 2006, SSRN contained 127,675 abstracts and 98,675 full-text papers from 64,920 authors. <http://papers.ssrn.com/sol3/DisplayAbstractSearch.cfm>, (last visited July 29, 2006). Bernard S. Black & Paul L. Caron, *Ranking Law Schools: Using SSRN to Measure Scholarly Performance*, 81 IND. L.J. 83, 95-96 (2006) (“Total downloads of all papers from SSRN since inception [in 1994] are around 10.7 million.”).

<sup>85</sup> Kate Litvak, *Blog as a Bugged Water Cooler*, Apr. 27, 2006, <http://papers.ssrn.com/abstract=898186>.

review editors are willing to waive, as long as appropriate credit is given to the publishing law review. For SSRN posting, for example, all that is required is free registration and a password, and then posting the article in .pdf format, and classifying its subject matter by choosing a few key identifying keywords from SSRN's Journal of Economic Literature (JEL) code system.<sup>86</sup> With the JEL system, the coding in SSRN is heavily tied to economics, but there are a number of general keywords for various basic areas of law, such as contracts, property, torts, criminal, business, environmental, labor, and so on.<sup>87</sup>

## 12. Sending articles to law reviews.

United States law schools produce almost 500 student-edited general and special focus law journals.<sup>88</sup> FindLaw provides a list of general law reviews and separate lists of journals in specific topical areas, such as those specializing in bankruptcy, tax, family law, litigation or jurisprudence.<sup>89</sup> LexisNexis offers a similar free on-line directory of law reviews and specialty journals by topical area, along with mailing labels.<sup>90</sup> This electronic mail merge list of law review addresses could save you and your administrative assistant some time and effort. The Social Science Research Network even provides a free electronic submission service to more than 300 law journals, as long as

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<sup>86</sup> <http://www.ssrn.com/lrn/index.html>

<sup>87</sup> SSRN, JEL Classifications, <http://papers.ssrn.com/sol3/displayjel.cfm>.

<sup>88</sup> Michael H. Hoffheimer, Compilation, On-line Directory of Law Reviews and Scholarly Legal Periodicals (June 3, 2005), <http://www.lexisnexis.com/lawschool/prodev/lawreview> (listing 182 general student-edited law reviews and 315 specialty student-edited law reviews).

<sup>89</sup> FindLaw, Academic Law Reviews and Journals, <http://stu.findlaw.com/journals> (last visited June 17, 2006).

<sup>90</sup> Hoffheimer, *supra* note 88.

you first submit your article to the SSRN Library.<sup>91</sup> This may prejudice acceptance by a law review, so it is wise to be cautious about this service.

The two time windows for law review placement seem to be March-May and August-October. Most law review boards transition in early spring, and by May, most law review students are either taking finals or graduating. By November, most journals will have filled their issues. While most journals have more issues to fill commencing in the spring, catching the precise spring window after the boards have transitioned and before the students have dispersed to finals and then firms is tricky. With respect to which window is better, there may be fewer competitor submissions in the spring and more submissions in the early fall since professors have completed writing over the summer.<sup>92</sup> Yet, for a newer scholar, time is of the essence to demonstrate (and really develop) the pattern of productivity, so the sending may be determined by which window, fall or spring, is closest to the time the article is complete.

When submitting an article to law reviews, it is typical to include a cover letter and often a copy of the author's curriculum vitae. Some law reviews, though, prefer blind-submissions, with the author's name and biographical information specifically redacted from the manuscript itself.<sup>93</sup> The cover letter should be less than a page in

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<sup>91</sup> Social Science Research Network, *Submit a Paper to Law Reviews*, <http://www.ssrn.com/lsn/index.html> (last visited July 29, 2006).

<sup>92</sup> David B. McGinty, *Writing for a Student-Edited U.S. Law Review: A Guide for Non-U.S. and ESL Legal Scholars*, 7 N.Y. CITY L. REV. 39, 50 (2004).

<sup>93</sup> See, e.g., Harvard Law Review, *Guidelines for Submitting Manuscripts*, <http://www.harvardlawreview.org/manuscript.shtml> ("To facilitate our anonymous review process, please confine your name, affiliation, biographical information, and acknowledgments to a separate cover page."); New York University Clinical Law Review, *Clinical Law Review Manuscript Submissions*, <http://www.law.nyu.edu/journals/clinicallaw/> ("Because the Review employs a system of anonymous peer review of manuscripts as part of its process of selecting articles for publication, manuscripts should not bear the author's name or identifying information."); Stanford Law Review, *Welcome for the Stanford Law Review*, <http://lawreview.stanford.edu/submissions/articles/index.htm> ("Please do not include your name or other identifying information on your manuscript itself. Removing this identifying information from the article itself speeds up the journal's consideration of your submission by facilitating blind review.").

length and summarize briefly and clearly the thesis of the article and explain its novelty in the literature. Keep in mind that the audience at this point is a second or third year law student who may have little familiarity with or interest in your subject matter area.

Another “marketing” consideration is the title of your article. Particularly with electronic submissions, editors may make preliminary decisions about whether to read the article based solely on the title. Good article titles describe the content; intriguing article titles make people want to read the content<sup>94</sup>; the best article titles do both. Some of the more attention-grabbing titles in the law review realm refer to history, music, literature, and poetry.<sup>95</sup> Some are philosophically provocative<sup>96</sup>; some just provoke a chuckle.<sup>97</sup> Make the title interesting as well as descriptive.

One question is whether to submit the manuscript electronically or by postal mail. Information from 2000 indicates that electronic submissions accounted for between five

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<sup>94</sup> See, e.g., Lawrence Tribe, *The Curvature of Constitutional Space: What Lawyers Can Learn from Modern Physics*, 103 HARV. L. REV. 1 (1989); Francisco Valdes, *Queers, Sissies, Dykes and Tomboys: Deconstructing the Conflation of “Sex,” “Gender,” and “Sexual Orientation” in Euro-American Law and Society*, 83 CAL. L. REV. 1 (1995).

<sup>95</sup> See, e.g., Richard A. Lacroix, Comment, *County of Allegheny v. American Civil Liberties Union: How the Bench Stole Christmas*, 25 NEW ENG. L. REV. 523 (1990); Michael L. Perlin, “*The Executioner’s Face Is Always Well-Hidden*”: *The Role of Counsel and the Courts in Determining Who Dies*, 41 N.Y.L. SCH. REV. 201 (1996); Celina Romany, *Ain’t I a Feminist?*, 4 YALE J.L. & FEMINISM 23 (1991); Nomi Maya Stolzenberg, “*He Drew a Circle That Shut Me Out*”: *Assimilation, Indoctrination, and the Paradox of a Liberal Education*, 106 HARV. L. REV. 581 (1993).

<sup>96</sup> See, e.g., Richard Delgado, *Words That Wound: A Tort Action for Racial Insults, Epithets, and Name-Calling*, 17 HARV. C.R.-C.L. L. REV. 133 (1982); Owen M. Fiss, *Against Settlement*, 93 YALE L.J. 1073 (1984); Stephen Sugarman, *Doing Away with Tort Law*, 73 CAL. L. REV. 555 (1985).

<sup>97</sup> See, e.g., David A. Hoffman, *The Best Puffery Article Ever*, Temple University Legal Studies Research Paper No. 2006-11, available at SSRN: <http://ssrn.com/abstract=887720>, 91 IOWA L. REV. \_\_\_\_ (forthcoming 2006); Erik S. Jaffe, “*She’s Got Bette Davis[’s] Eyes: Assessing the Nonconsensual Removal of Cadaver Organs Under the Takings and Due Process Clauses*”, 90 COLUMBIA L. REV. 528 (1990); Pamela S. Karlan, *Richard Posner’s Just-So Stories: The Phallacies of Sex and Reason*, 1 VA. J. SOC. POL’Y & L 229 (1993). And the foregoing aren’t even the parodies. See, e.g., Maurice Kelman, *Is the Constitution Worth Legal Writing Credit*, 44 J. LEGAL EDUC. 267 (1994) (detailing the overuse of legalisms, metaphors, vagueness, and superfluous words); Charles Yablon, *Suing the Devil: A Guide for Practitioners*, 86 VA. L. REV. 103 (2000) (suggesting a range of commercial and fraud causes of action, but noting procedural difficulties such as long-arm jurisdiction).

and ten percent of most law reviews' submissions,<sup>98</sup> but that percentage is probably much larger now, since a number of law reviews are moving to electronic submission systems as their preferred submission method.<sup>99</sup> Many other journals that do not have an internet system will accept e-mail submissions. Dean Richard Bales of Northern Kentucky has compiled a list that works interactively with your e-mail to allow you to send multiple submissions to journals accepting this sort of submission (without any journal knowing to which others you are sending your article).<sup>100</sup> While electronic submission is convenient and free, one concern raised is that "electronic manuscripts might receive more cursory treatment than hard-copy submissions," mainly because electronic manuscripts may be reviewed and deleted similarly to e-mails.<sup>101</sup> However, no data exist to bolster or disprove this concern, and it may become much less of a worry with the student editors who review manuscripts having grown up in the age of electronic information.<sup>102</sup>

Law professors often send their articles out in waves: mailing to their top twenty or thirty choices of journals first and then a couple of weeks later, sending another wave of an additional twenty or so submissions. There are numerous ways of ranking the prestige of law reviews, including reputational assessments—the US News ranking of the

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<sup>98</sup> Richard A. Bales, *Electronically Submitting Manuscripts to Law Reviews*, 30 STETSON L. REV. 577 (2000).

<sup>99</sup> See, e.g., Cardozo Law Review, <http://www.cardozolawreview.com/Submission.asp>; Columbia Law Review, <http://www.columbialawreview.org/information/submissions.cfm>; Cornell Law Review, <http://organizations.lawschool.cornell.edu/clar/an.htm>; Emory Law Journal, <http://www.law.emory.edu/cms/site/index.php?id=1061>; Georgetown Law Journal, <http://www.law.georgetown.edu/journals/info.html#submissions>; Harvard Law Review, <http://www.harvardlawreview.org/manuscript.shtml>; North Carolina Law Review, <http://nclrev.unc.edu/cocoon/nclrev/submissions.html>; Stanford Law Review, <http://lawreview.stanford.edu/submissions/articles/index.htm>; Yale Law Journal, <http://www.yalelawjournal.org/submissions.html>.

<sup>100</sup> Richard Bales, *Law Review Electronic Submissions*, [http://www.nku.edu/~chase/faculty\\_staff/ejournals.php](http://www.nku.edu/~chase/faculty_staff/ejournals.php) (last visited July 26, 2006).

<sup>101</sup> *Id.* at 585.

<sup>102</sup> Bales, *supra* note 98, at 583.

school,<sup>103</sup> a school's US News academic peer rating,<sup>104</sup> and Brian Leiter's rankings regarding faculty quality based on surveys of academics,<sup>105</sup>—rankings by citation frequency of the law reviews, such as Washington & Lee law schools ranking,<sup>106</sup> and rankings of law schools according to measures of faculty productivity, such as James Lindgren and Daniel Selzer's rankings of most prolific law faculties by counting publications in leading law reviews<sup>107</sup> or Theodore Eisenberg and Martin Wells' tally of citations by other law professors to the works of thirty-two law faculties.<sup>108</sup> A new ranking assesses faculty performance according to SSRN postings and downloads.<sup>109</sup>

One of my colleagues, Allen Rostron, prepared an Excel chart showing a visual representation of some of these rankings. You might consider creating your own chart, including the specialty journals in your field (for which the Washington & Lee rankings may be the most pertinent) to enable quick assessments of perceived placement value for articles.<sup>110</sup>

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<sup>103</sup> See Schools of Law, U.S. NEWS & WORLD REP. 59 (Apr. 10, 2006).

<sup>104</sup> See *id.*

<sup>105</sup> Brian Leiter, *Faculty Quality Rankings: Scholarly Reputation, 2003-04*, [http://www.leiterrankings.com/faculty/2003faculty\\_reputation.shtml](http://www.leiterrankings.com/faculty/2003faculty_reputation.shtml). See also Tracey E. George & Chris Guthrie, *An Empirical Evaluation of Specialized Law Reviews*, 26 FLA. ST. U. L. REV. 813 (1999); Robert M. Jarvis & Phyllis G. Coleman, *Ranking Law Reviews: An Empirical Analysis Based on Author Prominence*, 39 ARIZ. L. REV. 15 (1997).

<sup>106</sup> Washington & Lee Law School, *Law Journals: Submissions and Rankings*, <http://lawlib.wlu.edu/LJ/index.aspx>

<sup>107</sup> James Lindgren & Daniel Seltzer, *The Most Prolific Law Professors and Faculty*, 71 CHI.-KENT L. REV. 781 (1996).

<sup>108</sup> Theodore Eisenberg & Martin T. Wells, *Rankings and Explaining the Scholarly Impact of Law Schools*, 27 J. LEGAL STUD. 373 (1998).

<sup>109</sup> See Black & Caron, *supra* note 84, at 107-08 (including a correlational assessment that compares the SSRN methodology to other measures of the scholarly performance of law faculties). SSRN offers its own ranking of law schools according to downloads of papers by authors from different law schools. See SSRN Top Law Schools, [http://hq.ssrn.com/Tournaments/Tournament\\_display.cfm?TRN\\_gID=1&TMY\\_gID=2](http://hq.ssrn.com/Tournaments/Tournament_display.cfm?TRN_gID=1&TMY_gID=2) (last visited July 25, 2006).

<sup>110</sup> A voluminous literature exists on whether rankings actually measure quality. See, e.g., Paul L. Caron & Rafael Gely, *Dead Poets and Academic Progenitors: The Next Generation of Law School Rankings*, 81 IND. L.J. 1 (2006); Russell Korobkin, *In Praise of Law School Rankings: Solutions to Coordination and Collective Action Problems*, 77 TEX. L. REV. 403 (1998).

	<b>US News ranking</b>	<b>US News peer rating</b>	<b>Leiter ranking</b>	<b>Most-cited reviews ranking (2005)</b>
Harvard Law Review	3	4.9	2	1
Stanford Law Review	2	4.8	4	4
Yale Law Review	1	4.9	1	2
Chicago Law Review	6	4.7	2	8
Columbia Law Review	4	4.7	5	3
Michigan Law Review	8	4.6	8	5
NYU Law Review	4	4.6	5	6
California Law Review	8	4.5	7	11
Virginia Law Review	8	4.5	10	9
Pennsylvania Law Review	7	4.4	11	13
Cornell Law Review	13	4.2	14	12
Duke Law Journal	11	4.2	17	21
Northwestern Law Review	12	4.1	14	18
Georgetown Law Journal	14	4.2	12	7
Texas Law Review	16	4.1	8	14

Numbers, of course, are not the only consideration. Some law reviews are known for publishing particular kinds of pieces, such as jurisprudential or empirical articles. Publication in a symposium issue at a less highly ranked review may be more valuable because the symposium, if it is a good one, will be treated like a small book—looked at

in its entirety. Symposia also provide opportunities to interact with others in your specific field.

People come up with their own hierarchies of for law review placement, often interweaving general law reviews with specialty journals in their fields. A specialty journal from a higher-ranking school may be a preferable placement over a general journal from a lower-ranking school in terms of prestige. One may also get a better edit from a specialized journal where the students have more knowledge and experience in the field. Talk to the people on your faculty and in your field about how they perceive the value of various different journals. Although this is outcome-oriented, it may be important to consider whether a particular placement may affect the ways various tenure audiences (such as tenure subcommittees, promotion and tenure committees, deans, and university promotion and tenure committees) will assess the value of the work.

Many law professors use the initial placement offer from the first law review that calls as a bargaining tool to request an expedited review by other law reviews. Law reviews even have interactive web sites that provide for expedited review requests.<sup>111</sup> A number of schools have developed expedited summer submission processes whereby in exchange for summer review of articles<sup>112</sup> or more rapid review of articles during the summer,<sup>113</sup> the submitting author agrees to accept an offer of publication. While the

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<sup>111</sup> See, e.g., Texas Law Review, *Expedited Review Request Form*, <http://www.utexas.edu/law/journals/tlr/expediterequest.html> (last visited June 17, 2006).

<sup>112</sup> See, e.g., Maryland Law Review, *Summer Submissions*, <http://www.law.umaryland.edu/journal/mdlr/submissions.asp> (last visited June 17, 2006).

<sup>113</sup> See, e.g., Washington and Lee Law Review, *Summer Submission Program*, <http://law.wlu.edu/journals/lawreview/text/2Summer%20Submission%20Program2006.htm> (last visited June 17, 2006).

National Conference of Law Reviews has condemned this practice of “trading up,”<sup>114</sup> many if not most law professors engage in it.

The gaming occurs on both ends. Law reviews also use the process to shorten their work by waiting until another “lower tier” review makes an offer and the author requests an expedited review before they read the article.

The usual practice is to request a several week extension of time within which to respond to an offer of publication and then to call up the chain or perceived hierarchy of law reviews. In a defensive move against this tactic, many law reviews have adopted the policy of very short time strings for the acceptance of offers. Some even have exploding offers that elapse after 48 hours.<sup>115</sup> Whatever you decide about using offers to obtain “better” offers, the best advice is to shoot straight with law reviews: return their phone calls and e-mails promptly, ask for what you want, and understand their constraints.

Most law reviews used to insist on obtaining the copyright to an article. While some still do, increasingly, law reviews are willing to accept a license to publish articles and the exclusive rights to distribute them for a year. Even those law reviews that retain distribution rights for a period of time are often willing to modify their standard form agreement to permit contemporaneous or prior publication on a scholarly exchange site.<sup>116</sup>

### 13. Dealing with law review editors.

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<sup>114</sup> See Slomanson, *supra* note 19, at 442-43.

<sup>115</sup> See, e.g., Columbia Law Review, *Expedited Review*, <http://www.columbialawreview.org/information/submissions.cfm> (last visited July 30, 2006) (“If the Review makes an offer of publication for an Article, Essay, or Review following an expedited review, the author has only one hour from the time of actual notification in which to accept the offer.”).

<sup>116</sup> For suggestions on contract modification to permit open access, see Creative Commons, *Scholar’s Copyright Project*, [http://sciencecommons.org/literature/scholars\\_copyright](http://sciencecommons.org/literature/scholars_copyright) (last visited July 30, 2006).

Be patient with and respectful of editors. They are students who now hold the job you may have had. Remind yourself that their editing roles are a learning process. If a student has taken the time to thoroughly review and edit your manuscript, and offers a suggestion about changing a word or phrase or argument, it is worth considering. Another reason to be open to student editors' suggestions is that they are performing a valuable service. Even if you are not satisfied with the editor's suggested "fix," it is a useful signal that the article needs clarification of expression on the point. If you are neutral as to whether certain changes are necessary, you might consider being inclined to make those changes. This gives you more latitude to resist on those points that matter to you.

The process of negotiating about suggested changes with student editors is a delicate balance. Of course, if students are introducing errors, changing meaning, or insisting on footnotes to support every third word, you should politely and firmly explain the problems with the proposed edits. One matter to negotiate up front before you sign the contract is about the editing process. While most law reviews provides authors with redline mark-up edits so authors can precisely spot what the proposed changes are, some journals will only do so upon a specific request.

Be prepared for the standard Wait and Hurry-up scenario. The editors may take a very long time to respond with edits and then suddenly send you a revised draft and request that you turn it around in a very short amount of time, like a few days. Certainly, you can request an extension of time to complete your review of the edits, especially if the journal has requested significant changes. The best thing to do, though, is to clarify up front, once an offer has been made, what the law review's schedule is, when they will be doing their edits, when you can expect the edited manuscript to arrive, and how

quickly they will need a response. Remember to check in with the law review if you have not heard from the editors for some time. If a situation is going to arise where the journal will be rushing you to send back a revised draft, at least it is helpful to know that ahead of time.

You can also do affirmative things to help the editing process. If you are citing to obscure or interdisciplinary journals, it is a kindness and promotes editing efficiency if you send the editors photocopies of less accessible sources to assist with the Bluebooking process.

In every interchange, be polite to the editors and to perform your obligations in a timely way, even if the students are not handling your article perfectly. You are modeling the professional behavior in which you hope they will engage. If the ethics of civility do not interest you, perhaps the politics will. There is no point in angering students who will have some impact on your finished product. You may encounter these editors in academia some day; with fewer than two hundred ABA-accredited law schools in the country, it is a small professional world.

Also, to the extent you want to publish in a particular law journal more than once, it is possible that your name will be remembered years after the students you deal with are long gone. A number of law reviews have at least informal “institutional memory” systems to convey information about people who are difficult to work with to succeeding generations of editors: they leave notes in the files for successors if an author is particularly awful; some law reviews have administrative assistants who stay in their jobs for many years and remember people who the students had really moaned about in the past; faculty advisors can also retain memories over many years.

#### 14. Disseminate and market

Once an article is in print, it is important to send reprints of it to those who have helped in the preparation (along with a thank you note), those whose works are cited in it, and those in your field who might be interested in your conclusions. Think broadly about judges, leading practitioners, or scholars whose works you have read in the general area.

Many law reviews are moving away from giving a standard 25 or so free reprints of articles. This may be a less significant phenomenon as electronic accessibility increases. In addition to mailing out reprints, get permission in your contract with the publishing law review to post your article on your web page (or the law review's web site) and with an electronic repository.<sup>117</sup> Promoting your own scholarship internally—in the law school's alumni magazine, publicity mailings, e-mail newsletters, and display cases<sup>118</sup>—and externally is important. Eugene Volokh says simply, “Ideas that are actively promoted are more likely to be adopted.”

#### **Conclusion**

This list of suggestions is not intended to be comprehensive. By consulting a number of the earlier works on scholarship,<sup>119</sup> you can find additional valuable advice. A theme running through this article and others is the importance of communication and

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<sup>117</sup> See McGinty, *supra* note 92, at 54 (“Some law reviews may be able to publish the article in its print edition, and also offer to publish it on the law review's Internet site in final edited form before the print edition comes out. This can provide an author with the ability to share her or his article with her or his colleagues, benefit from an early publication, and also have the article accessible by everyone with Internet access (instead of the article only being available to the law review's subscribers and those with access to Westlaw or LexisNexis”). See also *supra* text at notes 82-87.

<sup>118</sup> See Joseph P. Tomain & Paul L. Caron, *The Associate Dean for Faculty Research Position: Encouraging and Promoting Scholarship*, 33 U. TOL. L. REV. 233, 238-41 (2001).

<sup>119</sup> See, e.g., Delgado, *supra* note 10; Hanna, *supra* note 31; McGinty, *supra* note 92.

seeking the advice of mentors on your faculty and among the wider community of scholars. One way of doing this is, of course, electronically. A number of subject-specific listservs exist, but one of the best general listservs for law professors is LAWPROF, which has over eight hundred members from law schools across the country.<sup>120</sup>

Although the process of legal scholarship is typically a solitary activity, asking colleagues to think collaboratively about your article may be easier than you think. You will probably find a very supportive community willing to engage your ideas, provide useful criticism, and offer feedback on drafts. You will just need to ask. It is like one of the last lines in the book that sparked an interest in law for many of us, *To Kill a Mockingbird*, when Atticus confirms Scout's discovery that "[m]ost people are" essentially kind and helpful "when you finally see them."<sup>121</sup>

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<sup>120</sup> LAWPROF is owned and moderated by Professor Ed Richards, is hosted by Chicago-Kent College of Law, and is limited in membership to people teaching law in universities and professional schools.

<sup>121</sup> HARPER LEE, *TO KILL A MOCKINGBIRD* 323 (1960).