



# Section on Legal Writing, Reasoning, and Research

SUMMER 2020

## From the Chair

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Early in this semester, I jotted some ideas for this “From the Chair” column. I planned to write about our AALS President’s outstanding theme for the year, “The Power of Words.” I planned to write about a mentoring initiative we hope to launch, about the magic of bonding with our colleagues—new and old—over our shared love for teaching and writing. I planned to write about how to capture and recapture the magic of helping: helping newer colleagues gain confidence, helping students understand the beauty of creating words that inform or persuade.

Then, of course, our world turned upside down. With little notice, we all had to become online teaching experts, home-office sharers, and sometimes home-school teachers. All in a background (or foreground) of anxiety, sometimes fear, and sometimes illness. Some of us thrived, some of us faltered. Most of us did both.

So please let this column act as my applause to each of you. It’s the end of the semester, and whether the circumstances of the pandemic and shutdown have caused you to feel exhausted, relieved, uncertain, frazzled, or even heartbroken, you have survived. Our remarkable Program Committee, co-chaired by Tim Duff and Abigail Patthoff, managed to plan three terrific program themes for the AALS 2021 meeting – regardless of whether it actually occurs in San Francisco and regardless of how many are able to attend.



**Mary Adkins, Chair**  
**Master Legal Skills Professor**  
**University of Florida**  
**Levin College of Law**

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As you may know, this year's AALS President is Dean Darby Dickerson, who started as a legal writing professor. Giving full superhero status to the currency lawyers use, her theme for the 2021 meeting is "The Power of Words." Our program committee used that theme for a starting point in developing our program subjects, and your Newsletter editor, Section Secretary Lori Johnson, used it in her call for micro-essays for this newsletter.

Tim, Abby, and the Program Committee members have developed, as the theme for our main program, *The Future Has Arrived: The Impact of Artificial Intelligence on Legal Writing and Research*, a joint program with the Section on Technology, Law, and Legal Education and co-sponsored by the Section on Law Libraries and Legal Information. We are excited to team up with these sections to explore how AI affects, and may further affect, our teaching.

The theme for the additional program is *Where Are We Now?—Effective Formative Assessment Practices*. While we are all experienced at assessment, our recent experiences with having to change how we assess should make for some fascinating contributions to this program. And our "Newer Scholars Showcase," always a source of interest and pride for the section, is returning for 2021. The deadline to submit a proposal for each program is June 8.

Whether we've found the past weeks exhilarating or frustrating, I know we've all learned something about teaching. Please consider turning this new knowledge into a presentation in one of our programs. And, as one of my students said in an early-March Zoom meeting, have a safe and happy pandemic!

Best,

Mary Adkins

AALS LWRR Chair



*The Power  
of Words*

## 2020 AALS LWRR Section Award Winner: *Grace Tonner*



At the AALS Meeting in January, the Section presented Grace Tonner with this year's Section Award. Grace has been a bedrock member of the legal writing community for forty years. For the last ten years, Grace has served as Dean of Lawyering Skills at the University of California, Irvine School of Law. Prior to that, Grace was the longtime director of the Legal Practice Program at Michigan Law School. In the 1980s, she directed the Legal Writing Program at Loyola Law School in Los Angeles. Grace is well known for her innovative curricular design, her decades of service to many legal writing organizations, and, above all, for her selfless mentoring of generations of legal writing professors and students.

Many members of this Section have benefited from Grace's kind and thoughtful mentoring. Grace's nominators said she excels at "educating the educators." Grace has given numerous presentations on best practices for mentoring new professors, and lately Grace has added mindfulness training to her presentations. But it's the one-on-one mentoring that has mattered most to new professors. Her nominators said many of them started their careers with Grace "handing us all her notes, handouts, legal writing problems, and in-class exercises." One nominator summed up Grace's longstanding commitment to helping others this way: "Many of us owe our careers to Grace."

Grace gives it all for her students; she is their champion, challenging them while still being caring and nurturing. A nominator from Grace's days at Michigan told a heartwarming story of how, when Grace left Michigan, the faculty gave her a going-

away party, but the party sponsored by the students was even more lavish. Students were packed to the rafters and sad to see her go. She is dearly beloved by thousands of students, and Grace's mentoring and concern for their well-being continues long into their legal careers.

The Section Award was created to honor "individuals who have made a significant lifetime contribution to the field of legal writing and research." Grace Tonner is a true representation of everything the Section Award is designed to honor. We were proud to honor her with this year's Section Award at our annual luncheon in Washington, D.C.



AALS Immediate Past Chair Wendy-Adele Humphrey, Grace Tonner, Rachel Croskery-Roberts, and LWI President-Elect Kim Wilson Holst at the AALS LWRR Annual Luncheon

The Awards Committee was comprised of: co-chairs Rebekah Hanley (Oregon) and Kenneth Swift (Houston), along with Katherine Brem (Houston); Charles Calleros (Arizona State); Dana Hill (Northwestern); Greg Johnson (Vermont); Kathryn Mercer (Case Western Reserve); and David Thomson (Denver).

## 2020 ALWD-LWI Thomas Blackwell Award Winner: *Brad Clary*

The Association of Legal Writing Directors (ALWD) and the Legal Writing Institute (LWI) presented the 2020 Thomas F. Blackwell Memorial Award for Outstanding Achievement in the Field of Legal Writing to Brad Clary of the University of Minnesota Law School.

The ALWD-LWI Blackwell Award is a prestigious award that is presented annually to a person who has made outstanding contributions to improve the field of legal writing by demonstrating (1) an ability to nurture and motivate students to excellence, (2) a willingness to help other legal writing educators improve their teaching skills or their legal writing programs, and (3) an ability to create and integrate new ideas for teaching and motivating legal writing educators and students.

Brad coordinated and supervised the legal writing and moot court programs at Minnesota from 1999-2016, and also served as the Vaughan G. Papke Clinical Professor of Law from 2004-2006. He has also taught classes including evidence, deposition skills, and law in practice. Brad has been active in the legal writing academy for over thirty-seven years, including service as a Past President of ALWD. Brad also contributed to the *ABA Sourcebook on Legal Writing Programs* and served as ALWD Liaison to the Council of the ABA Section on Legal Education and Admissions to the Bar, along with significant additional teaching, scholarship, and service.

In his acceptance remarks, Brad highlighted his many collaborative efforts in working to advance the field of legal writing and poignantly remembered Tom Blackwell and Ralph Brill.



LWI President Kris Tiscione, Brad Clary, and ALWD President Anne Mullins at the ALWD-LWI Blackwell Reception



LegalWriting  
institute

It is with great sadness that the LWI Board of Directors announces that the in-person LWI Biennial Conference at Georgetown Law will not take place in July 2020. The LWI Board and the Biennial Conference Committee are exploring all possible options for virtual sharing of some conference programming this summer.

Canceling the conference has not been an easy decision, and the Board waited to be sure it was necessary. We will miss the opportunity to share each other's teaching innovations and scholarship. But most of all, we will miss the opportunity to see one another and engage in the informal conversations at lunch tables and in conference hallways that make the Biennial Conference so wonderful and rewarding.

Please keep watching for additional information about virtual presentations, award celebrations, and the LWI membership meeting in the coming weeks.

## Nominations for the 2021 LWRR Section Award

The Awards Committee of the Association of American Law Schools Section on Legal Writing, Reasoning, and Research is now soliciting nominations for the 2021 Section Award. According to the LWRR bylaws, this prestigious award recognizes individuals who have contributed “service, scholarship, and legal writing program design or other activity valuable to the advancement of the



field of legal writing.” It has sometimes been described as a lifetime achievement award in legal writing education.

***The deadline for submitting nominations for the 2020 Section Award is August 14, 2020.***

The committee encourages nominations that reflect the richness and diversity of the legal writing community, including nominations of women, people of color, and members of other traditionally underrepresented groups.

Although there is no specific nomination form, committee members will appreciate a thorough and thoughtful nomination letter explaining the ways in which the nominee has contributed to the field of legal writing and research. ***Please send nominations to both committee co-chairs, Dana Hill, [dana-hill@law.northwestern.edu](mailto:dana-hill@law.northwestern.edu) and Ken Swift, [krsswift@central.uh.edu](mailto:krsswift@central.uh.edu).*** If you submitted a nomination last year, it will carry over, but please feel free to re-submit or supplement that nomination. Members of the Awards Committee and members of the LWRR Executive Committee are not eligible for nomination.

We hope that the 2021 AALS Section award will be presented at the Section Luncheon during the AALS Annual Meeting in San Francisco.

The award was created at the AALS Section Business Meeting in 1995 and conferred for the first time in January 1996 at the AALS Annual Meeting. Past winners of the AALS Section Award include the following:

- 2020 – Grace Tonner (UCI Law)
- 2019 – Charles Calleros (Arizona State)
- 2018 – Darby Dickerson (The John Marshall Law School-Chicago)
- 2017 – Linda Berger (UNLV)
- 2016 – Suzanne Rowe (Oregon)
- 2015 – Mark E. Wojcik (The John Marshall Law School-Chicago)
- 2014 – Jan Levine (Duquesne)
- 2013 – Terrill Pollman (UNLV) and Jill Ramsfield (Hawaii)
- 2012 – Susan Brody (The John Marshall Law School-Chicago) and Mary Barnard Ray (Wisconsin)
- 2011 – Elizabeth Fajans (Brooklyn)
- 2010 – Joe Kimble (Thomas Cooley)
- 2009 – Richard K. Neumann, Jr. (Hofstra)
- 2008 – Eric Easton (Baltimore)
- 2007 – Anne Enquist (Seattle)
- 2006 – Terri LeClercq (Texas)
- 2005 – Marilyn Walter (Brooklyn)
- 2003 – Laurel Currie Oates (Seattle)
- 2002 – Helene Shapo (Northwestern)
- 1997 – Ralph Brill (Chicago-Kent)
- 1996 – Mary Lawrence (Oregon)



## 2021 AALS Annual Meeting: *LWRR Call for Proposals*

The Section on Legal Writing, Reasoning, and Research and the Section on Technology, Law, and Legal Education seek proposals for a joint program—to be co-sponsored by the Section on Law Libraries and Legal Information—during the AALS Annual Meeting scheduled for January 5–9, 2021, in San Francisco, California.

The theme of the Annual Meeting is *The Power of Words*. And the joint program’s working title is *The Future Has Arrived: The Impact of Artificial Intelligence on Legal Writing and Research*.

This Call seeks proposals for presentations that address how AI is transforming the practice of law, particularly with respect to legal writing and research, with a focus on how legal educators should respond. **Proposals could address topics such as the following:**

- Definitions of AI, machine learning, etc.
- Promises and perils of AI.
- To what extent AI research methods are being, or should be, taught or allowed in law schools.
- Ethical issues in using AI, including bias concerns.
- AI’s impact on different areas of practice, including: legal analytics and prediction technology; document automation and contract review, and how law firms and in-house counsel are using AI.

The length of the joint program will be one hour and 45 minutes.

Proposals may include full panels of up to four presenters for the entire joint program, as well as proposals for one or more presenters for portions of the program. The Sections may assemble a full panel from separate proposals.

The Sections welcome and encourage participation by faculty of different experience levels and who teach within different disciplines.

The Sections will give strong preference to presentations with an interactive component—such as breaking into small discussion groups or presenters leading a discussion with the audience, or a discussion-group-in-the-middle-of-the-room format.

Selected presenters will work closely with a moderator to prepare the program to ensure cohesion among presenters.

### Proposals should contain the following information:

- (1) The name, contact, and biographical information for each proposed presenter, if known at the time, including designation of the primary contact person;
- (2) A proposed title for your presentation;
- (3) A one-paragraph to one-page description of your presentation, including content and format (e.g., describing interactive components or indicating primarily lecture, how will you allocate your time, etc.); and
- (4) A brief bibliography of materials relevant to your program topic.

Please note that by submitting a proposal, you are agreeing to attend the AALS’s Annual Meeting to present in person. **The deadline for proposals is 11:59 p.m. on June 8, 2020.** Please submit your proposal by email to Tim Duff, LWRR Program Committee Co-Chair, at [timothy.duff@case.edu](mailto:timothy.duff@case.edu). Please use Microsoft Word or the equivalent, but do not use PDF.

**If you have any questions, please feel free to contact AALS LWRR Program Committee Co-Chair Tim Duff at [tjd9@case.edu](mailto:tjd9@case.edu)**

***We look forward to receiving your proposals!***

Section on Technology, Law & Legal Education –  
Section Chair: Emily Janoski-Haehlen (Akron)

Section on Legal Writing, Reasoning, and Research –  
Program Committee Co-Chairs: Tim Duff (Case Western) and Abigail Patthoff, (Chapman)



## 2021 AALS Annual Meeting: *LWRR Call for Proposals*

The AALS Section on Legal Writing, Reasoning, and Research (LWRR) is also seeking proposals for an additional, traditional program at the 2021 AALS Annual Meeting scheduled for January 5-9 in San Francisco.

This Call seeks proposals for a 1 hour and 45-minute program titled *Where Are We Now? — Effective Formative Assessment Practices*. In 2014, the American Bar Association identified formative assessment strategies as a key part of student learning by adopting Standard 314, which requires law schools to incorporate formative assessment into their programs of instruction “to provide meaningful feedback to students.” Specifically, the LWRR Program Committee is interested in presentations that focus on the ways in which formative assessment practices have adapted or grown—and the ways in which legal writing professors have been leading the way—in response to Standard 314.

### Such topics might include:

- Closing the “feedback loop”—helping students learn how to implement feedback;
- Inclusivity in formative assessments (for example, crafting assessments that are culturally inclusive, or deciding whether to accept “they” as a singular pronoun);
- Methods of delivering feedback (from low-tech to high-tech and everything in between);
- Learning theory about feedback and formative assessment; or
- Ways to incorporate more formative feedback when the syllabus already feels full.



The Committee will give strong preference to presentations with an interactive component, such as breaking into small discussion groups, or presenters leading a discussion with the audience, or a discussion-group-in-the-middle-of-the-room format.

We welcome and encourage participation by faculty of different experience levels and who teach within different disciplines. Proposals may include full panels of up to four presenters for the entire program, as well as proposals for one or more presenters on discrete topics related to this call. The Committee may assemble a full panel from separate proposals. Selected presenters will work closely with a member of the Program Committee, who will serve as moderator, to promote cohesion among presenters.

### If you are interested, please submit a proposal containing the following information:

- (1) Name, contact, and biographical information for each proposed presenter, if known at this time, including designation of the primary contact person;
- (2) A proposed title for your presentation;
- (3) A one-paragraph to one-page description of your presentation, including content and format (e.g., nature of the interactive component, how will you allocate your time, etc.); and
- (4) A brief bibliography of materials relevant to your program topic.

Please note that by submitting a proposal, you are agreeing to attend AALS’s 2021 Annual Meeting. **The deadline for proposals is 11:59 p.m. on June 8, 2020.** Please submit your proposal (in Microsoft Word or equivalent) by email to Abigail Patthoff, LWRR Program Committee Co-Chair, at [patthoff@chapman.edu](mailto:patthoff@chapman.edu).

**Please contact Abigail Patthoff at the email address above with questions.**

## LWRR Micro-essays: *The Power of Words*

### *The Power of Words*

Katherine Brem  
University of Houston Law Center

Is there any better way to describe the 1L experience than “What did you learn? ‘It depends.’”?<sup>1</sup> At the University of Houston, students are learning the power of words both inside the classroom and out.

Perhaps no other cohort is more concerned with the power of words than lawyers, and none more dedicated to this study than first-year law students. In the first-year legal curriculum, law students learn – many for the first time – the importance of words; they study the words themselves, their various meanings, and how to mold words to achieve their desired result.

Now each December our students can engage in a little fun using the wordplay skills we’ve taught them in our (otherwise) rigorous 1L curriculum. But instead of scrutinizing a word or phrase for hidden meaning or parsing a word for multiple meanings, students employ words to let off some steam during that first stress-filled exam period, offering commentary on this glorious experience we collectively call law school. All hail the annual Six-Word Story Contest!<sup>2</sup>

What, pray tell, is that? Well, the Six-Word-Story Contest originated with the apocryphal story of Ernest Hemingway, who boasted he could tell a story in just six words.<sup>3</sup> When challenged to do just that on a bet with some literary-minded friends, Hemingway penned “For sale: Baby shoes. Never worn.”<sup>4</sup>

It would be hard to argue there’s no story there. And according to legend, Hemingway’s friends agreed and paid up.<sup>5</sup>

Following in Papa’s footsteps, our students have taken up the challenge to describe their law school experience in just six words. The results are sometimes funny, sometimes painful, but always achingly real. In addition to bringing some comedic relief to students at finals time when joy is in scarce supply, these snippets demonstrate far better than any lecture the power of brevity in expression.

**In the first-year legal curriculum, law students learn – many for the first time – the importance of words.**

How better to teach that less is more than to offer a law student the opportunity to curse *The Bluebook* in just six words: “Tyranny comes in a color. Blue.”<sup>6</sup> How better to demonstrate the sheer power of the written word than to offer students six words to roast their faculty: “Trained by Socratic assault. Professors acquitted.”<sup>7</sup>

1. Alexandra Waasdorp’s entry in the 2018 University of Houston Law Center’s Annual Six-Word Story Contest.

2. UHLC Professor Ken Swift imported the idea of the six-word story contest from Mitchell Hamline School of Law, his former institution. See Mary Dunnewold, Hamline University Law Students, *Why Am I Here? Six-Word Stories About the First Month of Law School*, 59 J. Legal Educ. 653, 656 (2010).

3. It is unclear whether Hemingway’s tale is actually true. It was first reported in Peter Miller, GET PUBLISHED! GET PRODUCED! A LITERARY AGENT’S TIPS ON HOW TO SELL YOUR WRITING (1974).

4. *Id.*

5. *Id.*

6. Ali Dhukka’s entry in the 2018 University of Houston Law Center’s Annual Six-Word Story Contest.

7. See Dunnewold, *supra*, at 654.

### *Right Now, Words are Fresh Air*

Heidi K. Brown  
Brooklyn Law School

I used to be one of those introverts who, happily in my element, pedaling as fast as I could in the anonymity of my NYC spinning class, would flinch and grimace when an exuberant fitness instructor exclaimed, “Ok team! Now, high-five your neighbor!”

Today, I would give *anything* to be able to high-five my neighbor, my postal worker, my grocery store clerk, my boxing trainer, my students. But until we can leave our homes safely again, gleefully fist-bumping strangers and hugging our friends, let’s use *words* to hold each other up.

First, let’s *notice* the language of others that invigorates our hearts, brains, and souls while we continue to navigate these lonely times.

*Let’s listen* for a word, a phrase, a passage...in an online class, a student’s paper, an article, a book, a social media post, a poem, an email, a Listserv message...that makes us pause, hope, smile, laugh, think, remember—or just take a needed *deep breath*.

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## LWRR Micro-essays: *The Power of Words*

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Let's notice if someone else's words *uplift* us for an instant. Snap us out of a momentary or prolonged funk. Inspire us to get off the couch. To create something. To move our bodies. To take a chance. To join another virtual get-together though we might not really feel like it.

And then let's *use* our words in response. Let's write a text, a card, a social media post, an email, a thank you—to that person. Let's tell one another exactly what words reached us.

I'm thankful to my students and *you*—my colleagues in the legal writing academy—whose words continually grab me by the shoulders, shake me out of my sulk, and say, “Get up, right now...let's do this...do you...be you...keep going...don't stop...don't listen to the critics...move...write...create.”

Sometimes, my brain lures me on a detour, often at 3 a.m., replaying a soundtrack of disparaging words from naysayers, gratuitous criticism, snarky barbs lobbed in a meeting or a review. I then remind myself to amplify the soundtrack of *your* words and those of my students, to override language that attempts to undo through incivility, negativity, exclusion, and hierarchy.

Our students trust us with their word experiments, as they vet and test their nascent ideas, analyses, and solutions to legal problems. We are so lucky that we get to observe their linguistic growth as they wrestle with new legal vocabulary in the fall semester, mold their advocacy voices through edits and

revisions, and ultimately astound us with an artistic theme sentence or a lovely blend of *logos* and *pathos*.

As legal writing faculty, we trust *one another* with our words—draft articles, teaching ideas, educational worries, and institutional challenges. And we build one another up with our phrases of constructive feedback, celebration, admiration, and appreciation.

**Let's continue to model the power of words to help our students find their authentic advocacy voices. Let's champion one another's work.**

Let's continue to model the power of words to help our students find their authentic advocacy voices. Let's champion one another's work. And until we can high-five, hug, and fist-bump one another at conferences and workshops, let's use our words to connect us in our separateness.

### *The Power of Words*

Mark Cooney  
Western Michigan University  
Cooley Law School

William Blake's poetry is an unlikely resource for legal-writing professors. Yet you'd be hard-pressed to find a writer whose words are more potent. Beat poet Allen Ginsberg attested to this. In a 1966 *Paris Review* interview, Ginsberg wondered aloud whether “combinations of words and rhythms actually ha[ve] an electrochemical reaction on the body, which could catalyze specific

states of consciousness.” This, he believed, was “what probably happened to me with Blake.”

Blake's oft-anthologized “The Tyger” exemplifies word power and quickly exposes students to the many sides and shades of language. The poem was another of Blake's forays into dialectics, serving as the thorny antithesis to his sing-song “The Lamb” thesis.<sup>1</sup> With “The Tyger,” Blake challenged us to consider the synthesis.

Critics have offered countless interpretations. Writing during the French Revolution, the radical Blake was perhaps suggesting that social progress doesn't come from meekness alone. Or maybe Blake's God was a composite of the meek lamb (a familiar Christ symbol) and the ferocious tiger. Perhaps the poem was a riddle on reconciling good and evil, beauty and brutality. Or maybe its core value was its ambiguity, which challenged Georgian England's penchant for rote moralization.

Even my casual fascination with the poem reveals ample pickings for a class in which students first broach, in earnest, the nuance and impact of words.

Because of the poem's religious imagery, I introduce it carefully. I reassure students that ours is a purely academic exercise and that I'd never insinuate a Christian worldview into my richly diverse classroom.

Nor, for that matter, would I be cavalier toward Christian beliefs. My reassurances are genuine but

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## 2020 AALS Annual Meeting: *Program Summary*

### Program of the LWRR Section: *Pillars of Democracy: Law, Representation, and Knowledge*

The **Primary Program**, moderated by **Shailini George (Suffolk)** and **Candace Centeno (Villanova)**, *Educating the Modern Citizen-Lawyer: Helping Students Find Their Role in Society and the Law*—was a three-hour program featuring three segments that addressed the Institute for the Advancement of the American Legal System’s *Foundations for Practice: The Whole Lawyer and the Character Quotient* report.

First, **Dean Lee Fisher, Associate Deans Sarah Besnozka Jonathan Witmer-Rich, and Leader-in-Residence Kelly Tompkins (all Cleveland Marshall)**, presented *Cultivating Hard Skills of the Whole Lawyer: Lawyers as Leaders*, in which described their school’s leadership training program.

Next, **Professors Nicole Iannarone (Drexel), Sarah Morath (University of Houston), Ruth Anne Robbins (Rutgers), and Jennifer Romig (Emory)** presented on *Finding Their Voices: Student Participation in Live Lawmaking*, which highlighted ways in which students can use their writing and analysis skills to affect lawmaking. Finally, **Professor Ann Schiavone (Duquesne)** presented on *The Citizen Lawyer Education in the Trump Era*, and discussed the history, current need, and learning theory that underpins her focus on law and policy making to help law students develop their Citizen Lawyer identity.



Dean Lee Fisher engages a small group in discussion

and the they



Prof. Susie Salmon moderates the Newer Scholars Showcase

The **Newer Scholars Showcase**, moderated by **Professor Susie Salmon (University of Arizona)**, featured the thought-provoking work of three newer scholars: **Professor Joshua Jones (Indiana - McKinney)**, presented *Measuring the Presence of Transgender Students, Staff, and Faculty in America’s Law Schools: A Call for Precise SOGI Data*. Next, **Professor Susan McMahon (Georgetown)**, presented *Gun Laws and Mental Illness: Ridding the Statutes of Stigma*. Finally, **Professor Jarrod Reich (Georgetown)**, presented *Capitalizing on Healthy Lawyers: The Business Case for Law Firms to Promote and Prioritize Lawyer Well-Being*.

Finally, the **Additional Program**, moderated by **Professors Tim Duff (Case Western) and Abigail Pathhoff (Chapman)**, addressed *Developing Effective Communication Skills in an Era of Polarization*. The Section was delighted to have two presentations that discussed having difficult conversations in the classroom given the current polarized climate. **Professor Joy Kanwar (Brooklyn)**, presented on *When Truth Is Not Truth: Teaching Law Students in an Era of “Alternative Facts.”* Then **Professors Stephanie Hartung and Elizabeth Bloom, (Northeastern University)**, presented on *Bursting the Bubble: Developing Cultural Competency in the Classroom*. Both presentations challenged the audience to rise to the challenge of engaging students in these difficult conversations and provided tools to allow professors to do so.

## LWRR Micro-essays: *The Power of Words*

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also mark my first lesson: words have weight. That's true for me, a professor who prizes inclusivity; and it was true for Blake, a poet who risked censure.

When students read the poem, they're invariably struck by Blake's famous single-word switch in his otherwise identical bookend stanzas, and we consider those stanzas in turn. In the first stanza, the narrator asks the tiger,

What immortal  
hand or eye,  
  
Could frame thy  
fearful symmetry?

*Could* might mean practical feasibility: Who'd be able to do it? *Could* might also suggest creative ingenuity: Who could invent a creature that's at once so beautiful and so terrifying? *Could* might even push this interrogative couplet toward the exclamatory. ("How could you!") And thus the classroom sparks to life over the typically ho-hum *could*. Subtle, discerning advocates are born.

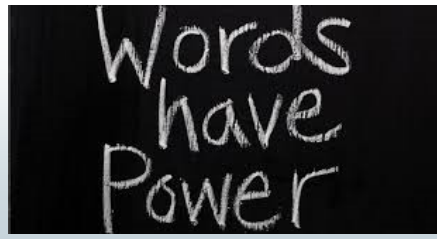
Then, with one substitution in the final stanza, Blake piques us:

What immortal  
hand or eye,  
  
Dare frame thy  
fearful symmetry?

With *dare*, Blake plays the iconoclast, subverting preconceptions of divine benevolence. After all, we dare in mischief, to tempt folly. ("I dare you to try it.") We dare when we transgress moral boundaries. ("How

dare you!") We risk—and perhaps endanger—when we dare. The very promise of our adolescent truth-or-dare game was mischief: some illicit windfall from a momentary abandon. Indeed, when paired with *dare*, even the truth is suspicious.

1. See John Brian, *Supreme Fictions: Studies in the Work of William Blake, Thomas Carlyle, W.B. Yeats, and D.H. Lawrence* (1974), and other readily available articles and texts.



### *The Power of Words*

Tamar Frankel  
Boston University School of Law

Words are the richest, yet most limited, means of humans' communication. Unlike a fist or a kiss, words' meanings required a key: a language. But once the language door opens, words are the most powerful means of communicating: nuanced, current, discovered, and evolving future events, ideas, and anything humans wish to communicate. With discoveries and new concepts come new languages, and perhaps fewer words, and a generation of learners.

Thus words are:

**1. A powerful tool for richer communication, understanding, interaction, and joint activities among humans;** more refined and varied than a roar, or a transporting emoticon.

**2. Words are part of a system—a language.** Understanding words is not as clear as understanding a fist or a kiss, but the words' system-root is far more flexible and expandable. It can spawn words and new meanings with little foundational change. Environments move and must be adjustable to changed behavior, creativity, protection and communication—to new words.

**3. Words are not amenable to harming others as a fist or a gun are.** Although words can offend, and lead to physical harm, even inflammatory words cannot be as directly harmful as a gun. Yet, words are a powerful inducement to a productive helpful action.

**4. The meaning of old words can be enriched, by new attributed meanings, thereby reducing the cost of learning.** Usually, words are units of a language system that is historically known and understood both in talking and other forms of information-transfer. Learning this systemic evolution is important for the development of learning to think and accept new concepts rather than continuing to resort to old forms of expression and behavior, which may not fit new environments.

**5. Knowing current, past and evolving word meaning is crucial.** Awareness and acceptance or rejection of change constitutes learning—crucial to life and development of humans. The undersigned was fortunate to participate in modernizing the ancient legal Hebrew language.

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## LWRR Micro-essays: *The Power of Words*

(Continued from page 11)

It survived around the world, wherever Jews lived and prayed. But not all Hebrew words were suitable for modern reality. Thus, the word telephone could not be translated into “speak from far away.” Instead the current word (telephone) was turned into a *verb* (letalphen). Thus, a system may be used to absorb new words.

**6. An Israeli court had to determine whether the ancient words of possession, which was used in recent legislation, should be interpreted in circumstances which the ancient Jewish state did not experience.** The purpose of the new State’s legislation was to “pour the British common law concepts into those ancient words.”

Israel’s Supreme Court held precisely this: The legislature poured the British common law meaning into the ancient Jewish words and applied the British common law rather than according to the ancient Jewish law.<sup>1</sup>

**7. Power can be abused.** The more power words attain, the more harmful they might become. If the use of these words does not limit wrongful and abusive messages, they might spread dangerous and criminal peoples’ behavior. Some effective books have caused cruelty, dehumanization and blood shedding of hundreds of thousands innocent people and inculcated in others hatred and cruelty.

**Conclusion.** Words are tremendously valuable to all members of any human society.

(i) We communicate, support,

understand and misunderstand, and fight each other by words. They are the least destructive fighting weapons humans have.

(ii) Words are the means of creating together what no individual humans can create alone.

(iii) Words help develop our minds to learn and produce new ideas, and problem solutions. Words endow them with wings to spread all over our world.

This is the power of words and the dangers they might pose.

1. See case 89/51 Mitova Ltd. V. Kazam, 6 PD 4, 12 (1952)(Isr.)(Cheshin, J. concurring), <http://www.nevo.co.il/psika.html/elyon/510089a.pdf>. translated in Hanum Rakover, Modern Applications of Jewish Law 41 (1992), <http://www.daat.ac.il/data/v1/modern/modern01.pdf>.

### *The Power of Words*

Alissa Rubin Gomez  
University of Houston Law Center

Words matter.

They describe.

*To fulfill their mutual promise, they traveled from Ohio to Maryland, where same-sex marriage was legal. It was difficult for Arthur to move, and so the couple were wed inside a medical transport plane as it remained on the tarmac in Baltimore. Three months later, Arthur died.*<sup>1</sup>

They advocate.

*May it please the court.*

They heal.

*We conclude that, in the field of public education, the doctrine of ‘separate but equal’ has no place.*<sup>2</sup>

When I think about the power of words, I think about the very craft of lawyering. The impact words can have on the lives of 300 million people – the instant an order comes down. The grappling with, massaging, erasing, replacing, examining, and re-examining of words, often at midnight, in the pursuit of an ideal and with the hope that the court might adopt the very words you ended up stringing together.

As a professor of legal writing, I try to impart the importance of words on my students. Why it matters that they are able to capture their argument in one bumper-sticker-style thesis sentence. Why it matters that they use formal language in professional emails. Why it matters that a corporation is singular or that the Bluebook requires a comma here but not there.

To be sure, grammar and writing style (and definitely citation) are not life and death matters. When a student rolls her eyes because the rules feel like they are stacking up against her ability to simply say what she means, I empathize. For a second. But then I remember the true calling that our profession can be. That without our words, there is silence. And that silence can mean sacrificing freedom, loved ones, or dignity.

As for my own words, I can only hope that they impact my students. I suppose some will; some won’t. I do not take for granted my position as their teacher, for I know that without kindness, authenticity,

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## LWRR Micro-essays: *The Power of Words*

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and a listening ear, my words will not stick. They become the “wah-wah” of the teacher in Peanuts, which as it turns out, were never words at all.<sup>3</sup>

Words mean something. As legal educators, it is on us to act as guardians of the importance of words. Because for someone, maybe even 50 years from now, those words will matter to them.

*It is so ordered.*

1. *Obergefell v. Hodges*, 576 U.S. 644 (2015).
2. *Brown v. Bd. of Educ.*, 347 U.S. 483, 495 (1954).
3. <https://mashable.com/2015/10/26/peanuts-wah-wah/> (explaining the origin of the “wah-wah” in Peanuts and the trombonist responsible for that famous sound).

### *Building on the Power of Error*

Latisha Nixon-Jones  
Oregon School of Law

Mistake. Error. Wrong. Embarrassment. Shame. Imposter. All of these words create barriers to a student’s ability to learn from their errors. In my year-long course, I created two environments: Environment of Error and Core of Confidence. During the first half of the semester, I encouraged the students to make mistakes and be bold in their errors. Many students met this recommendation with skepticism. None of them wanted to be wrong in front of their peers.

However, as the semester progressed, I demonstrated to them the power of making errors in three ways:

**Class Collaboration:** Many of the students had so much anxiety around being incorrect that it caused them to self-exclude from engaging in the class. To combat this anxiety, we had tools similar to the popular game show, “Who Wants to Be a Millionaire”, they could phone a friend if they were unsure of their answer or poll the class. Many students reported on the mid-term survey that they were less anxious about participating in class discussions because a classmate could assist them.

**Words mean something. As legal educators, it is on us to act as guardians of the importance of words.**

**Small Groups:** Many students were afraid of being wrong in front of the class but were less fearful when working in small groups of three to five students. They took greater risks in answering questions about analysis in their groups versus when being called upon in front of the entire class.

**Non-graded Assignments:** Students stated they felt less pressure to be right when the assignment was non-graded. Seventy percent of the students took the assignment seriously and voiced bold assumptions and made great leaps in connecting the analytical references.. Thirty percent of the students either took the opportunity to throw all of their ideas on the wall or they left the assignment to the last minute and were either unwilling or unable

to coherently just their ideas on the paper.

During the second part of the semester, the class transitioned into the Core of Confidence. Several of the tools from above were removed so the student could continue to build on their individual confidence.

**Instruction:** During this section, instructions were less detailed. Instead of laying out strict instructions and guidelines, the students had to grapple with options. Small things like choosing the font size. Larger things like using their judgment to fill in gaps in less detailed rubrics. The purpose was to shift them from dependence on an item or person to trusting the process of writing.

**Collaboration:** The collaboration policy changed to no collaboration on graded assignments. Students pushed back the most on this change. However, during the grading process, the largest analytical strides were made on individual no-collaboration papers.

I would be remiss to say that the students did not push back during the Core of Confidence. However, the class discussions were livelier and the number of e-mails about small, mundane things greatly decreased. Students who started the year not speaking were active participants and students who were overly talkative now listened before speaking. Overall, they gained power through having the space to be in an Environment of Error.

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## LWRR Micro-essays: *The Power of Words*

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### *The Power of Words*

Michael W. Pinsof  
Roosevelt University, Chicago

Nothing is more gratifying than positively impacting a student's life. Sometimes, that gratification is derived quite by accident, through spontaneous, unprepared words, when we least expect it. As part of my pro bono commitment, I volunteer to speak at local middle and high schools about law and the legal profession. In my presentations, I engage the students by encouraging them to self-identify their passions, and to pursue them through, among other vehicles, extra-curricular activities. During a presentation to a high school social studies class, I noticed a student hunched over in the back row, his face partially obscured by his hoodie. Giving in to the educator's taboo of stereotyping, I tagged him as a loner, perhaps an outsider. Being careful not to embarrass or humiliate him, I approached and asked what his passions were. He readily and quite articulately responded, "you'll think it's queer, but I like to build skateboards." With admiration for his courage and candor, I jumped on his train of thought. "So you like to use your hands and tools, and build things?" He nodded affirmatively. From somewhere deep inside of me, I blurted, "have you ever thought of trying out for stage crew, and, you know, use a hammer and a saw and nails and screws and build stage sets, and stuff like that?" It was like a light bulb turned on inside the

creative side of his brain, as he pursed his lips and nodded his head.

A few weeks later I received a call from his social studies teacher, whose class I had visited. "You wouldn't believe the metamorphosis in Aaron since your visit to my class," she said. "The drama teacher told me that Aaron has joined stage crew, has assumed a leadership role, and has developed a wonderful new circle of friends. I've noticed that he is much more engaged in my class as well." I was overwhelmed with gratification. The power of a few words had changed the trajectory of Aaron's life for the better. The apparently powerful words I uttered that day were not in a university classroom in which I was engaged in a prepared lecture/discussion on a specific subject, and actually trying to enhance the knowledge of my students through the power and wisdom of my words. I don't know where my words came from, as I certainly wasn't a theater geek in my youth, but I felt their power. I am certain that I will recognize the same glow in Aaron's face one day, when I watch him stand at the podium and accept an Academy Award for set design.

### *The Power of Exclusion and Omission*

Suzanne Rowe & Cristal E. Jones (Student)  
University of Oregon School of Law

The professor asked what seemed to be an easy question about the ideals shared by our Founding Fathers. An eager student answered, "The Founding Fathers cared very deeply about the

fundamental human rights of others." "Yes," said the professor, and the class moved on.

One student did not move on. This student was stunned that her classmate's simplistic answer had been accepted and validated. She was stunned that her professor had overlooked centuries of American history in favor of a truism. This student did not see fundamental human rights as ideals embraced by the founders because those founders had owned her ancestors.



### **The Negative Power of Words**

The few words spoken about human rights had the power to exclude this African American student. They excluded her because they ignored centuries of slavery—including those years when Founding Fathers owned people, condoned the ownership of people, and wrote our founding documents to ensure the continued ownership of people who looked like her. Those words excluded her because they overlooked the continuing damage of black codes, Jim Crow, and mass incarceration. They excluded her at a time when African Americans still comprise a small percentage of lawyers, judges, law faculty and administrators, and law students.

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## LWRR Micro-essays: *The Power of Words*

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### The Negative Power of Omission

Just as harmful was the professor's silence. A few words by the professor could have had a powerful impact on everyone in the class.<sup>1</sup> The professor might have recognized the truism for what it was: a simplistic idea taught in elementary schools but now requiring examination. The professor might have asked students to reflect on the social context in which the Founding Fathers wrote the nation's founding documents, and asked, "Which humans had rights? Which individuals were free? What impact does that have on these founding documents?"

Those questions would have made many white students uncomfortable.<sup>2</sup> They might have made the professor uncomfortable.<sup>3</sup> They might even had made the few African American students uncomfortable. Exploring those questions would certainly have cut into valuable time to study the founding documents. But without those questions, the words uttered in the class had the power to exclude.

### The Burden to Speak

As one of three African American students in a room of seventy-seven, predominantly white students, the excluded student felt compelled to respond. She knew that her response would require the usual filter in effort to lessen the likelihood that she might trigger a potentially negative stereotype<sup>4</sup>—being seen by her peers and her professor as an "angry black woman."<sup>5</sup> For several minutes, she

zoned out of class to mentally craft and re-craft her response, along with a neutralized temperament. She found the words. She found the composure. And she spoke.

Why did this student have to respond?

Who had the power, and the responsibility?

**I trusted that in our shared humanity, they would understand that while my passion and skill with words may never be perfect, I was trying and giving them my best.**

1. Relying on African American students to speak up in these moments places an unwarranted burden on them to educate their professor and their classmates about the history and ongoing racism in the country. See generally Derrick A. Bell, Jr., *Black Students in White Law Schools: The Ordeal and, the Opportunity*, 2 U. TOL. L. REV. 539, 545 (1970).

2. "White fragility" demands that white people not be made uncomfortable about race. See Robin DiAngelo, WHITE FRAGILITY, 1, 7 (2018).

3. Resources are available for professors addressing these issues outside their traditional expertise. See Suzanne Rowe, *The Elephant in the Room: Responding to Racially Charged Words*, 18 JALWD 263, 270, n.26 (2018).

4. Filtering is also known as "code switching." See *Code Switching Linguistics*, ENCYCLOPEDIA BRITANNICA (2020). *Stereotype threat* is the fear of confirming negative, racial stereotypes. See Russell A. McClain, *Helping our Students Reach Their Full Potential: The Insidious Consequences of Ignoring Stereotype Threat*, 17 RUTGERS RACE & L. REV. 1, 1 (2016).

5. Carmen G. González, *Women of Color in Legal Education: Challenging the Presumption of Incompetence*, 61 FED. LAW. 49, 51 (JULY 2014).

### *A regard on the power of words*

Andrele Brutus St. Val  
Mitchell Hamline School of Law

In *The Source of Self-Regard*, Toni Morrison describes a folktale about an old black woman who is both wise and blind. A group of young people seek to disprove her renowned clairvoyance by asking her whether a bird one of them holds in his hand is alive or dead. Analyzing this story, Ms. Morrison analogizes the bird to language and the woman to an experienced writer.

The woman considers the importance of word choice before answering the young people. Most notably, she thinks "[w]ord work is sublime, . . . because it is generative; it makes meaning that secures our difference, our human difference—the way in which we are like no other life." She ponders how life has meaning relative to death, but she observes that we measure our lives by how we do language.

After some time, the old woman responds that she does not know whether the bird is dead or alive but what she does know is that "it is in your hands. It is in your hands." The young people are frustrated with her answer, which they see as trivializing them and the bird. They ask her if she remembers "being young when language was magic without meaning?" Understanding that narrative is radical, they implore her to tell them about her world so they can learn from her experiences and become stronger. Even though they know she will never be able to explain fully, they will not blame her if she reaches beyond her grasp.

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## LWRR Micro-essays: *The Power of Words*

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With words, “[p]assion is never enough; neither is skill.” Yet they beg her to try; they beseech her to address the bird—their words.

Having heard the young people’s response, the old woman tells them that she now trusts them. She trusts them with the bird that is not in their hands because they have truly caught it. The woman exclaims, “Look. How lovely it is, this thing we have done—together.”

Could Morrison’s old black woman (the experienced writer) resemble a law professor? This question occurred to me as I began preparing for conferences with students in my legal writing course. I pondered my regard for the bird. In my case, the bird was my students’ writing assignment combined with my feedback. I examined my obligation to share my knowledge and experiences to make them stronger writers and critical thinkers. I was careful not to trivialize them or their work. I remembered the mysticism of legalese when first learning legal analysis. I thought about my duty to use the generative powers of my words to build their confidence. I trusted that in our shared humanity, they would understand that while my passion and skill with words may never be perfect, I was trying and giving them my best. I hoped that through our earlier encounters in the semester, we had built enough trust for us to do language together and that once the conference concluded, we could marvel at the lovely thing we did together—catching the bird.

### *The Power of Words in an Online Hybrid Class*

Michelle Zakarin  
Touro College  
Jacob D. Fuchsberg Law Center

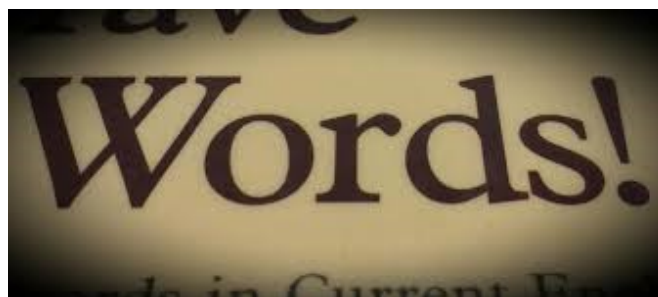
I was given the interesting and exciting opportunity to teach in my institution’s new online hybrid JD program this year. My course is the first year legal research and writing course. In order to deliver a quality online experience, I was told I would be meeting with students face-to-face every other week and between these in-person classes, I would be delivering my class content asynchronously online through videos. These videos are the subject of this essay.

Word choice is powerful and may impact the ability to follow a concept closely. I have seen video samples that were repetitive in their language. These can be difficult to watch because viewers may lose concentration and their minds may wander. I wanted to create videos that were comprehensive, useful and helpful pedagogically.

There are a number of ways to create videos. The easiest way for me was to use a video platform (I use ZOOM) and record myself as I discuss and review a PowerPoint presentation on a particular topic. The words I chose on my PowerPoints and in my oral presentations were deliberate. My goal was to provide clear instruction via video for students who would have limited in-person time with me. For example, I created a series of videos dedicated to helping students understand how to analyze cases they read and apply a new set of hypothetical facts to the rules extracted from these cases. Since I would not have the opportunity to hear their questions in real time, I tried to anticipate every possible question they may have and answer these questions within each video presentation.

To keep my videos relatively short in length for easy viewing, my words were chosen to keep my points brief and to keep my presentation understandable. The writings in my PowerPoint presentations were limited to short bullets and examples. I build on this with my spoken words in each video.

For example, I spent a lot of time creating a series of videos for the heart of legal analysis. Legal analysis can be difficult for first year law students, especially in the beginning. Their first drafts are often too wordy and not easy to follow despite my verbal instruction that they must keep their writing terse and direct. Year after year, I witness students who have not yet mastered the skill of extracting relevant facts from the precedent cases. Teaching this concept early on is of great importance so that their submissions can improve as they re-write and re-submit. Thus, in this hybrid online class, I worried about students gaining this understanding from the videos. I was pleased to learn that students watched my videos (often more than once) and found them to be useful. They seemed to particularly like the straightforward direction the videos provided and felt the examples illustrated my points clearly. Thus, I posted these videos for my traditional non-hybrid JD students to view if they wished. They found them to be helpful and asked for more videos, which I now provide to both classes. Deliberate word choice has enhanced my teaching.

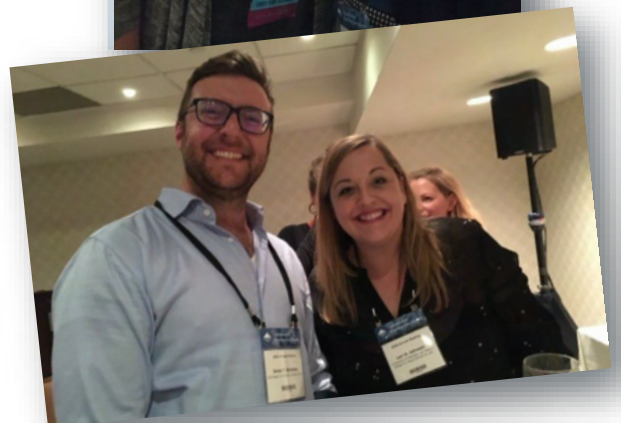




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Later this year our Secretary will be seeking submissions!

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