Efficient Advocacy in a Skeptical World

Yakov Malkiel

Legal writing is costly: it requires the expenditure of scarce resources, namely, time and money. Guidance for legal writers should therefore pay more attention to priorities. We should describe not only a perfect product, but also the aspects of that ideal that are *less* worthy of attorneys' time and clients' money. With that goal in mind, this essay analyzes the relative values of five aspects of ideal brief-writing: psychological persuasion, technical argumentation, vim, flair, and clarity. My analysis is guided by the observation that judges are expertly skeptical readers.[1]

The Problem of Cost

A classic mode of analysis in economics begins by assuming a world of costless transacting. In that hypothetical world, people and assets flow inexorably toward perfect results. Economists produce useful insights about real-world problems only by relaxing the assumption of costlessness.[2]

Much scholarship about legal writing quietly shares a similar assumption of costlessness. Instructors propose countless tips, strategies, and methods. They rarely disagree because an unconstrained writer could follow nearly all of

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[1] This essay describes my personal thoughts in a nonofficial capacity. I am thankful to Justin Kenney for his helpful input.

[2] *See* Timothy B. Lee, *The Coase Theorem Is Widely Cited in Economics: Ronald Coase Hated It*, Wash. Post, Sept. 4, 2013 (discussing R.H. Coase, *The Problem of Social Cost*, 3 Law & Econ. 1 (1960)).

their guidance.[3] By the same token, literature on writing spends little energy on identifying the tips, strategies, and methods that are *less* valuable than others.

In the real world, writers face serious constraints, primarily on their time. Nearly all legal submissions are governed by meaningful deadlines. Nearly all legal writers must allocate their time among a docket of assignments. There are only so many hours in the day, and only so many hours that attorneys will and should be paid for. Perfect briefs are not realistic.

Writing's costs will be felt most acutely in the presence of a tight deadline or budget. In those situations, the need to prioritize cannot be ignored. But the real-life truth that writing is costly means that prioritization is *always* important. A perfect brief, like 100% accident avoidance,[4] would be a Pyrrhic victory. The goal worth pursuing is an *efficient* (or "optimal") brief, namely, one that could be improved only through marginal costs that outweigh their marginal benefits. To achieve this type of efficiency, we must distinguish the most vital aspects of legal writing from those that are merely nice to have.

Perfect advocacy is, in short, unrealistic and wasteful in the real world. Efficient advocacy is a better goal for lawyers and clients alike.

[3] One prominent disagreement, illustrative in its specificity, concerns the advisability of footnotes. *See, e.g.*, Nancy A. Wanderer, *Textual Citations v. Footnotes: The Great Debate*, 32 Me. B.J. 37 (2017); Kathleen Dillon Narko, *Should You Move Citations to Footnotes?*, 28 CBA Rec. 44 (2014). A more conceptual disagreement is reported to be one-sided in Bryan A. Garner, *Judges on Briefing: A National Survey*, 8 Scribes J. Legal Writing 1 (2001–2002).

[4] See generally Guido Calabresi, *The Costs of Accidents* (1970).

The Skeptical Audience

The intended audience for a piece of writing necessarily shapes the yardstick for the piece's quality and efficiency.[5] Every brief is addressed to at least one judge: this essay's proposals therefore spring from a series of generalizations about judges' attributes and work processes.[6] To be sure, these generalizations are only a theory — an amalgam of inferences from facts that litigators observe in courtrooms, opinions, and other professional settings.

At the heart of a judge's job is the task of assessing lawyers' arguments. Judges come to this task heavily equipped. At least in the United States, they are typically appointed only after substantial careers as practicing attorneys. They are experienced in the practice of crafting legal arguments and refuting those of their opponents. Some judges draw on the work of law clerks, who are typically selected because of their own proficiency in analytical legal reasoning.

To appreciate the significance of these characteristics, consider another audience (which usually receives little attention): the adversary. On occasion, lawyers craft a motion or theory designed to provoke the other side into a targeted admission. But we rarely dream of writing a brief so persuasive that it changes our adversary's mind on any critical point.

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[5] *See* Maureen B. Collins, *Writing with Your Audience in Mind*, 87 Ill. B.J. 284 (1999); Debra R. Cohen, *Competent Legal Writing: A Lawyer's Professional Responsibility*, 67 U. Cin. L. Rev. 491, 498 (1999).

[6] Other than judges, two particularly important audiences are clients and supervisors. *See* Wayne Schiess, *When Your Boss Wants It the Old Way*, 12 Scribes J. Legal Writing 163 (2008–2009). These categories are difficult to diagnose collectively, however, because their members diverge wildly in their idiosyncratic penchants and bugaboos. This essay's proposals should nevertheless be useful to lawyers who typically answer to a client or a supervisor, because almost every writer enjoys *some* leeway on *some* projects.

Why not? Part of the answer is that it's the opposing lawyer's job to present an unpersuadable front. Perhaps sometimes our brief shows our adversary their error, and they just won't admit it. But I think there is another force at work. How often does the *other side's* brief change *our* mind? The uncommonness of that event should show us that lawyers are skilled not only at landing persuasive strikes but, equally, at parrying them. We collect the tools to refute, minimize, and counterattack whatever arguments the other side may launch: a leading precedent is distinguishable, an opponent's compelling personal story is irrelevant, and so on. We are too good at skeptical reading to succumb to an opposing lawyer's technique.

Judges are expected to be neutral. They do not share an advocate's institutional inability to accept an adversary's position. What they do share is the seasoned lawyer's skill at skeptical reading. They cut through persuasive devices in search of decisive facts, authorities, and principles. *That is what judges do* — all day, every day. To become efficient advocates, we must learn to love this truth.

An Efficiency-Based Prioritization

Discussions of legal writing tend to address both content and style — what to write, and how to write it. This section assesses the relative importance of two aspects of content and three of style. The discussion is rudimentary, abstract, and intended to provoke more sophisticated rejoinders.

Content

On the content side, two key elements of legal writing are psychological persuasion and technical argumentation. A significant body of literature is devoted to the former, often emphasizing the importance of good storytelling. An ideal brief will tell a

story that the reader will find plausible, relatable, and thus affecting.[7] The brief's arguments will naturally flow from that overarching story.[8]

Technical argumentation, by contrast, is the type of content that makes up the classic IRAC model: we spot issues, identify governing doctrine, and apply that doctrine to the facts. Some writers on writing discuss these exercises.[9] But substantive doctrine, issue-spotting, and doctrine-application also are the essential building blocks of our *entire law-school educations*.

This fact should give pause to lawyers who focus their energies on weaponizing persuasive techniques. These techniques are a significant aspect of legal writing. But scholars devote articles to them precisely because they are not what lawyers are otherwise trained to do. Lawyers are professional identifiers of law, appliers of law, and developers of legal arguments. As persuaders, we are amateurs. Technical argumentation is the most efficient use of legal-writing resources because it is the skill that we are professionally and rigorously taught.

The dominant importance of technical argumentation on the content side of writing becomes even more pronounced when we focus on the skeptical judge as our audience. I think it should be obvious that judges typically don't view briefs as entertainment. Much as litigators do with adversaries' submissions, judges *use* briefs rather than reading them like novels. They hunt for pivotal facts, precedents, and considerations among pages of clever prose. This may be particularly true of trial-court judges reading filings about a targeted issue. But appellate judges reviewing comprehensive appellate briefs also attack those briefs as veteran lawyers,

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7 Kathryn Stanchi, *Persuasion: An Annotated Bibliography*, 6 J. ALWD 75, 78–79 (2009) (collecting sources).

8 James W. McElhaney, *Briefs That Sing*, 83 ABA J. 80 (1997).

9 Stanchi, 6 J. ALWD at 83–84 (collecting sources).

subconsciously discounting rhetoric and legal irrelevancies while assembling the elements of their eventual opinions.[10]

Lawyers are commonly not only skilled but also confident. We may balk at the suggestion that judges are impervious to the pull of a strong brief. It is indeed true that judges' psychologies are only human. But think, again, of how rarely you have been swayed against your own case by a skilled opponent's brief. With experience, skeptical readers grow powerful defenses against other lawyers' techniques. An efficient allocation of a legal writer's content-focused resources will assign the lion's share of those resources to honing the best available technical arguments.[11]

What judges want to receive is not necessarily the same thing as what lawyers should want to provide. But it is noteworthy that in a survey of 355 judges, the top-line complaint was that "briefs lack rigorous analysis."[12]

Style

On the style side, namely, how to write the brief's content, common guidance emphasizes at least three aspects of ideal writing: vim, flair, and clarity.

By *vim* I mean an emphatic, decidedly nonbalanced presentation. Brief-writers are regularly encouraged to steep their briefs in assurance and punch. They are guided to tell the judge that the adversary's position is not only wrong on balance, but absurd; that the opposing party is not only incorrect, but evil; and so on. It is probably clear by now that, in my view, vim of this sort is

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[10] It is instructive that judges report a preference for "traditional methods of organization, such as the use of a summary or roadmap of the arguments to follow." Kristen K. Robbins, *The Inside Scoop: What Federal Judges Really Think About the Way Lawyers Write*, 8 Legal Writing 257, 264, 284 (2002).

[11] *Id.* at 257, 268–70.

[12] *Id.* at 257.

inefficient. Typically, it will leave the judge indifferent.[13] In fact, judges say that heavy doses of vim may yield worse than indifference.[14] This is, however, one aspect of writing that may matter quite a lot to clients.[15]

By *flair* I mean devices that tend to engage the reader's attention. The flair toolbox is shared by legal and nonlegal writers alike. It includes techniques such as varied sentence structures; occasional colloquialisms and archaisms; and metaphors, similes, and alliterations. Engaging the reader is certainly a worthy goal, and a measure of flair therefore merits some expenditure of resources.[16] But given the way that typical judges typically read, we should not overestimate flair's practical importance. A brief is unlikely to lose a judge's attention because it never *holds* that attention in the way that a novel would. Flair will typically neither help nor hinder a judge's efforts to mine a brief for the information that will feed the court's opinion.

Easily the most critical element of style in legal writing is clarity. Clear briefs are those as free as possible of ambiguity.[17] They permit the reader to understand the brief's arguments with the minimum demand for intellectual effort. Judges who write about writing tend to share the view that "[t]he lawyers who do the best

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13 *See* Avern Cohn, *Effective Advocacy in My Court*, 69 Mich. B.J. 1034, 1036 (1990) ("[N]eutral, non-argumentative style, which avoids hyperbole and color words, will greatly enhance your credibility with any court.").

14 *See* Maura Corrigan & Kurtis T. Wilder, *Reflections on Effective Advocacy*, 100 Mich. B.J. 38, 38 (2021) ("Character attacks can alienate the judge and poison the legal merits.").

15 See note 6 above.

16 *E.g.*, McElhaney, 83 ABA J. at 80 ("[C]ompetent, careful, accurate — and dull. It's what too many lawyers think they're supposed to be when they write."); Cohn, 69 Mich. B.J. at 1036 ("[A] lawyer should write with style. A brief is a form of prose. Concern with proper usage and style is important; it improves readability and enhances persuasiveness.").

17 Ollivette E. Mencer, *Unclear Consequences: The Ambient Ambiguity*, 22 S.U. L. Rev. 217 (1995).

job advocating their position are those who can clearly articulate precisely how they disagree with their opponent."[18] The prospect of a judge's not seeing a party's theory clearly, and needing to reconstruct that theory in chambers,[19] should be worrying to advocates: the judge may miss important points and may imagine a version of the party's argument that differs from the one that the lawyer would have liked.

Clarity is not an enhancement; it is a prerequisite for the reader to assimilate the brief's content. Efficient advocates allocating their writing resources should overwhelmingly prioritize clarity over other style-oriented objectives.

Conclusion

A perfect brief will weave its technical argumentation into an emotionally stirring story, seasoned lightly — when appropriate — with vim, and carried with flair. But because writing is costly, perfect advocacy is not a worthy goal. *Efficient* advocates will allocate the overwhelming majority of their writing resources to sharpening their technical arguments and describing those arguments as unambiguously as possible.

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[18] Cohn, 69 Mich. B.J. at 1034. *See also* Corrigan & Wilder, 100 Mich. B.J. at 38 ("Simplicity, clarity, and economy of words should be your goal in legal writing."); John H. Shepard, *Making Appellate Advocacy More Effective*, 74 Mich. B.J. 32, 35 (1995) ("If a case turns on a few salient legal issues, they should be stated in clear concise language."); Stanley Sporkin, *The Inside Scoop*, 27 Litigation 3, 70 (2001) ("Write in short declaratory sentences; be crystal clear.").

[19] *Cf.* Robbins, 8 Legal Writing at 269 (reporting a peeved sentiment among judges' staffs that "the parties are satisfied simply to identify issues and leave the rigorous research and analysis to the court").

Elephant in the Room

Patrick Barry

So will my page be colored that I write?
— Langston Hughes, *Theme for English B* (1951)[1]

In a class designed to help students improve both their editing and their advocacy, I recently tried an exercise that produced some thoughtful follow-up emails. You can try it yourself. Simply jot down the titles of any books on writing you have read, heard of, or been assigned.

Perhaps, for example, your high-school English teacher had you work through chapters of *The Elements of Style* by William Strunk and E. B. White. Or maybe a friend once recommended that you check out *Eats, Shoots & Leaves* by Lynne Truss, the British grammarian who did something remarkable in 2004: turn a book about punctuation into a *New York Times* best seller.[2]

Whatever your sources, whatever your educational background, the point of the exercise is to merely get a rough sense of who and what has shaped your understanding of what "good writing" is — particularly when it comes to the documents you're expected to produce in school or at work. The results may be illuminating.

In case your mental library is a bit bare at the moment, here are several titles that my students generated during class. Seeing them might jog your own memory.

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1 *Theme for English B*, Poetry Foundation, https://www.poetryfoundation.org/poems/47880/theme-for-english-b.

2 Sarah Lyall, *Writes, Punctuation Book and Finds It's a Best-Seller*, N.Y. Times (Jan. 5, 2004), https://www.nytimes.com/2004/01/05/books/writes-punctuation-book-and-finds-it-s-a-best-seller.html.

- *Bird by Bird* by Anne Lamott
- *On Writing* by Stephen King
- *On Writing Well* by William Zinsser
- *Steering the Craft* by Ursula K. Le Guin
- *They Say/I Say* by Cathy Birkenstein and Gerald Graff
- *Plain English for Lawyers* by Richard C. Wydick
- *Legal Writing in Plain English* by Bryan A. Garner
- *Point Made* by Ross Guberman
- *Drafting Contracts* by Tina L. Stark

Now comes the hard part: look at your list and try to find at least one author who *isn't* white. You don't have to find ten. You don't have to find five. You don't even have to find two. You just have to find one.

My guess is that this task will be depressingly difficult. It certainly was for my students. Close to ninety people were in the class. Not one came up with a writing guide authored by a person of color. Nor did anyone in a separate seminar of 25 students a few days later. I think that's a problem.

Writing White

Over the past several decades, the student population at law schools across the country has become more and more racially diverse. In 1987, for example, only about one in every ten law students identified as a person of color; by 2019, that percentage shot up to almost one out of three.[3]

Yet take a look at the list of books you put down (if you did the exercise) or at virtually any collection of recommended

[3] Law School Admission Council, *Diversity in the US Population & the Pipeline to Legal Careers*, LSAC, https://report.lsac.org/View.aspx?Report=DiversityPopulationandPipeline.

manuals on writing.[4] The composition of law schools may be changing dramatically, but the materials that students continue to be given to help them figure out how to put together documents that are proper, persuasive, and professional are designed pretty much exclusively by white people. "To write right," we seem to be saying, "you need to write white."[5]

A student identified this concern quite well in one of the follow-up emails I received after class:

> As a student of color, I feel like there's always a towering elephant in the law school classroom: the overwhelming majority of textbook authors and professors are white. But no one talks about it, and they certainly don't talk about how this [homogeneity] controls the narrative.

Think of your own education. How many of your courses were taught by white professors? How many of your textbooks

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[4] *See* Ross Guberman, *14 Great Books*, Legal Writing Pro, https://www.legalwritingpro.com/articles/14-great-books/; *Legal Writing/Contract Drafting Books*, American Bar Association, https://www.americanbar.org/groups/business_law/publications/writing_drafting/; *The Three Best Books About Writing — Are They on Your Shelf*, Law Professor Blogs (Mar. 18, 2009), https://lawprofessors.typepad.com/legalwriting/2009/03/the-three-best-books-about-writing-are-they-on-your-shelf.html; *Best Sellers in Legal Education Writing*, Amazon Best Sellers, https://www.amazon.com/Best-Sellers-Books-Legal-Education-Writing/zgbs/books/10929.

[5] For more on the connection between race and the teaching of writing, see Mya Poe, *Re-Framing Race in Teaching Writing Across the Curriculum*, 10 Across the Disciplines 1 (Aug. 7, 2013); Chris M. Anson, "Black Holes: Writing Across the Curriculum, Assessment, and the Gravitational Invisibility of Race," *in Race and Writing Assessment* 15 (Asao B Inoue & Mya Poe eds., 2012); Teri A. McMurtry-Chubb, *Writing at the Master's Table: Reflections on Theft, Criminality, and Otherness in the Legal Writing Profession*, 2 Drexel L. Rev. 41 (2009); Isabel Araiza et al., "Literate Practices/Language Practices: What Do We Really Know about Our Students?," *in Teaching Writing with Latino/a Students: Lessons Learned at Hispanic-Serving Institutions* 87 (Cristina Kirklighter, Diana Cardenas & Susan Wolff Murphy eds., 2007).

were written by white authors? Ninety percent? Ninety-five? One hundred?[6]

Modupe Akinola, a professor at Columbia Business School, recently shared an anecdote on the podcast *Choiceology* that shows that this lack of diversity is certainly not limited to law schools. "I'd often find myself setting up to teach a class," she told the host, "and somebody, usually a prospective student, would come in and say, 'Oh, I'd like to sit in on this class and learn more about this class. Where's the professor?' Yes, they would say that to me, as I'm setting up, looking like the professor, on the computer getting everything ready."[7]

Akinola then offers a couple of reasons why the "Where is the professor?" question keeps coming her way: "I look young, so yes, that's one of the reasons why they might ask. But I also am African American, and if you ask most people how many African American professors have you had, most would say zero or one. And then you ask them how many African American female professors have you had, and they would certainly say zero. Maybe some would say one."[8]

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[6] For a helpful overview of the lack of diversity among clinical law faculty in particular, see Jon C. Dubin, *Faculty Diversity as a Clinical Legal Education Imperative*, 51 Hastings L.J. 445 (2000); G.S. Hans et al., *The Diversity Imperative Revisited: Racial and Gender Inclusion in Clinical Law Faculty*, 26 Clinical L. Rev. 127 (2019).

[7] *Choiceology: Season 3 Episode 5*, Charles Schwab (May 13, 2019), https://www.schwab.com/resource-center/insights/content/choiceology-season-3-episode-5.

[8] *Id.*

White Forest, Dense Student

Akinola's story made me curious. How many African-American[9] female professors did I have when I was a student? How about the number of professors of color in general?

Here's what a quick check of my transcripts revealed. In four years of college, five years of graduate school, and three years of law school, I had right around what Akinola predicted: a grand total of one African-American female professor. And that was for a two-week trial-advocacy workshop in law school that was team-taught by a bunch of professors. My senior faculty mentor in the workshop was white. So was my junior faculty mentor.

If we expand the category to include professors of color in general, the number increases a bit, but not by much. It drops to zero, however, if we focus only on writing courses.

I take a lot of responsibility for this lack of curricular diversity. Professors of color existed at the law school I attended and at the universities where I went to college and graduate school. I could have done a much better job of seeking out their courses. Even when I signed up for ones explicitly about race — "American Law and the Rhetoric of Race" in college; "Race, Radicalism, and the Cold War" and "African Americans and the Literary Left" in graduate school — they were taught by white people. Wonderful white people. Brilliant white people. But white people nonetheless.

I was too intellectually dense as a student to realize the consequences of these choices, and I was certainly too emotionally

[9] I recently followed the lead of many publications — including the *New York Times* — in using *Black* instead of *African American*. But given that Akinola used *African American* when telling her anecdote, I decided to stick with that phrase as well. For an overview of how various style guides are navigating this issue, *see* Merrill Perlman, *AP Tackles Language About Race in This Year's Style Guide*, Colum. Journalism Rev. (Apr. 1, 2019), https://www.cjr.org/language_corner/ap-style-guide-race-black-vs-african-american.php.

and culturally dense to realize something else: how hard it must have been for students of color to have to pick from that same disproportionately white menu of faculty. As Shaun Harper, the executive director of the USC Race and Equity Center, has noted, "if in every class, all of your professors are white, it might signal that smart people of color don't belong here. Or when the only people who look like you are cutting the grass, emptying the trash, or frying French fries in the food court, that might suggest to you that my people are not thought of as professorial or professional."[10]

It can of course be tough, particularly when building your schedule each semester, to see how a collection of decisions that seem individually reasonable can lead to a collectively undesirable result. I can't identify a specific course that I regret taking. I liked all my professors. I now even consider many of them friends.

But when I take a more macro-level view of my transcripts and overall course selection, I certainly think to myself, "Man. Each individual tree was great, but the forest it created was regrettably white."

Rebalancing Your Portfolio

I share this regret with my students so that they give some extra consideration to what kind of forest they want to create and inhabit — not just in their academic life but also in their social life, in their political life, and certainly in their professional life. I also give them the following assignment, usually right after we do the "Elephant in the Room" exercise. It builds off a different

[10] Larry Gordon, *Racial Minorities Feel Like Outsiders at Some Colleges, USC Diversity Expert Says*, EdSource (Jan. 3, 2018), https://edsource.org/2018/racial-minorities-feel-like-outsiders-at-some-colleges-usc-diversity-expert-says/591725.

assignment, called "Good Sentences," in which they are asked to devote 30–60 minutes each week to reading quality writing.

The Good Sentences assignment gives students a lot of control over what they decide to fill their brains with. One option is to choose from a mix of fiction, journalism, scholarly articles, briefs, and poetry related to whatever we are talking about in class that week. Maybe that's health law. Maybe that's intellectual-property law. Maybe that's entrepreneurship. A second option is to choose a book they've been meaning to start or finish.

The "Elephant in the Room" twist comes through the steps outlined below. It typically comes toward the end of the semester, after students have about eight to ten weeks of picking at least some of their own reading material.

- **Step 1**: Think about the pieces you have selected to read during the Good Sentences assignments each week.
- **Step 2**: Write down what you guess might have been your personal breakdown in at least two categories below:
  - Genre: Do you think that you read more literary sentences than journalistic sentences? And if so, by how much? Did you read any of the poetic sentences? How about the Supreme Court ones?
  - Gender: Do you think you read more pieces by women than by men? More men than women? Did you read any pieces by someone who doesn't identify as a man or a woman?
  - Race/Ethnicity/Nationality: This category might take some Googling to discover if you don't immediately recognize the authors.
  - Sexual Orientation: This category also might take some Googling.

  - Ideology: Are you reading only conservative writers? Only liberal ones? One rough indicator may be the publications in which each piece was printed: *National Review* vs. *New Yorker* vs. *New York Times* vs. *Commentary* vs. . . .

- **Step 3**: After guessing what you *thought* your ratios might have been, write down what your *actual* ratios were. Raw numbers can be instructive.

- **Step 4**: Upload a paragraph of at least 75 words summarizing your findings from Steps 1–3. Include whether you want to make any changes to your current reading habits in the coming weeks, months, and years.

Does this assignment put more professors of color in the classroom? No. Does it miraculously even up the racial composition of casebook authors and style guides? Definitely not.

One thing it does do, however, is get students to think about how they might rebalance their intellectual portfolio. Here are some sample responses:

- "Gender is the factor I've been most aware of and have been trying to rebalance in my readings. Thinking back to the past 3 months, more than half of the political authors I have read were female, especially as I have become passionate about exploring more nuanced narratives on leadership and public service. Yet the clear lack of representation of non-binary individuals in my readings is a sign that I haven't done enough to seek out these authors. Especially among community organizers and advocates, there is much for me to explore and learn, and I want to commit to expanding the narratives I read."

- "I realize that despite my efforts to diversify my reading, the balance is still very white. I also realize that among the writers of color that I have read recently, almost all of them are Black. Very few are Latinx, Middle-Eastern, or Asian. I want to commit to expanding the narratives I read to include a wider range of racial and ethnic backgrounds. I know I still have a lot of work to do towards this goal."
- "This assignment has been both eye-opening and disturbing. I didn't realize how much of my life is dominated by white male influence. I don't think that this trend is by any means intentional, but it certainly seems like I unconsciously gravitate towards things penned and produced by white males. To get new perspectives, I will have to be intentional about reading things from different points of view and backgrounds."
- "In the last few years, I've made an intentional choice to try to read more work by queer women of color. Next year, I'd like to commit to reading more from authors who have a disability. I am going to be clerking for a judge with a significant physical disability after graduation, and it made me realize that I haven't done enough to center the perspective of people with disabilities in my own social circles or in my reading."

Much more than a new set of reading lists and habits is required to address the "elephant in the room" that my student rightly identified in her email. But I am encouraged that there are ways — like the assignment this essay describes — that can help all of us become not just more aware of our mental inputs but genuinely committed to broadening them.

I am also encouraged that the student herself recently published a piece of legal scholarship, law reviews being another place

that can be dispiritingly homogenous.[11] Perhaps someday she'll even write an entire textbook or style guide. I'd love to assign it.

Epilogue

I was heartened to discover, after circulating early drafts of this essay, that at least a few legal-writing texts have been authored by a more diverse collection of voices, including:

- Charles Calleros & Kimberly Y.W. Host, *Legal Method and Writing I: Predictive Writing* (8th ed. 2018);
- Charles Calleros & Kimberly Y.W. Host, *Legal Method and Writing II: Trial and Appellate Advocacy, Contracts, and Correspondence* (8th ed. 2018);
- Teri McMurtry-Chubb, *Legal Writing in the Disciplines: A Guide to Legal Writing Mastery* (2012).

I am grateful to the people who put these titles on my radar, and I definitely hope to discover more.

[11] *See, e.g.*, Michael J. Higdon, *Beyond the Metatheoretical: Implicit Bias in Law Review Article Selection*, 51 Wake Forest L. Rev. 339 (2016); Minna J. Kotkin, *Of Authorship and Audacity: An Empirical Study of Gender Disparity and Privilege in the "Top Ten" Law Reviews*, 31 Women's Rts. L. Rep. 385 (2009); Jennifer C. Mullins & Nany Long, *The Persistent Gender Disparity in Student Note Publication*, 23 Yale J.L. & Feminism (2011); Katherine Mangan, *In Search of Diversity on Law Reviews*, Chron. Higher Educ. (Sept. 5, 2003), https://www.chronicle.com/article/in-search-of-diversity-on-law-reviews/.