

Ken Chestek

School: University of Wyoming College of Law

Email Address: kchestek@uwyo.edu

General Background:

Private practice of law for 20 years, now retired from full-time teaching after 23 years (University of Michigan, Indiana University, and Wyoming). Former President of LWI, service on many LWI committees, including as a member of the Writer’s Workshop Governing Board. I have presented frequently at the LWI Biennial Conference, the Applied Legal Storytelling Conference, and various regional conferences. I am a co-author, with Ruth Anne Robbins and Steve Johansen, of *Your Client’s Story: Effective Legal Writing* (now in its Third Edition). Our text is the first textbook on legal writing organized around storytelling and narrative theory, with a healthy dose of cognitive psychology. Elected in 2023 as a member of the Wyoming House of Representatives.

Areas of scholarly interest consistent with the purpose of the grant program:¹

While I was not “in the room” when the Applied Legal Storytelling movement was born, I was an enthusiastic early adopter as soon as I learned of the concept. AppLS is my intellectual home, since it combines narrative theory (I was an English major in undergraduate school) with real-world application. I have written about storytelling frequently, but have recently added a focus on cognitive psychology (thinking about *why* story is so powerful). I have done several empirical studies of the subject, including a recent study of whether (and when) the brain’s natural “negativity bias” might influence judicial thinking (and how an advocate might use that knowledge in crafting a more persuasive brief). My most recent work focuses on the power of metaphor, specifically by analyzing the twin metaphors of “corporations are people” and “money is speech” which underlie Supreme Court decisions such as *Citizens United*. I plan to extend that work by studying the power of myth, specifically in the context of what I call the “Myth of Divine Right” (the notion that a society is so superior, as in “favored by God”, that it has the right, or even the duty, to subjugate other societies which it deems inferior). I am close to completing a scholarly book on that topic.

I have published four articles in *Legal Communication and Rhetoric: JALWD*, including two lead articles (see list of publications below).

¹ The ALWD Distinguished Speaker Series grants (formerly known as the Visiting Scholars grants) are intended to further support, strengthen, and encourage scholarship focusing on the study and practice of professional legal writing.

A representative list of scholarship:

Dimensions of Being and the Limits of Logic: The Myth of Empirical Reasoning, 19 J. Legal Communications and Rhetoric: J.ALWD 23 (2022).

Thinking in Circles: Using OODA to Sharpen Legal Analysis, 20 Wyoming L. Rev. 319 (2020).

Of Metaphors and Magic Wands: Are Corporations Really People?, 8 Miss. L.J. 1 (2019).

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3316414

Fear and Loathing in Persuasive Writing: An Empirical Study of the Effects of the Negativity Bias, 14 Legal Communications and Rhetoric: J.ALWD 1 (2017).

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2953996.

Of Reptiles and Velcro: The Brain's Negativity Bias and Persuasion, 15 Nevada L. Rev. 605 (2015).

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2484911

Competing Stories: A Case Study of the Role of Narrative Reasoning in Judicial Decisions, 9 Legal Communication and Rhetoric: JALWD 99 (September 2012).

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1942508

Judging By the Numbers: An Empirical Study of the Power of Story, 7 J. Association of Leg. Writing Directors 1 (July 2010).

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1649869

The Plot Thickens: The Appellate Brief as Story, 14 J. Leg. Writing 127 (2008).

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=998388

Ideas for programming Distinguished Speaker might offer a host school, including potential topics and target audiences:

- Workshop on narrative analysis of legal briefs (following the techniques used in *Competing Stories* and *The Plot Thickens*, above). Good for students to help think about narratives contained in briefs.
- Discussion of the negativity bias and its implications for theme selection in a brief (good for students and practitioners)
- Presentation on the power of metaphor (based initially upon *Of Metaphors and Magic Wands*, above, but exploring additional problematic metaphors). Good for faculty and student presentation.
- Exploration of the “Myth of Divine Right” and how it has informed both social

policy and legal reasoning. Initial focus is on how the myth powered the settlement of the American West, but also how it continues to inform public policy choices, even if *sub silentio*. Good for faculty presentation.

- Lawmaking and legislative process (insider view of how legislation is made). Good for panel discussion, student or faculty presentation.

In no more than 300 words, describe why a host school should consider you as a Distinguished Speaker:

I strive, in my scholarship, to find topics that nobody else is talking much about; or to find a new take on an old debate. My goal is to expand the range of knowledge about how words persuade. My sources tend to be from outside the legal writing academy: data based on empirical studies (using social science experimental methods), the study of narrative, and cognitive psychology. I don't think the legal academy has a monopoly on good ideas, and I think that using knowledge and techniques from other disciplines can enhance our own knowledge.

I also live in the real world. My scholarship is designed to provide tools to the practitioners of legal writing. That is why I think the word "Applied" in "Applied Legal Storytelling" is the most important word. As academics we have an obligation not only to impart knowledge to our students, but to create new knowledge through experimentation and creative thinking. I love engaging with new ideas and creating new ways of using old ideas.

KENNETH D. CHESTEK

Curriculum Vita

kchestek@uwyo.edu

307-460-9139

Employment

- University of Wyoming College of Law, Laramie, Wyoming 2012-present
Professor; Assistant Director of Legal Writing; Assistant Director of the Center for the Study of Written Advocacy
Courses taught:
– Legal Writing I
– Legal Writing II
– Civil Pretrial
– Contract Drafting
– Externships
- Indiana University School of Law, Indianapolis, Indiana 2003-2012
Clinical Professor of Law. Courses taught:
– Legal Analysis, Research and Communication program (first and second year courses)
– Professional Responsibility
– Legal Process
– Introduction to American Legal System (taught in Alexandria, Egypt, winter 2008)
– Seminar in Law and Sociology
– Lawyering Practice (clinic course in pre-trial litigation strategy and procedure)
- University of Denver, Sturm College of Law, Denver, CO Fall 2010
Visiting Professor of Law. Course taught: Lawyering Process (one-semester visit to cover a sabbatical leave)
- Lewis and Clark School of Law, Portland, Oregon Spring 2009
Visiting Professor of Law. Course taught: Legal Analysis and Writing (one-semester visit as school's first Distinguished Visiting Professor of Legal Writing)
- University of Michigan, Ann Arbor, Michigan 2000-2003
Clinical Assistant Professor of Law, Legal Practice Program (teaching Legal Practice I and II courses to first-year students)
- Erie County Solicitor, Erie County Courthouse, Erie, Pennsylvania 1982-2000
Chief legal counsel to Erie County, supervising four assistant solicitors; general legal advice to and representation in litigation for County of Erie

Education

J.D. (cum laude), University of Pittsburgh School of Law	1979
Editor-in-Chief, University of Pittsburgh Law Review	1978-1979
Order of Coif	1979
Scribes Award (best written article by a third-year Law Review member)	1979
University of Pittsburgh Law Review	1977-1978
B.A. (English, writing option) The Pennsylvania State University	1975
Dean's List	1973-1974

Professional Memberships

- Member, Legal Writing Institute 2000-present
 - Chair, 8th Applied Legal Storytelling Conference (to be held online July 2021)
 - Member, Governing Board of Sirico Scholars Workshop (2018-2021)
 - Facilitator, Sirico Scholars Workshop (2018 and 2019)
 - Lead author, ALWD/LWI Annual Survey overhaul (2015-2017)
 - Immediate Past President, 2012-2014
 - President, 2010-2012
 - President-elect, 2008-2010
 - Treasurer, 2006-2008
 - Member, Board of Directors, 2006-2014
 - Manager, LRWPROF-L (listserv for all legal writing professors), 2003-2012
 - Co-chair, 2006, 2007 and 2008 ALWD/LWI Annual Surveys
 - Member, 2004 and 2006 LWI Conference Program Committees
 - Member, Editorial Board, Legal Writing: The Journal of the Legal Writing Institute (2004-2008)
 - Member, Association of Legal Writing Directors (2012-present)
 - American Bar Association (1979-present)
 - Indiana State Bar Association (2003-2012)
 - Pennsylvania Bar Association (1979-2006)
-

Publications

Books

The Myth of Divine Right: Debunking Claims of Cultural Superiority (work in process)

Your Client's Story: Persuasive Legal Writing (co-author with Profs. Ruth Anne Robbins and Steven Johansen) (Second Edition Aspen 2019)

Your Client's Story: Persuasive Legal Writing (co-author with Profs. Ruth Anne Robbins and Steven Johansen) (Aspen 2013)

Indiana Pleading and Practice (With Forms), co-editor 2007-2012 (with Prof. Allison Martin) (six-volume looseleaf treatise published by Lexis/Nexis with in-depth coverage of the Indiana Trial Rules, updated twice annually)

WordPerfect for Windows 6 in the Law Office, principal author; published in January of 1996 by Que Corporation (476 pages, demonstrating specialized use of program in law office, including templates, macros and merge forms to automate preparation of pleadings and legal documents)

WordPerfect for Windows Power Macros, principal author; published in September of 1992 by Que Corporation (998 pages, demonstrating use of macros and merge forms to automate common office tasks, including specialized macros and merge forms for use in law office)

Various chapters in other computer books relating to uses of WordPerfect in law office settings

Articles

Dimensions of Being and the Limits of Logic: The Myth of Empirical Reasoning, 19 J. Legal Communications and Rhetoric: J.ALWD xx (forthcoming 2022)

Thinking in Circles: Using OODA to Sharpen Legal Analysis, 20 Wyoming L. Rev. 319 (2020)

Of Metaphors and Magic Wands: Are Corporations Really People?, 89 Miss. L. J. 1 (2019)

Fear and Loathing in Persuasive Writing: An Empirical Study of the Effects of the Negativity Bias, 14 Legal Communications and Rhetoric: J.ALWD 1 (2017)

You Can't Sell What You Wouldn't Buy: Storytelling in Voir Dire, The Coffee House (Fall 2015), p. 14 (2015) (published by the Wyoming Trial Lawyers Association)

Of Reptiles and Velcro: The Brain's Negativity Bias and Persuasion, 15 Nevada L. Rev. 605 (2015)

The Life of the Law Has Not Been Logic: It Has Been Story, 1 Savannah L. Rev. 21 (2014)

Competing Stories: A Case Study of the Role of Narrative Reasoning in Judicial Decisions 9 Legal Communication and Rhetoric: JALWD 99 (September 2012)

Judging By the Numbers: An Empirical Study of the Power of Story, 7 J. Association of Leg. Writing Directors 1 (July 2010).

The Plot Thickens: The Appellate Brief as Story, 14 J. Leg. Writing 127 (2008).

MacCrate [in]Action: The Case for Enhancing the Upper-Level Writing Requirement in Law Schools, 78 U. Colo. L. Rev. 115 (2007).

Reality Programming Meets LRW: The Moot Case Approach to Teaching in the First Year, 38 Gonzaga L. Rev. 57 (2003).

Are Hospitals Truly Institutions of Charity?, Pennsylvania Bar Quarterly, January 2002, pp. 4-16.

Essay, *The "Moot Case" Approach to Student Collaboration*, The Second Draft, Volume 15, No. 2 (June 2001), p. 6.

Are Hospitals Purely Public Charities?, Assessment Journal, Vol. 7, No. 2 (March/April 2000), pp. 24-33.

Farmland Preservation Techniques: Some Food for Thought, University of Pittsburgh Law Review, Volume 40, Number 2, pages 258-284 (1979).

Lectures and Presentations

"Storytelling for Advocates and Judges: How and Why We Should Incorporate Storytelling Techniques and Themes into our Work" (panel member with two appellate judges and an appellate lawyer at the 2021 AJEI Summit, November 13, 2021, sponsored by the Appellate Judges Education Institute, Austin, TX)

"Ways of Knowing: Rule-based reasoning and storytelling" (presentation to all students and faculty as Visiting Scholar in the LawStories program at Brigham Young University, February, 2021; slightly modified forthcoming presentation to the Eighth Applied Legal Storytelling Conference, July, 2021) (based in part on Chapter 2 of *The Myth of Divine Right*)

"The Texas Sharpshooter and Other Logical Fallacies" (presentation to the 19th Biennial Conference of the Legal Writing Institute, delivered virtually due to pandemic, July, 2020)

"Making Better Use of Old Technology" (presentation to Legal Writing Institute's One-Day Workshop, Rutgers University (Newark), December, 2019)

"How the West was 'Won': Manifest Destiny and the Myth of Divine Right" (presentation to the Seventh Applied Legal Storytelling Conference held at the University of Colorado School of Law, Boulder, CO, July 11, 2019)

Panelist, "Weird Science: The Empirical Study of Legal Writing" (presentation at the 18th Biennial Conference of the Legal Writing Institute, Milwaukee, WI July 14, 2018)

“Of Metaphors and Magic Wands: Are Corporations Really People?” (presentation to the Sixth Applied Legal Storytelling Conference held at the American University College of Law, June 11, 2017). Also presented as a TEDx talk at TEDxCheyenne: Reckless, June 9, 2017 (Cheyenne, WY) (available at <https://www.youtube.com/watch?v=aU4woH9gFDI>)

Panel member, “AALS Arc of Career Program: The Legal Writing Lateral” (presentation at 111th Annual Meeting, Association of American Law Schools, San Francisco, CA , Jan. 4, 2017)

“Negative Themes and Judicial Perceptions: An Empirical Study” (presentation to the Fifth Applied Legal Storytelling Conference held at the Seattle University College of Law, July 21, 2015) (repeated at the Psychology of Persuasion Conference at the University of Wyoming College of Law, Sept. 19, 2015 and at Rocky Mountain Legal Writing Conference, University of Arizona College of Law, Tucson, AZ, March 19, 2016)

Panel member, “Taking It To the Next Level” (presentation at the LWI One-Day Workshop, Sturm College of Law, Denver, CO Dec. 5, 2015)

“Legal Writing for Municipal Judges” (presentation to the Wyoming Conference of Municipal Courts, Buffalo, WY, May 14, 2015)

“How the West Was Won: Manifest Destiny and the Myth of Divine Right” (presentation at 16th Biennial Conference of The Legal Writing Institute, July 1, 2014 in Philadelphia, PA)

“Of reptiles and Velcro: The brain’s ‘negativity bias’ and persuasion” (presentation to the Fourth Applied Legal Storytelling Conference held at the City University College of Law, London, England July 22, 2013) (repeated in February, 2014 at UNLV’s Psychology of Lawyering conference)

“The Plot Thickens: Using Storytelling Techniques to Persuade” (presentation to the Colorado Alternative Defense Counsel, June 28, 2013, Denver, CO)

Panelist, New Teacher’s Workshop (Legal Writing teachers), “The Pedagogy of Legal Writing” (sponsored by the Association of American Law Schools, Washington, DC June 20, 2013)

“The Life of the Law Has Not Been Logic: It Has Been Story” (invited presentation at a symposium on the topic “Does Legal Writing have a doctrine?”, sponsored by the Savannah Law School, Savannah, GA, April 26, 2013)

“First Impressions: An Empirical Study into the Efficacy of Preliminary Statements” (presentation to the Rocky Mountain Legal Writing Conference, held March 23, 2013 in Boulder, CO)

“The Plot Thickens: Persuading Through Storytelling” (presentation to CLE sponsored by University of Wyoming Student Chapter of the J. Reuben Clark Law Society, held Jan. 11, 2013 in Laramie, WY)

“The Plot Thickens: Using Storytelling Techniques to Persuade” (presentation to group of University of Wyoming College of Law graduates practicing in the Denver, CO area, held Nov. 1, 2012 in Denver, CO)

“Judging By the Numbers: Why Story Matters” (presentation at inaugural event sponsored by the University of Wyoming College of Law Center for the Study of Written Advocacy, held July 17, 2012, Cheyenne, WY)

“Beyond IRAC: Teaching and Assessing the Story Content of Persuasive Writing” (presentation at 15th Biennial Conference of The Legal Writing Institute, held in May 2012 in Palm Desert, CA)

“Just The Facts, Ma’am: Using Client Interviews and Role Play to Teach Fact Investigation” (with Profs. Grace Tonner and Rachel Croskery-Roberts, University of California—Irvine; presentation to Central States Regional Legal Writing Conference, Chicago, IL, September 2011)

“The National Health Care Reform Litigation: A Case Study of Story in Action” (presentation to the Third Applied Legal Storytelling Conference held at the University of Denver--Sturm College of Law, July, 2011)

“I Read Your Article . . . What Am I Supposed to Do with It?” Teaching from the Persuasion Scholarship (panel presentation at 14th Biennial Conference of The Legal Writing Institute, with Profs. Kathy Stanchi, Ruth Anne Robbins and Linda Berger, Marco Island, FL, June 2010)

“Not Just Another Brick in the Wall: Teaching Narrative Theory in Law School” (presentation to Rocky Mountain Legal Writing Conference, Tucson, AZ, March 2010)

“Judging By The Numbers: An Empirical Study of the Power of Story” (presented as the opening plenary session for the Applied Legal Storytelling Conference held at Lewis and Clark School of Law, Portland, OR, July 23 and 24, 2009)

“Emerging and Persistent Issues in Legal Research and Writing Education and Scholarship” (with Profs. Kirsten Davis, Anthony Niedwiecki and Gail Stephenson; member of panel at the 61st Annual Meeting of the Southeastern Association of Law Schools, July 28 to August 2, 2008) (discussing the upper level writing requirement)

“Geek 101: Using Technology Effectively (Without Having to Learn the Difference Between Star Wars and Star Trek)” (with Profs. Jan Levine and John Mollenkamp; member of panel at the 13th Biennial Conference of the Legal Writing Institute, Indianapolis, IN, July 2008)

“The Plot Thickens: The Appellate Brief as Story” (presentation to the international conference on applied legal storytelling in London, England, co-sponsored by the Legal Writing Institute and the City University of London, July, 2007) (also presented to the Rocky Mountain Legal Writing Conference, Salt Lake City, UT, March 2008)

“Providing Context for Contract Drafting Problems” (with Prof. James D. Dimitri; presentation at 12th Biennial Conference of the Legal Writing Institute, Atlanta GA, June 2006) (also presented to the Rocky Mountain Legal Writing Conference, Las Vega, NV, March 2007)

“Tell Me a Story: The Practical Applications of Storytelling in Persuasive Writing,” (presentation to Rocky Mountain Legal Writing Conference, Tucson AZ, March 2006)

“ECommenting Made Easy” (with Prof. Mimi Samuel; presentation to 11th Biennial Conference of the Legal Writing Institute, Knoxville, TN, July 2004)

“The Theatrical Classroom: Tips on Using Drama Students in LRW Simulations” (with Prof. Melissa Marlow-Shafer; presentation to Central Region Legal Writing Conference, St. Louis, MO, September 2003)

“The Moot Case Approach to LRW,” (with Profs. Susan Kosse and Laurel Oates; presentation to 10th Biennial Conference of the Legal Writing Institute, Seattle, WA, May 2002)

Have also presented seminar topics, CLE or papers for the following organizations:

- Indiana State Bar Association (professional responsibility)
- International Association of Assessing Officers (tax exemption policy)
- National Association of Counties (tax exemption policy)
- Virginia Association of Assessing Officers (tax exemption policy)
- Pennsylvania Bar Institute (governmental immunity)
- Allegheny County Bar Association (Section 1983 liability)
- Erie County, Pennsylvania Bar Association (reassessment law)
- Pennsylvania Claims Association (uses of computers in law offices)
- County Commissioners Association of Pennsylvania (various legal issues facing Counties)
- Pennsylvania Department of Community Affairs (governmental immunity)

Professional and Community service

University of Wyoming Faculty Senate

- Immediate Past Chair 2020-21
- Chair 2019-20
- Chair-elect 2018-19
- member 2012-2020
- Executive Committee 2013-2021

American Bar Association, Member, site teams for accreditation review at seven different schools:

- Michigan State Detroit College of Law, spring 2007
- Campbell University School of Law, fall 2008
- Charlotte School of Law, fall 2009
- Elon University School of Law, fall 2010
- Thomas Cooley School of Law (Ann Arbor campus), spring 2011 and spring 2014
- Belmont University School of Law, fall 2012
- University of Tulsa College of Law, fall 2014 (team chair)

Chair, Wyoming Promise (grass-roots non-partisan organization of citizens throughout Wyoming organized to demand a Constitutional amendment overturning *Citizens United*) (2017-present)

Member, Council of the Professional Legal Education and Admission to Bar Section (PLEADS) of the Indiana State Bar Association (2004-2012)

Board of Trustees, Unitarian Universalist Church of Indianapolis (member, 2007-2010; treasurer, July 2008-June 2010)

Board of Trustees, Unitarian Universalist Fellowship of Laramie, WY (treasurer, June 2013-2017)