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It's Not Purely Academic: Using Practitioners to Increase the Rigor and Practical Learning in Scholarly Writing

Karen Thornton

George Washington University Law School

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Brutal Choices in Curricular Design ...

Brutal Choices in Curricular Design... is designed to explore the difficult curricular decisions that teachers of legal research and writing courses are often forced to make in light of the realities of limited budgets, time, personnel, and other resources. We wonder if, given today's difficult economic times, there is an increased move to use adjunct instructors rather than full-time faculty in legal writing programs. The two articles that follow focus on adjunct-led programs. We invite comments about adjunct-taught programs for potential publication in the Fall 2012 Perspectives. Please send commentary to [Kathryn Mercer](#) or [Helene Shapo](#).

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It's Not Purely Academic: Using Practitioners to Increase the Rigor and Practical Learning in Scholarly Writing

By Karen D. Thornton

Karen D. Thornton is an Associate Professor of Legal Research & Writing at The George Washington University Law School in Washington, D.C.

We have all heard the now-common refrain from employers: law schools must do more to prepare graduates for practice. In response, some schools have built additional courses into their offerings, such as motion drafting and client interviewing. Though worthwhile, this approach overlooks practical skills that can be developed through an existing graduation requirement. Upper-level writing is a ready-made opportunity for skills training taught by

experienced practitioners who can most effectively demonstrate for students what it means to write at the level of a junior associate. At The George Washington University Law School (GW), we have a practitioner-taught scholarly writing course that focuses on the practical application of academic writing and prepares 2L students for the demanding expectations they will face during their summer associateship. Drawn largely from the local alumni pool, our adjunct professors are practitioners who bring their daily work experience to the classroom to prove that writing a seminar paper is more than purely academic, it is a preview of the writing

process lawyers execute every day. Further, by providing students personalized feedback on their writing and holding them to the same time management and writing standards expected of associates, these practitioners prepare their students to impress in any professional setting.

When students return from their 2L summer, they tell us how much they appreciate the scholarly writing advantage and the sense of confidence it gave them as summer associates. This past fall, one student reported that, at his firm, offers would not be extended to every summer associate, and it was

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no secret partners were making hiring decisions based on associates' writing skills. The student said he was grateful for the additional year of small-group writing instruction he received in the scholarly writing course and he was sure it contributed to his receiving an offer.

The intense practitioner-supervised scholarly writing process has also increased the rate of student publication. In 2010, *Scribes*, the American Society of Legal Writers, recognized a GW Law Review member's work as the best note of the year.¹ Sixty-one student notes written during the 2010–2011 academic year were selected for publication in GW's seven journals. Of those seven, four journals are associated with a bar association or law society, which means the students' writing is being read by practitioners. One student note, recently published in a bar association journal, was described by a government lawyer to his colleagues as a must-read.

This paper asserts that in times when curricular resources are spare, a scholarly writing course taught by adjunct faculty dedicated to instilling in their students an appreciation for precision and professionalism makes the most of an existing graduation requirement. We will begin by briefly describing the ABA standard for upper-level writing, then explain how an adjunct-taught scholarly writing course can bring practical learning to the classroom, and finally, address challenges associated with managing an adjunct faculty.

“One Additional Rigorous Writing Experience”

Over 10 years ago, the ABA Board of Governors revised its standards of accreditation to require a minimum of “one additional rigorous writing experience after the first year.”² The Standards Review

Committee took action in response to practitioner complaints about poor law graduate writing skills, acknowledging the upper-level writing requirement was intended, in part, to “support the claim that the Standards' requirements did, in fact, do an adequate job of preparing law graduates to begin the practice of law.”³ In a 2007 article, Kenneth Chestek lamented that the requirement alone is insufficient because law schools do little to ensure rigor in upper-level writing.⁴ At some schools, an independently written, lightly supervised paper of 8,000 words is sufficient to meet the graduation standard.

About five years after the adoption of the new requirement at GW, we saw weak student notes, guided only by 3L notes editors, as a missed opportunity and a call to raise our standards. Some faculty members responded to mediocre upper-level writing by questioning the quality of the 1L legal writing course. Those of us who teach Legal Research and Writing recognize, however, that the 1L course is not intended to prepare students to write a scholarly paper. The ABA standards drafters also appreciated this distinction when they noted that a first-year course is not enough; rather, “a substantial writing experience in the first year is fundamental, and . . . students will benefit from a writing experience beyond the first year.”

We have found the best way to ensure a student's upper-level writing experience is rigorous and prepares him to meet practitioner expectations is through a scholarly writing course taught by lawyers who write for a living. When faced with budget constraints, law schools should capitalize on this existing academic requirement and relatively inexpensive labor force as an opportunity to develop practical learning. The next section will describe GW's adjunct-based scholarly writing course and how it fulfills the

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¹ According to its website, *Scribes*' purpose is to “honor legal writers and encourage a ‘clear, succinct, and forceful style in legal writing.’” GW student Michael Wagner was honored for his note, *Warrantless Wiretapping, Retroactive Immunity, and the Fifth Amendment*, 78 *Geo. Wash. L. Rev.* 204 (2009), which was written in fulfillment of the scholarly writing course.

² The ABA requires all graduates to complete a rigorous writing requirement of no less than 8000 words. *Am. Bar. Ass'n Sect. of Legal Educ. & Admissions to the Bar, Standards for Approval of Law Schools* 40, Standard 302(a)(i) (2000). For further background on the origins of the ABA upper-level writing requirement, see the 1992 McCrate Report, http://www.americanbar.org/groups/legal_education/publications/maccrate.html.

³ Kenneth Chestek, *MacCrate Inaction: The Case for Enhancing the Upper-Level Writing Requirement in Law Schools*, 78 *U. Colo. L. Rev.* 115, 123 (2007).

⁴ Chestek, *supra* note 3, at 119. Chestek examines how various law schools have implemented the ABA's 2001 amendment and whether the added requirement achieved its purpose. He concludes that the amendment had little impact on skills education at law schools and was a “missed opportunity to move schools toward a more practical approach to legal education.” *Id.* at 115.

ABA's original purpose for adding a "rigorous writing experience" after the first year.

GW's Scholarly Writing Program: Where the Academic Meets the Practical

The scholarly writing course is designed to train students for a legal profession that demands analytic persuasion, concise writing, and strength of character. We employ practitioners who live and breathe these demands on a daily basis; our adjunct faculty members are mostly former journal editors and subject-matter expert practitioners. The students are 2L journal members who are writing a note, in fulfillment of their upper-level writing requirement for graduation. In addition to the Law Review, GW hosts six specialized journals that focus on subjects such as environmental law, intellectual property, and international law.

The newly minted 2L journal member is understandably anxious when tasked to state and prove a thesis in 8,000 words. If on a specialized journal, she likely has had no training in the law within the journal's specialty. The student may be inspired by a sense of autonomy not found in the first-year writing course, but without the skill and focus of a practitioner to guide her through the writing process, the student will likely revert to undergraduate research paper writing habits. Unless students are taught to approach the upper-level writing paper as a practical skills builder, they will miss a unique opportunity to see that a professional never stops improving his writing skills and also to develop a sense of self-reliance and professional confidence.

To make the very most of the upper-level writing requirement, GW's scholarly writing curriculum focuses on writing skills used in practice and offers much-needed direction, interim deadlines, peer review, and individual feedback. The class meets just eight times across the academic year and affords significantly greater independence than the 1L writing course, with less lecture and more collaborative group discussion. However, the lessons that writing is a disciplined process and clear writing is carefully structured remain

the cornerstone for instruction; these lessons are just as true in practice as in the academic setting.

The scholarly writing curriculum identifies key milestones in the writing process, and at each milestone the adjunct gathers a small group of no more than 10 students for lecture, peer review, or individual feedback. Our textbook, Jessica Clark and Kristen Murray's *Scholarly Writing: Ideas, Examples, and Execution* (Carolina Academic Press 2010), presents a chapter on each milestone: thinking, preparing, executing, refining, and publishing.⁵ The next section explains how adjunct professors demonstrate that attorneys mirror these academic milestones in the writing they do in practice, and it is followed by a brief summary of student feedback.

The Parallel Stages of Writing

The scholarly writing course prepares students to write for a highly critical audience that seeks a creative perspective, a synthesis of significant research sources, and a practical solution, all packaged in a highly readable style. Without the practitioner's guidance, most students falter at the outset because they have no context for recognizing their audience's needs or interests. For the majority of students, the most difficult stage of the writing process is selecting a topic and crafting a thesis that is both novel and useful to the reader.⁶ Without a proper launch, the typical student will revert to descriptive writing.

It is precisely this regression that generates criticism and frustration from seminar professors and journal faculty advisors who review and grade upper-level writing. With practitioner feedback and encouragement at the outset and at each milestone, however, the student can embrace the notion of writing as a process and then progress

⁵ Requiring students to use a written text in a scholarly writing course saves teaching time and puts the course on par with substantive courses. Lissa Griffin, *Teaching Upperclass Writing: Everything You Always Wanted to Know but Were Afraid to Ask*, 34 *Gonz. L. Rev.* 45, 57 (1999).

⁶ Eugene Volokh explains that a piece of good scholarly writing presents "a claim that is novel, nonobvious, useful, [and] sound..." Eugene Volokh, *Academic Writing: Law Review Articles, Student Notes, Seminar Papers and Getting on Law Review* 9 (3d ed. 2007).

“The scholarly writing course is designed to train students for a legal profession that demands analytic persuasion, concise writing, and strength of character.”

from one stage to the next. The following chart presents the stages of writing a scholarly paper and demonstrates how our adjunct professors translate the academic process into the process by which attorneys approach any writing assignment.

In the Scholarly Writing Course	In the Practice of Law
Find a legal problem that interests you and work with the adjunct professor to identify your audience.	Receive a task from your supervising attorney and make time for thinking about the underlying legal issues.
Formulate a thesis by giving voice to a position heretofore unnoticed or unappreciated and test out your idea in a peer-review meeting.	Establish your "theory of the case."
The adjunct professor sets interim deadlines for an outline, first draft, second draft, and final product.	Consider your caseload and billable hours and plan your schedule.
Meet with a research librarian to learn advanced research techniques and maintain a journal for your reactions as you research.	Conduct research and organize your sources.
Outline your main points and supporting points and include annotated sources. Use the peer- review meeting discussion to identify logic gaps in your outline.	Create a document with organized and annotated bullet points as a progress report for the supervising attorney. Prepare to be grilled on sources and reasoning.
Flesh out your outline into a first draft then meet with the adjunct professor to identify practitioners who can help strengthen sources and arguments. Doubles as a networking opportunity!	Implement criticism and then string the bullet points together into a rough draft and meet with a peer-level colleague to test persuasiveness by evaluating structure, sources, and reasoning.

Exchange drafts within the peer-review group and make revisions for structure, persuasiveness, and reasoning.	Refine the draft by scrubbing for grammar, style, and word choice. Rely on favorite desk reference, e.g. Strunk & White.
Meet individually with the adjunct professor to identify and correct sentence-level weaknesses in the second draft. Adjunct will recommend favorite desk reference.	Polish further to ensure the supervising attorney sees only a perfect final product.
Submit to the adjunct professor for final grade and discuss publishing opportunities.	Submit to the supervising attorney.

In the very first stage, the student meets individually with the practitioner to discuss the student’s legal interests and personal strengths. The adjunct guides the student to a hot issue that has fellow practitioners abuzz and also complements the student’s interests. This works best when the adjunct practices in the field covered by the journal, but can also succeed in a more general context where the practitioner subscribes to the journal and follows developments in local or federal case law.

The practitioner further engages the student in thinking about how his interests might intersect with current developments in the law and offers a number of secondary sources to familiarize the student with the existing literature. This personalized attention from a member of his audience helps the student understand how to best present his message to the journal reader. To memorialize his expectations, the practitioner distributes a rubric that reflects, among other teaching points, the significance of a carefully honed thesis. From the very outset, the student understands the bases by which the reader will evaluate his paper.

Next, a research librarian takes the student beyond the 1L research methods and introduces the full extent of online databases and shared library catalogs that enable students to delve deeper into legislative history, policy directives,

“In the very first stage, the student meets individually with the practitioner to discuss the student’s legal interests and personal strengths.”

and legal journals, both domestic and foreign. The practitioner supplements this training with his own lists of favorite blogs and Web-based materials to emphasize that research strategies confined to Google, Lexis, and Westlaw® may be considered incomplete in practice. The practitioner also shares practice-based anecdotes about long days devoted to the research phase to make manifest the value placed on writing that is well-researched and supported.

Once the research is underway, the student needs training in organizing ideas and sources to maintain efficiency and academic integrity. The adjunct assigns a research journal to train students to chronicle not only the relevant sources they identify, but also their critical reactions. This assignment is designed to encourage each student to find his or her voice rather than be tethered to description and paraphrase.⁷ Journaling also ensures students maintain the integrity of their sources by providing proper attribution. Adjuncts take this opportunity to discuss professionalism and the extraordinary damage plagiarism can do to a lawyer's credibility and career.

From this research journal, the student builds an outline, which becomes the centerpiece for an adjunct-moderated peer-review meeting. All participants are expected to read and provide impressions on the structure and substance of each other's outline. Being face to face with the audience helps the student achieve a breakthrough in her reasoning, compelling the student to clarify logical connections that may have been muddled. To structure the peer-review meeting, the practitioner distributes suggested questions that are borrowed from our textbook's helpful self-

assessment guides.⁸ For his part, the practitioner explains that in practice a supervising attorney will likely demand the junior associate outline a strategy for responding to a client issue and then challenge the associate's research, assumptions, and reasoning to strengthen the work product.

The drafting stage follows on the outline and, during this phase, the adjunct distributes handouts identifying common first-draft errors for students to avoid. In practice, supervising attorneys expect junior associates to solve challenges themselves without a flurry of follow-up questions, so these guides train students to be self-reliant. The adjunct also provides personal tips for time management and establishing a disciplined writing schedule, which are lessons learned from years of experience meeting office deadlines.

When the draft is complete, the peer-review group meets and exchanges papers again. This meeting is an opportunity for students to overcome the isolation of the drafting process and recognize their common struggles, such as structural organization, effective transitions, and counter-arguments. To help students refine their analysis, the practitioner plays the role of the skeptical, supervising attorney, and presses the students to sharpen their reasoning orally. In some cases, where a paper falls short on addressing counter-arguments, the adjunct professor can refer the student to a colleague who has practice experience with the student's topic. This unique opportunity will help the student identify gaps requiring additional research, logic flaws that must be more carefully articulated, and concrete examples to bolster the paper's persuasiveness. As a secondary benefit, the meeting may also serve as an employment networking opportunity for the student. Many students have remarked that their note became a great source of conversation during an interview, enabling them to demonstrate expertise and enthusiasm about a topical legal matter.

⁷ Professors Elizabeth Fajans and Mary Falk describe their initial disappointment in their students' scholarly writing and ascribe the weak writing to a failure to appreciate the nuances and dialogue in the sources they read. Elizabeth Fajans & Mary R. Falk, *Against the Tyranny of Paraphrase: Talking Back to Texts*, 78 *Cornell L. Rev.* 163, 170 (1993). Professors Fajans and Falk have also written an upper-level writing textbook, Elizabeth Fajans & Mary Falk, *Scholarly Writing for Law Students: Seminar Papers, Law Review Notes, and Law Review Competition Papers* (3d ed. 2005).

⁸ See, e.g., "Chapter 5 Quiz: Evaluating my Thesis," Jessica Clark & Kristen Murray, *Scholarly Writing: Ideas, Examples, and Execution* 81 (2010).

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In the final, individual meeting with the practitioner, the student presents his penultimate draft and the discussion centers on style, sentence-level logic problems, and attention to detail. This polishing phase lends itself to real-time critique where the adjunct may read the draft aloud so the student can hear the flaws. By experiencing the practitioner's reaction to his work, the student learns that in practice his writing will always be scrutinized by a critical reader who demands a flawless product. This meeting will often end on a high note, with the practitioner encouraging the student to dig deep for one, final push toward producing a publishable paper and emphasizing that stamina is a key attribute of any successful, professional writer.

Student Feedback

Anecdotal findings suggest students leave the scholarly writing course better prepared for practice. As summer associates, students experience practitioner demands for thorough research, well-developed analysis, and refined writing. New 3Ls return to tell us how well-prepared they felt because of the planning, writing, and polishing skills they gained from the note-writing process. According to one, "in college, I got by submitting first drafts—scholarly writing taught me how to write multiple drafts to fulfill a partner's expectation for polished writing." Others appreciate that they have a sense of what employers will demand: "I liked that my adjunct always challenged my thinking. He seemed skeptical of my analysis in a way that kept me on my toes and forced me to be clear in my articulation." In addition, students come to recognize the value of the soft skills learned by collaborating and sharing feedback within a peer group: "I appreciated getting input on my note from other members of my peer-review group. Realizing there are always varied perspectives among readers helped me deal with the sometimes contradictory feedback I got from my supervising attorneys this past summer."

Those students whose scholarly papers were selected for publication beam with a special pride that comes from being recognized for a difficult and personal effort: "In my 1L summer, when my boss gave me an assignment, I would spend the first couple hours just panicking and wondering where

to begin! After taking scholarly writing and having my note published, I have become so much more efficient. When I got assignments as a summer [associate], I was confident I knew where to start the process and how to structure my writing."

Student feedback is a meaningful measure of how well the scholarly writing course prepares students to work for professional writers. When making curriculum decisions about how to ready students for practice, law schools should take advantage of an available and relatively inexpensive labor force to develop practical learning. The next section will allay concerns that the benefits of an adjunct faculty are outweighed by the costs.

Addressing the Challenges of Managing an Adjunct Writing Faculty

Managing the scholarly writing course is not a full-time job. To the contrary, the course largely runs itself because the roster of adjuncts has grown into a collegial network, thanks to a conscious emphasis on communication and shared teaching materials.

The scholarly writing course relies on a team of 35 adjunct faculty members to maintain a student-faculty ratio of approximately 9-to-1. When we hire adjuncts, we first turn to journal faculty advisors and editorial board alumni for recommendations. The positions have become highly sought after among local graduates who were heavily invested in the law school's writing program as fellows and editors. It is not the monetary reward they seek, but the intangible: a sense of giving back to the law school and a chance to shape future professionals. The scholarly writing course rewards the adjuncts in each of these ways, but they also gain from the collaborative sense of community as part of an academic team.

There are two traditional counterarguments to relying on adjunct faculty: the administration can be unduly burdensome for the program coordinator, and students may chafe at the lack of uniformity among professors. We have overcome these concerns by emphasizing the benefits of being part of an academic community and by sharing best practices ideas among the adjunct community members.

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A Sense of Community

The program coordinator is largely a facilitator. The adjuncts are the ones bringing the most valuable teaching material to the classroom. But unless the coordinator reinforces and shares best practices or sets policies to address common issues, such as extension requests, the adjuncts can feel disconnected or isolated.

Twice annually, we host lunch meetings to gather the adjuncts and share practice ideas in the style of an informal symposium. Many are scattered across town but practice within the same field, and enjoy the time to catch up on current career pursuits and build a sense of camaraderie over lunch. In a city of thousands of lawyers, being part of a specialized practice area is like being part of a club where everyone knows your name.

Often we invite a guest, such as a counseling center representative, to give a presentation on identifying students in need, or the writing center coordinator to describe additional writing resources available to students on campus.

Individual adjuncts may take turns sharing lesson plan ideas or seeking advice. These meetings are also an opportunity to address consistency in grading by distributing and discussing a rubric.

In addition to these two meetings, we issue monthly best practices bulletins to promote and disseminate teaching ideas and techniques from the experienced adjunct professors or from legal writing conferences and journals. With these multiple layers of communication and connection, we demonstrate our commitment to the adjuncts' professional growth. When they sense they are valued, adjuncts contribute more to their students' development. By building a sense of community among the adjunct professors, the scholarly writing program has become an opportunity for the practitioners, as much as the students, to find satisfaction and enrichment.⁹

Achieving Uniformity

We have found that a new, untrained teacher can be just as effective as an experienced one, if you pair him with a student teaching assistant and enforce consistency with shared lesson plans, assessment tools, and rubric. The journal *Science* recently published a paper that asserts less experienced instructors can have greater success in producing student learning when they use “deliberate practice,” combining experiential learning and ongoing assessments.¹⁰ After all, the value of having an adjunct in the classroom is the unique practice-based perspective she brings and how well she challenges the students to meet her practice-level expectations.

When adjuncts ask their teaching assistants (the 3L note editors) to present testimonials of impressing clients and supervising attorneys with efficient research and outlining skills, the message resonates deeply with impressionable 2Ls. The 3Ls connect their note-writing experience to the writing they did as summer associates. They can speak frankly of the hard work and long hours they devoted to writing and acknowledge that in scholarly writing, as in practice, there are no shortcuts. Employing student voices helps the adjunct overcome any notion that he or she is out of touch with the student experience.

To address student demands for consistency among adjuncts, we use assessment questions from the Clark & Murray textbook to structure the peer-review discussion sessions. For grading purposes, we employ a common rubric, which captures all the elements of the scholarly writing curriculum. The rubric addresses the strength of the thesis idea itself, the structure of the document, and how well it persuades. It further captures matters such as style, and how well the thesis fits within the context of existing literature. For the students, having the adjunct's expectations in writing is like owning the key to unlock their full professional potential.

⁹ See Chestek, *supra* note 3, at 143.

¹⁰ Tushar Rae, *Postdocs Can Be Trained to Be More Effective Than Senior Instructors, Study Finds*, *The Chron.*, May 12, 2011.

Conclusion

In addition to building practical skills, students gain intangible benefits from the disciplined mentoring relationship and individual feedback practitioners provide in the scholarly writing course. The students come to see that discipline breeds freedom—freedom from the anxiety of executing poorly planned writing and the freedom to develop a persuasive voice.¹¹ The low student-teacher ratio and individual feedback assures students they have a coach in their corner who will condition and develop their sense of patience and attention to detail and help them tap into their personal strengths to overcome initial

anxieties.¹² At the end of the year, the satisfaction of completing and even publishing a scholarly paper creates a newfound sense of confidence and empowerment. Students who become lawyers who love language and learning are ultimately stronger and happier throughout their careers.¹³ Finding this happiness by embracing a disciplined writing process is a lesson best learned from a practitioner.

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¹¹ Anne Lamott offers that discipline, ironically, can create a sense of liberation. Anne Lamont, *Bird by Bird: Some Instructions on Writing and Life* 233(1995). Interim deadlines, writing groups, and peer review help students create this discipline.

¹² See Harold Bloom, *The Anxiety of Influence: A Theory of Poetry* (1997), from Terry Phelps' presentation at the Capital Area Legal Writing Conference, The George Washington University Law School, February 2011.

¹³ *Id.*

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Another Perspective

“Changes in the structure of law firm practice over the past several decades have made the informal apprenticeship model, under which new lawyers gained professional competence by working closely on client matters with more experienced lawyers in the firm, almost obsolete. Today, a senior lawyer in a private law firm is less likely to work closely with an associate to draft and redraft a piece of writing for a number of reasons. Although successive redrafts of a document in light of feedback from a supervisor would improve the product as well as contribute to the associate’s development as a legal writer, short-term efficiency—for example, meeting a client’s need for turnaround—may require that the supervisor take the project away from the associate. Also, given increased competition among law firms and the high cost of legal services of large private firms, deriving in part from high compensation levels of lawyers, law firms may find it difficult to justify to a client charging for time that includes training.

In light of these and other pressures militating against apprenticeship-type training, a law firm may expect new hires to graduate from law school already proficient in many law practice skills, including the skills involved in producing specific types of legal writing that an associate will be called upon to produce in practice. Although law schools in general have increasingly incorporated practice skills into their curricula, an expectation that a new law school graduate will be ready to practice law “right out of the box” is unrealistic. Indeed, preparation for practice is part of the mission of most if not all law schools, but law school faculties and law firms may differ widely on the appropriate nature and extent of that preparation. Although some large firms conduct “boot camps” to introduce certain practice skills to new associates, law firms may be reluctant to invest significant time of senior lawyers that would otherwise be profitable in providing ongoing intensive training in writing. In light of all these circumstances, it is appropriate for law firms to shift some of the burden of teaching, training, and support of certain skills to outside experts.”

E. Joan Blum and Kathleen Elliott Vinson, *Teaching in Practice: Legal Writing Faculty as Expert Writing Consultants to Law Firms*, 60 Mercer L. Rev. 761, 765-768 (2009).