

PREFACE

We celebrate the Twentieth Volume of *Legal Communication & Rhetoric: JALWD!* This volume reveals and discusses opportunities for growth and new frontiers in the field of legal communication. ChatGPT makes its first impact on the journal with former Editor-in-Chief Ian Gallacher's essay, and we invited ChatGPT to help with the preface. ChatGPT's response to "write a preface for a journal volume with a theme of opportunities for growth and new frontiers in the field of legal communication" was a bit over the top (which could have been tempered with a revised prompt). Yet, the ideas we want to convey to you were there:

Welcome to this special volume of our esteemed journal, dedicated to exploring the exciting realm of opportunities for growth and new frontiers in the field of legal communication. In an era characterized by rapid technological advancements, globalization, and shifting societal dynamics, the landscape of legal practice has witnessed remarkable transformations. As legal professionals, scholars, and enthusiasts, we find ourselves standing at the threshold of a new era, replete with possibilities and challenges alike.

Effective communication lies at the heart of the legal profession, forming the bedrock of legal interactions, advocacy, and the dissemination of legal knowledge. It is through the power of language and persuasive discourse that legal professionals bridge the gap between complex legal concepts and the public, fostering understanding, cooperation, and justice. However, in an age of unprecedented information flows and evolving modes of communication, the traditional approaches to legal communication are being challenged and redefined.

In recognition of the evolving world of legal communication and to celebrate the twentieth volume of *Legal Communication & Rhetoric*, the editorial board invited former Editors-in-Chief to reflect on the journal's history and share their thoughts on where the journal has been and where it may be going. In the first of these three reflection pieces, Linda Berger, Ruth Anne Robbins, and JoAnne Sweeny chat with editor Genevieve Tung to share their EIC experiences and highlight influential articles. Their conversation illuminates criteria for articles that are "models of the habits of mind of the authors that are contributing to building knowledge about legal writing, developing theoretical knowledge," and it generates a robust reading list of articles that meet these criteria. The conversation reveals the great depth of legal writing scholarship and inspires readers to continue supporting, developing, and writing in the field.

The “first influential article” Professor Berger notes in her reflection is Michael Smith’s Foreword to the first volume of the *Journal*, “The Next Frontier: Exploring the Substance of Legal Writing.” And, fittingly, Professor Smith’s reflection piece is the second of the set of EIC reflections. In his essay, Professor Smith discusses the *Journal’s* mission and how the *Journal* has successfully maintained that mission in its articles. He also recognizes the range of interdisciplinary and empirical work published in the *Journal*, and notes that the “journal’s execution of its mission over the last twenty years has had a profound impact on the development of legal writing scholarship and on the growth and maturity of legal writing as a discipline within the general legal academy.” As the *Journal* continues to build the discipline, Professor Smith praises the *Journal’s* work and looks forward to further “exploration of new frontiers in legal writing doctrine.”

Speaking of new frontiers, have you heard of ChatGPT? In the final former-EIC essay, Ian Gallacher takes us on a journey that confronts the future of legal writing as generative AI. Professor Gallacher does so with a healthy and engaging dose of humor for even the most resistant. By engaging with Chat (yes, Professor Gallacher assures us, we can call it Chat), the essay demonstrates some of the strengths and weaknesses of generative AI and grapples with theoretical and practical aspects of generative AI. Professor Gallacher raises questions about what Chat can do, what it could do, and how it could change the practice of law and legal education. He calls on the legal writing community to address these questions. New frontiers, indeed.

Next, we have three articles and one essay, beginning with Alexa Chew’s article, “The Fraternity of Legal Style.” In her article, Professor Chew shares the findings of an empirical study of writing experts mentioned in popular legal style books. Professor Chew’s article identifies a significant opportunity for growth in the legal writing field, as her study shows that these experts are overwhelmingly men. In sum, Professor Chew’s study finds that popular legal style books mainly consist of “white male writers writing about other white male writers who went to elite schools and held elite lawyering jobs and are probably dead.” Professor Chew concludes that the results of her study “suck,” but offers hope for the future if “people who write about legal style . . . research harder.” And if they do, Professor Chew is confident that there are plenty of new models of legal style to discover.

In “Negative Language in Legal Writing,” Maria Termini focuses on the common good versus evil binary, which, in legal writing, appears in a writer’s linguistic decision regarding whether to make a point positively or negatively. While the traditional advice is that legal writers should be positive, more recent scholarship explores the benefits of negativity.

Professor Termini builds on this scholarship by distinguishing between two types of negative language used in legal writing: negation and negative valence. Using this research along with practical considerations, Professor Termini proposes six principles that can guide legal writers in choosing between positive and negative language.

Next, Amy Soled explores the implications of storytelling in attorney ethics hearings in “Do Client Narratives Belong in Attorney Ethics Hearings?” Professor Soled brings together two threads of scholarship: scholarship on the importance of storytelling, how and why it works; and scholarship on the ethics of storytelling in terms of truthfulness and whether the client has input into the story. In serving the overall purpose of attorney ethics hearings to protect the legal profession’s reputation, Professor Soled argues against using narrative in defending a client against ethical misconduct. She does, however, suggest that narrative can play a limited role in sanctions.

Brian Wolfman’s essay, “How to Conclude a Brief,” responds to an #AppellateTwitter discussion about what should go in an appellate brief conclusion. Professor Wolfman explores this question in the context of argument ordering in multi-issue appellate briefs. Professor Wolfman proposes a framework that calls for following court rules, keeping conclusions short and sweet, and avoiding unnecessary repetition, and provides several examples to illustrate his proposed framework. Given that multi-issue appellate briefs may end on the least powerful or least important argument, the brief has the potential to end on a down note. Professor Wolfman suggests implementing a thematic connection between the less important arguments and the more important arguments. This thematic connection between the weaker and stronger arguments can draw on the strengths of the earlier arguments to build toward the conclusion, ending on a high point. Professor Wolfman also suggests that writers may want to intentionally adjust argument order to begin and end on a strong argument.

The volume concludes with book reviews on a range of topics relevant to legal communication. Danielle Tully reviews *SHAPING THE BAR* by Joan Howarth, which examines the bar exam’s protectionist roots and ongoing gatekeeping based on mistaken ideas about attorney competence and how to measure it. Wayne Schiess reviews *THE (NOT TOO SERIOUS) GRAMMAR, PUNCTUATION, AND STYLE GUIDE TO LEGAL WRITING* by Diana J. Simon, a witty and engaging book about grammar in the context of legal writing. In her review of Leidy Klotz’s *SUBTRACT: THE UNTAPPED SCIENCE OF LESS*, Jennifer Murphy Romig examines how lessons about “less” can be used in legal writing. In his review of *REFLECTIONS ON JUDGING* by Richard Posner, which was published in

2013, Srikanth Reddy considers how Judge Posner's opinions, particularly his criticisms of judicial restraint and textualism, are still relevant today. Susanna K. Moran reviews *THE WAY FORWARD FOR LEGAL EDUCATION* by David I.C. Thomson, which makes a compelling case that the shift to online and hybrid learning is not only inevitable but essential for the survival of law schools and the future of the legal profession. Susan Green finds *SEDUCED BY STORY: THE USE AND ABUSE OF NARRATIVE* by Peter Brooks, to provide a helpful introduction to how stories work and the use of storytelling in the law. The volume's book reviews conclude with Jennifer Cooper's review of *SIMPLY SAID: COMMUNICATING BETTER AT WORK AND BEYOND* by Jay Sullivan, which provides concrete suggestions for simplifying communication strategies.

Finally, we must say farewell to four of our editorial board members: Susan Bay, co-managing editor, Brad Desnoyer and Beth Wilensky, lead editors, and Aysha Ames, associate editor. We are deeply grateful to Sue Bay for her many years of service to the journal, especially her behind-the-scenes work that went into each volume's publication. In her role as co-Managing Editor, Sue supported the journal's transition to primarily web-based publication. She was instrumental in working with the journal's designer to improve the overall editing and pre-designing process to better meet authors' needs. More recently, Sue streamlined the design process, resulting in significantly fewer technical errors and increasing the rate of delivery of the final proofs. Sue has also contributed to the journal's efforts to include practitioner essays that did not follow the journal's typical timeline. That development will not only increase the diversity of the journal's authors but we also anticipate an increase in readership among practitioners. We thank Brad Desnoyer for his contributions to nine volumes of the *Journal*, seven as an associate editor and two as lead editor. We thank Beth Wilensky for her willingness to jump in as a lead editor beginning with Volume 18 and we thank her for her flexibility in working on book reviews and the former-EIC essays. Thank you to Aysha Ames for her work as an associate editor since Volume 18. We appreciate her enthusiasm and commitment to the *Journal* during her time on the editorial board. We wish the best to Sue, Brad, Beth, and Aysha.

In ChatGPT's words, "let us engage in fruitful dialogue, challenge existing paradigms, and embrace the opportunities that lie before us. May this volume inspire the pursuit of excellence, foster interdisciplinary collaboration, and ignite a passion for shaping the future of legal communication." Onward.

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