The Legal Writing Relay: Preparing Supervising Attorneys to Pick up the Pedagogical Baton

*Lisa Eichhorn**

I. INTRODUCTION[1]

Legal writing instruction should not end upon a student's graduation from law school. Because one can never perfect the skills of legal writing and analysis but can always improve them, law school graduates should have opportunities to continue this process of improvement throughout their careers. The legal writing programs currently existing in all American law schools[2] can give students a start toward mastering these skills, but they cannot do everything. When students graduate and find jobs, they still need feedback and instruction regarding legal writing.[3] The people in the best position to provide this feed-

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* Lecturer, West Virginia University College of Law. J.D., Duke Law School, 1990.

[1] This article stems from a presentation entitled "Collaborating with the Bench and Bar in Developing CLE Programs" co-presented with Maria Perez Crist of the University of Dayton. My focus is not strictly on the nuts and bolts of presenting CLE's, but rather on how we can train lawyers, in CLE's and other settings, to be writing coaches. Because the time limits of our presentation did not allow a detailed discussion of the theories involved, I offer this article to explore and document the theoretical underpinnings of my part of the presentation. I would like to thank Prof. Grace Wigal of West Virginia University for her helpful comments on previous drafts of this article.

[2] All American law schools now have some type of legal writing course. *See* Jill J. Ramsfield, *Legal Writing in the Twenty-First Century: A Sharper Image*, 2 LEGAL WRITING 1, 3 (1996)(reporting data from a national survey regarding the teaching of legal writing).

[3] Although a 1991 survey found that 90 percent of Chicago hiring partners expected their new associates to "bring" writing skills to their first job, as opposed to developing them on the job, Bryant G. Garth & Joanne Martin, *Law Schools and the Construction of Competence*, 43 J. LEGAL EDUC. 469, 490 (1993), learning to write well is a lifelong process. The American Bar Association has listed written communication skills in its formal statement of professional skills. ABA SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP 172-76 (1992) [hereinafter MacCrate Report]. Further, the MacCrate Report has recognized that this statement of professional skills can be used by people organizing training for practicing attorneys through continuing legal education programs, *id.* at 128, and through in-house programs in law firms, *id.* Even legal writing texts them-

back and instruction are supervising attorneys. However, these attorneys may be unfamiliar with legal writing pedagogy, thinking of themselves as lawyers rather than teachers. Legal writing professionals can fill this instructional gap by training supervising lawyers how to teach, or, more precisely, coach, their more junior associates.

This article explores a new role for legal writing professionals: training supervising attorneys to pick up the pedagogical baton and continue the educational process begun by a law school's legal writing program. Part One of the article documents the need of law school graduates for continued training in legal writing and legal analysis. Part Two describes and analyzes the body of theoretical and practical knowledge that supervising attorneys need to learn in order to become effective legal writing coaches for their junior associates. Part Three suggests methods that legal writing professionals may use to convey this body of knowledge to supervising attorneys and warns of some potential pitfalls involved in this task. Finally, Part Four enumerates a series of peripheral benefits that flow to legal writing professionals from their efforts to train practicing attorneys in this manner.

II. THE NEED FOR CONTINUED LEGAL WRITING INSTRUCTION ON THE JOB

The MacCrate Report has listed communications skills (including legal writing) among the skills and values that new lawyers should seek to acquire.[4] More recently, the addition of new practice components to many state bar examinations and the National Council of Bar Examiners' development of a Multistate Performance Test reflect the growing concerns of bar examiners that new entrants to the legal profession be able to demonstrate

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selves note that improvement in writing will continue after the legal writing course. *See, e.g.*, LINDA H. EDWARDS, LEGAL WRITING: PROCESS, ANALYSIS, AND ORGANIZATION xxi (1996) ("[Y]our writing will get better and better each year of your legal practice."). *See also* Theresa Godwin Phelps, *Writing Strategies for Practicing Attorneys*, 23 GONZ. L. REV. 155, 155-56 (1987/88)(challenging the notion that "if one has not learned to write by law school, it is too late").

[4] MacCrate Report, *supra* note 3, at 172-76. One author has explained how poor writing in the legal profession can lead to economic and ethical problems. Matthew Arnold, *The Lack of Basic Writing Skills and its Impact on the Legal Profession*, 24 CAP. U. L. REV. 227, 237-240 (1995). As William Prosser once noted, lawyers must use "that double-edged tool, the English language, with all the precision of any surgeon handling a scalpel." *English As She Is Wrote*, 7 J. LEGAL EDUC. 155, 156 (1954).

competence in analyzing issues and putting their thoughts on paper.[5] These concerns may stem from a perception among attorneys and judges that graduates emerge from law schools with poor writing skills.[6]

In a now-familiar survey, conducted in 1991, fewer than half of recent law graduates who responded believed that their law school instruction gave sufficient attention to written communication and the drafting of legal documents.[7] A similar survey, conducted in 1998, would probably show that more graduates feel that they received sufficient instruction in these areas, given the great expansion of legal writing programs across the country in the last several years.[8] However, even under the best of circumstances, legal writing programs cannot guarantee that every law school graduate will excel in legal writing and analysis. Indeed, because these are not cut-and-dry skills, graduates will continue to learn and practice them throughout their careers.

At the law-school level, instruction in legal writing is hindered by a number of factors. First, there is often a disparity between the skills that legal writing courses seek to teach and the more elementary skills that many new law students still need to acquire. Legal writing instruction is not remedial.[9] It is designed

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[5] As of March 1998, eighteen states were scheduled to use the Multistate Performance Test, which was developed in 1997. Di Mari Ricker, *High Anxiety*, STUDENT LAWYER, March 1988, at 24. The exam may require students to draft various legal documents, including objective memoranda, persuasive memoranda, and client letters. *Id.* at 26.

[6] *See, e.g.*, Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34, 64 (1992)("In my twelve years on the bench, I have seen much written work by the lawyers that is quite appalling."); Roger J. Miner, *Confronting the Communication Crisis in the Legal Profession*, 34 N.Y.L. SCH. L. REV. 1 (1989)(noting the poor quality of legal writing in briefs submitted to the author, a judge). *See also* Richard Hyland, *A Defense of Legal Writing*, 134 U. PA. L. REV. 599, 621 (1986)(arguing that lawyers do not write clearly because they do not think clearly about legal concepts).

Certainly, the public has been criticizing the writing skills of lawyers for quite some time. Richard Wydick notes that in 1596, an English chancellor, disgusted by the length of a 120-page brief, ordered that a hole be cut in the brief so that its author could wear the document around his neck as he was paraded around the court. PLAIN ENGLISH FOR LAWYERS 3 (4th ed. 1998). Wydick also notes more recent criticism from the 1970's: "The popular press castigated lawyers for the frustration and outrage that people feel when trying to puzzle through an insurance policy, an installment loan agreement, or an income tax instruction booklet." *Id.* at 4.

[7] Garth and Martin, *supra* note 3, at 479.

[8] *See* Ramsfield, *supra* note 2, at 3-10 (describing a "[g]radual [m]odernization" of first-year legal writing programs in the 1990's).

[9] J. Christopher Rideout & Jill Ramsfield, *Legal Writing: A Revised View*, 69 WASH. L. REV. 35, 41-43 (1994).

to introduce students to a new, legal, discourse community by providing instruction regarding the conventions governing legal communication, the structure and function of the legal system, and the principles of legal analysis. Insofar as legal writing courses teach "writing," their focus, ideally, is on how to do rather sophisticated things with writing: inform, analyze, and persuade. Unfortunately, many law students come to law school still needing to learn to do more basic things: use punctuation and proper grammar, organize a paper by topic, and construct clear, coherent sentences.[10] These students cannot begin to learn the advanced skills of the legal writing course until they make up for lost time by mastering these more basic skills.

To the extent that legal writing programs must play catch-up, they have fewer resources to devote to their own more sophisticated agenda. The addition of writing specialists has helped in this area[11], but even if staffing is available, the students' time is limited. Time spent learning to use an apostrophe is time that cannot be spent on learning something uniquely "legal," like how to structure an appellate brief or how to tell whether a given case is controlling precedent. Thus, legal writing instruction in law school can take students only so far.

Another factor hindering legal writing instruction in law schools is status. Despite progress made in recent years,[12] legal

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[10] For a discussion of the gap between the writing skills of incoming law students and the expectations of legal writing programs, see Arnold, *supra* note 4, at 254. In Arnold's view, this gap lies at the heart of the poor state of writing in the profession: "Nobody is surprised that a person who cannot play 'chopsticks' on the piano also cannot play Mozart." *Id.* at 228. Indeed, because admission to law school is much less competitive today than it was seven years ago, law professors "are seeing more students with mediocre skills in writing and analysis." Katherine S. Mangan, *Students' Odds of Getting Into Law School Improve, but Their Qualifications Drop*, CHRON. OF HIGHER EDUC., Jan. 23, 1998, at A41. From my years of service on my school's admissions committee, I know that at least half of the essay responses to the LSAT's writing component contain awkward sentences, spelling and punctuation problems, and grammatical errors. Even those applicants who are admitted have far from perfect basic writing skills. At West Virginia University, all new law students take a diagnostic writing test, developed by Anne Enquist at the University of Puget Sound Law School (now Seattle Law School). Although the test asks fairly basic questions about grammar, punctuation, and usage, the average score among our students has hovered for years around 69 percent. Our student population is pretty representative of students at most law schools in that our Admissions Office reports that the average LSAT score among our students entering in 1998 was 154 (approximately the 62nd percentile).

[11] In a 1998 survey, 34 law schools reported using writing specialists, who are not necessarily J.D.'s, to tutor students in writing skills. Jessie Grearson & Anne Enquist, A History of Writing Advisors at Law Schools: Looking at Our Past, Looking at Our Future, 5 Legal Writing—(1999).

[12] *See* Ramsfield, *supra* note 2, at 16-17(noting a rise in legal writing professionals'

writing professionals rarely enjoy the same level of rank and compensation as their colleagues who teach "doctrinal" courses.[13] In a recent national survey, forty-five out of seventy-seven schools reported gaps of $25,000 or more between the salaries of legal writing professionals and other faculty members.[14] In addition, most legal writing professionals carry non-tenure track status.[15] Ironically, along with this lower rank and salary comes a teaching load that is much more burdensome than average.[16] Unlike their colleagues who teach other courses, legal writing instructors spend the entire year grading papers and meeting with students.[17]

While low status and low salaries certainly do little to motivate legal writing instructors to go the extra mile, the negative effect of status issues on legal writing instruction operates on an even more insidious level. Students, who are keener observers of politics than many might believe, notice that their Contracts instructor is a "Professor," while their legal writing teacher is an "Instructor."[18] Their Contracts professor's office is also probably bigger than the office of their legal writing instructor (if the instructor is lucky enough to have her own office at all). The Contracts course meets for a full six hours over the course of a year, while Legal Writing carries only four credits.[19] All of these fac-

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salaries from 1990 to 1994, but also noting that this increase failed to match the increase in other faculty salaries over the same period).

[13] *See id.* at 16-20 (discussing salaries and status of legal writing professionals). My use of the word "doctrinal" is in itself problematic. By referring to non-legal writing courses as doctrinal or substantive, one implies that there is no doctrine or substance underlying the legal writing discipline. Still, school administrators seek to find labels to help them distinguish between legal writing and "regular" courses. Perhaps it is hard to find a label because there is not that much difference, after all.

[14] Jill J. Ramsfield & Florence Super Davis, The Legal Writing Institute 1996 Survey Results 12 (1997)(unpublished manuscript on file with the author, West Virginia University, Morgantown, West Virginia).

[15] *Id.* at 9.

[16] The ABA Section of Legal Education and Admissions to the Bar has noted that 45 students in a legal writing course should be an absolute maximum and considered a full course load, Sourcebook on Legal Writing Programs 62 (1997), but the most recent national survey of legal writing professionals indicates that legal writing faculty at 51 of 132 reporting schools carry 51 or more students. Ramsfield & Davis, *supra* note 14, at 3.

[17] For a comparison of teaching writing and non-writing courses, see Douglas Laycock, *Why the First-year Legal-Writing Course Cannot Do Much About Bad Legal Writing*, 1 SCRIBES J. LEGAL WRITING 83 (1990)(describing the experiences of the author, a tenured professor, as he taught in a legal writing program).

[18] The great majority of legal writing courses are taught by non-tenure track instructors, adjuncts, or students. Ramsfield & Davis, *supra* note 14, at 9.

[19] Eighty-two of 132 schools in a 1996 survey reported awarding four or fewer credits for legal writing courses. Ramsfield & Davis, *supra* note 14, at 1. Nineteen schools re-

tors send a message to students: Legal writing is not as important as other courses. Thus, when time is scarce, as it always is in law school, students will spend their precious hours on courses that appear to be more important and give short shrift to those that the law school does not seem to have invested in.[20] Therefore, even if legal writing professionals possess the utmost skill and energy, the administrative framework in which they work will often limit the motivation of their students to master the skills covered in the legal writing course.

Thus, law students find themselves graduating law school with, perhaps, a solid foundation in legal writing skills, but hardly a mastery of them. Even where schools accord appropriate rank, credit, and compensation to legal writing professionals, absolute mastery is impossible because these are skills that people continue to sharpen throughout their careers.[21] Therefore, instruction in these skills must continue to take place after graduation. The next section of this article explores the role that legal writing professionals can play in laying the groundwork for such instruction to occur among practicing lawyers.

III. TRAINING LAWYERS TO PICK UP THE PEDAGOGICAL BATON: WHAT SUPERVISING ATTORNEYS NEED TO KNOW IN ORDER TO BE EFFECTIVE WRITING COACHES

As explained above, most law school graduates arrive at their first legal jobs with a need for continuing instruction in legal writing.[22] The people who are in the best position to judge their writing and help them improve it are their supervising attorneys, many of whom have solid writing skills, acquired through years of education and professional experience. It is unreasonable, however, to expect a full-time attorney to take on a

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ported that their legal writing courses were graded using some type of pass-fail system. *Id.* at 2.

[20] This phenomenon is especially likely when a legal writing course is graded on a pass-fail basis, unlike other courses. Text author Charles Calleros cautions students not to shirk the demands of legal writing, even if the "pressures of law school may stimulate you to place primary emphasis on your short-term goals of success on final examinations in graded courses and perhaps to resent an ungraded legal writing course as an inconvenient distraction." LEGAL METHOD AND WRITING xxiii (2d ed. 1994).

[21] Even within the law school context, legal writing is typically taught only in the first year, so students have two years before graduating to forget anything they may have learned.

[22] This need is even more acute among students who have not yet graduated but are nevertheless performing legal work on a summer or part-time basis.

second job as a full-time teacher.[23] Nevertheless, a full-time supervising attorney can and should be a part-time writing coach. By "coach," I mean a person who sits on the sidelines, offering encouragement and feedback to another person who is in the process of developing a particular talent. A coach does not necessarily spend time devising and grading individual exercises or filling passive students with knowledge. Instead, a coach steps in at critical moments to critique his or her "player's" real-world performance. Like all learners, new lawyers have a critical need for this type of feedback if they are to continue to develop their skills.[24]

Being an excellent legal writer is quite different from being an excellent legal writing coach.[25] Therefore, even the most skilled supervising attorneys have something to learn from professionals who have made a career of teaching legal writing. These days, legal writing pedagogy is informed by a wealth of scholarship concerning learning styles and composition theory.[26] While most busy attorneys do not have time to plunge into this scholarship themselves, legal writing professionals can convey the basic points of these theories and explain how the theories suggest and validate particular methods of legal writing coaching. From years of classroom experience, legal writing professionals can also share practical wisdom concerning teaching methods in the legal writing field.

A. *Theoretical Underpinnings of Legal Writing Coaching*

One important notion that coaches must understand concerns the differences between expert and novice legal writers.

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[23] Those of us who teach writing full-time can understand the enormous amount of time such teaching requires.

[24] "The basis for effective monitoring and learning of complex skills such as writing is feedback on one's behavior." Michel Couzijn and Gert Rijlaarsdam, *Learning to Write by Reader Observation and Written Feedback*, in EFFECTIVE TEACHING AND LEARNING OF WRITING 224, 226 (Gert Rijlaarsdam et al. eds., 1996).

[25] While some law firms can hire outside coaches, *see, e.g.*, Dan Seligman, *The Gobbledygook Profession*, FORBES, Sept. 7, 1998, at 174 (discussing the role of writing coaches at large urban law firms); Robert L. Clare, Jr., *Teaching Clear Legal Writing — The Practitioner's Viewpoint*, 52 N.Y. STATE BAR J. 192 (April 1980)(explaining that his law firm hired a writing specialist to train new associates because the partners did not feel they could teach writing, even if they could write well themselves); C. Edward Good, *The "Writer-in-Residence": A New Solution to an Old Problem*, 74 MICH. BAR J. 568 (1995) (describing how law firms with the resources have hired writing specialists to conduct intensive training of partners and associates and predicting that more will do so in the future), this is an expensive option that not all legal employers can afford.

[26] *See* text accompanying notes 27-37, *infra*.

Even though law school graduates have spent at least three years immersed in casebooks, they still have not become experts in legal writing. More experienced lawyers have an acquired knowledge base that separates them from their newer associates and makes communication between experienced "coach" and novice "player" difficult. Research has indicated that novices and experts perform the same tasks and look at the same documents in very different ways.[27] Typically, novices focus on details that experts would find unimportant or tangential, and novices therefore fail to recognize and understand more important ideas. In contrast, experts can recognize which ideas are important because they have internalized the conventions of their fields through years of experience.[28] This difference between novices and experts leads to communication gaps that can play themselves out between new associates and their supervising attorneys, who fail to recognize that new associates are not yet immersed in the legal culture.

Another notion that coaches must appreciate is the existence of varied learning styles among new attorneys. A significant amount of recent research has documented that different people prefer to take in new information in different ways.[29] Su-

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[27] *See* Gary L. Blasi, *What Lawyers Know: Lawyering Expertise, Cognitive Science and the Functions of Theory*, 45 J. LEGAL EDUC. 313, 342-48 (1995)(reviewing psychological research comparing expert and novice problem-solvers). *See also* John B. Mitchell, *Current Theories on Expert and Novice Thinking: A Full Faculty Considers the Implications for Legal Education*, 39 J. LEGAL EDUC. 275 (1989).

[28] For a discussion of how experts use the conventions of their fields to develop schemata through which they see the world, see Paula Lustbader, *From Dreams to Reality: The Emerging Role of Law School Academic Support Programs*, 31 U.S.F.L. REV. 839, 850 (1997).

Because they share a specialized knowledge base and an agreement as to which ideas are important, experts in a particular field are said to constitute a discourse community. Patricia Bizzell, *Cognition, Convention, and Certainty: What We Need to Know About Writing*, 3 PRE/TEXT 213 (1982). *See also* Rideout & Ramsfield, *supra* note 9, at 57-61 (discussing law students' entrance into the legal discourse community). Unfortunately, experts gain their expertise and their memberships in discourse communities gradually, almost without realizing it. The conventions of a given field begin to look natural to them, and they may forget that other discourse communities may see the world differently, using different conventions. This failure to recognize one's own membership in a discourse community inhibits communication between experts and novices. The expert may not see the need to explain points that are specific to a given field, even though the novice, who is not yet a member of that field's discourse community, is in desperate need of explanation.

[29] *See, e.g.*, CHARLES S. CLAXTON and PATRICIA MURREL, LEARNING STYLES: IMPLICATIONS FOR IMPROVING EDUCATION PRACTICES (1987). *See also* Lustbader, *supra* note 28, at 853 (noting the existence of auditory, visual, and kinesthetic learners); Ruta Stropus, *Mend It, Bend It, and Extend It: The Fate of Traditional Law School Methodology in the*

pervising attorney "coaches" need to be aware that different learning styles may call for the use of slightly different coaching styles at times. In addition, another learning theory that has received scholarly attention in recent years concerns cooperative learning.[30] This theory notes that many students learn best in a cooperative, noncompetitive environment. Cooperative learning takes the focus off of the teacher as the transmitter of knowledge to passive students. Instead, it focuses on the students themselves, validating them by recognizing that they are capable of teaching each other.[31] As discussed below, cooperative learning theory has implications for legal writing coaching at the professional level.

Finally, and perhaps most importantly, the field of composition theory, which concerns the formal study of the writing process, has much to offer potential legal writing coaches.[32] Theorists of writing pedagogy have developed helpful ways of analyzing how and why people write the way they do. In recent decades, the teaching of writing in higher education has moved from a product model to a process model.[33] That is, teachers of

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21st Century, 27 LOY. U. CHI. L.J. 449, 485 (noting that law school academic support programs are effective because they recognize differences in students' learning styles).

A visual learner may prefer to read information from charts, texts, and tables. An auditory learner learns best when new information is presented orally. People who prefer to "think out loud" or "talk things through" are usually auditory learners. Researchers have identified other learning styles as well, but most people tend to fall into either the visual or auditory categories. In law practice, a great deal of information is conveyed in writing. Even colleagues whose offices are down a hallway from each other may communicate often by memo or e-mail rather than in person. This preference for writing presents some problems for new attorneys who are auditory learners. On the other hand, visual learners may struggle in a smaller, less formal office where most communication is oral, and instructions are rarely reduced to writing.

[30] *See generally* KENNETH BRUFFEE, COLLABORATIVE LEARNING: HIGHER EDUCATION, INTERDEPENDENCE, AND THE AUTHORITY OF KNOWLEDGE (1995); DAVID W. JOHNSON, ROGER T. JOHNSON, and E.J. HOLUBEC, THE NEW CIRCLES OF LEARNING: COOPERATION IN THE CLASSROOM AND SCHOOL (1994).

[31] In the writing context, Peter Elbow's "teacherless writing classes," described in WRITING WITHOUT TEACHERS 76 (1973), could be called cooperative learning groups. These groups emphasize active rather than passive learning. Students do not sit back and receive information; instead, they construct and critique information by performing analytical tasks together.

[32] For a concise overview of developments in composition theory over the last thirty-five years, see Nancy Soonpaa, *Using Composition Theory and Scholarship to Teach Legal Writing More Effectively*, 3 LEGAL WRITING 81, 82-88 (1997). *See also* COMPOSITION IN THE TWENTY-FIRST CENTURY: CRISIS AND CHANGE (Lynn Z. Bloom et al., eds., 1996)(discussing general issues in composition theory).

[33] Rideout & Ramsfield, *supra* note 9, at 51-56 (discussing schools of "writing process" theory). For a discussion of how a legal writing program can incorporate a writing process model, see Jo Anne Durako et al., *From Product to Process: Evolution of a Legal*

writing tend these days to evaluate and discuss not only the final document a student produces, but also, and more importantly, the process that a student used to arrive at that final draft. A writer makes critical decisions about a document at different stages of its development, stages that scholars have generally labeled prewriting, writing, and rewriting.[34] The process-model of writing pedagogy posits that students need to develop effective writing processes in order to produce effective final products. In addition, composition theorists — scholars who study the writing process — have explored notions of audience when analyzing student writing.[35] These theorists have noted that the failure of a document to communicate ideas clearly often stems from the failure of the writer to understand the person or persons to whom the document is addressed. While the writer may understand the ideas expressed, the reader may have to guess what the writer is trying to say. Further, the writer may spend a great deal of unnecessary space detailing basic concepts with which the reader is already familiar. Theorists have labeled texts with these types of problems "writer-based prose."[36] Legal writers, like most other writers, must move

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Writing Program, 58 U. PITT. L. REV. 710 (1997). *See also* Phelps, *supra* note 3, at 158-60 (discussing process theory in the context of legal writing).

[34] VEDA CHARROW, et al., CLEAR AND EFFECTIVE LEGAL WRITING 81-84 (2d ed. 1995). *See also* EDWARDS, *supra* note 3, at xxi ("Legal writing is a process with distinct stages and distinct goals at each stage."). These stages are not immutable or linear. Various legal writing scholars have divided and labeled the stages differently. *See, e.g.*, RICHARD NEUMANN, LEGAL REASONING AND LEGAL WRITING 55 (3d ed. 1998) (dividing the writing process into four stages: analyzing issues, organizing issues, generating a first draft, and rewriting); MARY BARNARD RAY & JILL RAMSFIELD, LEGAL WRITING: GETTING IT RIGHT AND GETTING IT WRITTEN 354 (1993)(dividing "Writing Process" into "Prewriting, Writing, Rewriting, Revising, and Polishing"); DIANA V. PRATT, LEGAL WRITING: A SYSTEMATIC APPROACH 188-195 (2d ed. 1993) (dividing the writing process into pre-writing, writing, drafting, revising, and editing). Many have noted that the process of legal writing is recursive; a writer might move from prewriting to writing and back to prewriting. *See, e.g.*, PRATT, *supra*, at 190; EDWARDS, *supra* note 3, at xxii.

[35] George Gopen of Duke University, for example, has developed a "reader expectation theory" that holds that readers within a discourse community have fairly fixed expectations regarding where particular types of information should appear in particular documents. *See* K.K. DuVivier, *Proper Words in Proper Places*, 24 COLO. LAW. 27, 27 (describing "reader expectation theory"). Prof. Gopen's theory underlies the legal writing program he developed for Duke Law School. *See Duke's New Writing/Research Course*, SYLLABUS 3 (Fall 1994). *See also* Linda S. Flower, *Writer-Based Prose: A Cognitive Basis for Problems in Writing*, 41 C. ENGLISH 19 (1979)(describing problems that develop when writers fail to take readers' knowledge and expectations into account).

[36] *See, e.g.*, Flower, *supra* note 35. *See also* Couzijn & Rijlaarsdam, *supra* note 24, at 227 ("[T]he writer is nothing like a normal reader. He is a very special reader, since he has all the necessary prior knowledge to interpret the text . . . .Therefore, the writer will easily pass over many unclear, vague, incorrect and otherwise inadequate passages.").

from writer-based prose to reader-based prose in order to increase the clarity of their texts. To do so, a writer must understand and take into account the intended reader's background knowledge, sophistication level, and need for specific new information.[37] Because, as explained above, new associates are not yet full members of the legal discourse community, they may not understand their intended readers as well as they should. Recognition of the difference between writer- and reader-based prose can help legal writing coaches diagnose the causes of problematic writing, as explained below.

B. *Practical Ramifications of the Theories on Legal Writing Coaching*

By conveying even the most basic points of the theoretical literature discussed above, legal writing professionals can help supervising attorneys become better writing coaches of inexperienced associates. Each theory suggests or validates particular coaching styles and techniques, and the theories are therefore most helpful to potential coaches when they are presented in the context of practical instructional situations.

1. *Diagnosing problematic writing*

First, the notions of discourse communities, expert-novice gaps, and writer-based prose can help coaches diagnose the causes of problematic writing. These theories highlight the importance of realizing that associates do not come to law firms as fully-formed legal writers.[38] New associates still have a lot to learn about the people for whom they will write in practice, and the conventions that prevail in that practice.[39] Although most students have written legal memoranda to "supervising attor-

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[37] *See, e.g.*, EDWARDS, *supra* note 3, at 147-48 (urging students to focus on the characteristics of the legal reader); PRATT, *supra* note 34, at 233-36 (discussing the characteristics of the trial judge as reader).

[38] *See* Rideout & Ramsfield, *supra* note 9, at 93 (noting that "[a]cculturation to legal discourse continues well after law school").

[39] Even if law school gives students a general sense of the "legal reader" and the conventions governing some legal documents, graduating students will not have been exposed to the more specific conventions that govern some particular types of documents. Indeed, the writing in trial briefs differs in significant ways from the writing in contracts. One could say that each practice area is its own, specialized, discourse community. For this reason, Steven Stark, who has conducted numerous in-house writing workshops at law firms, suggests that writing instruction for practicing lawyers "should reflect each legal specialty." *Individualized Courses for Practicing Attorneys*, NATIONAL LAW JOURNAL, Dec. 11, 1989, at 15, 27.

neys" in law school courses, the "supervising attorneys" were merely fictional characters, portrayed by the instructors to whom the papers were submitted. While such exercises are useful, they carry an inherent artificiality.[40] The good news for supervising attorneys is that no such artificiality is present in the writing projects that an associate performs in practice; the writer will learn more and more about his real readers each day simply by interacting with other lawyers. The bad news is that the new associate will have to learn to please these "real" readers very quickly. He or she will immediately need to internalize the tastes, needs, predilections, and pet peeves of readers who are practicing attorneys in order to communicate within the legal discourse community. Therefore, the supervising attorney's first job as coach is to consider novice-expert gaps as possible causes for an associate's ineffective legal writing and to let the associate know when such problems arise.[41]

For example, if the supervising attorney finds passages of a document cryptic, he or she should realize that a new associate may have mistakenly assumed that all practicing lawyers are familiar with some particular information and therefore did not explain that information in the document. Simply by communicating his or her confusion to the writer, the reader at this point can teach the writer a little bit more about the extent of the knowledge base that a legal writer can presume his or her readers to have. Similarly, a coach can let a writer know that explanation of some basic points (such as whether a cited case is controlling authority, for example) may be unnecessary because the reader would already understand them. Rather than just drawing a line through the unneeded explanation, a supervisor could seize a coaching opportunity by taking an extra five seconds to jot down a comment ("judge would already know this") next to the crossed-out text.[42] With every such comment, a new associ-

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[40] As Peter Elbow insightfully explains to students of writing, "When you write for a teacher you are usually swimming against the stream of natural communication . . . . You seldom feel you are writing because you want to tell someone something. More often you feel you are being examined as to whether you can say well what *he* [the teacher] wants you to say." WRITING WITH POWER 219 (1981). In short, "[r]eal readers are different from teachers." *Id.* at 220.

[41] Jane Bowers, in a short article advising lawyers to be teachers of their associates, notes the importance of communicating the standards of legal writing discourse immediately to the new associate. She suggest that attorneys prepare and distribute to associates a short handout describing the goals of clarity, brevity, and coherence. *How to Improve Associates' Writing*, 34 PRACTICAL LAWYER 35, 36 (1988).

[42] Comments that explain the rationale behind an editorial change are immensely

ate gains a better understanding of his or her audience and becomes less likely to make similar errors in future documents. Indeed, one writing consultant recommends that associates draft a short "audience analysis" memo that lists characteristics of the intended reader and features of the writing that enable it to meet that reader's needs.[43] Whether or not an associate puts such an analysis in writing, he or she will develop a sharper sense of the intended reader upon receiving more and more feedback from supervisors.

Sometimes expert-novice gaps may run deeper, as for instance when an associate drafts a document containing basic grammatical or punctuation errors. The novice may not only misunderstand the conventions and standards of the legal discourse community; he or she may not fully understand the conventions of the more general discourse community of educated English-speakers. Most supervising attorneys can avoid such situations by studying job candidates' writing samples before hiring them. However, legal employers have surely hired at least some law school graduates who make these kinds of errors. To the extent that such associates exist, it makes more sense to give them some direction as to how to improve their writing than to let them continue to submit poor work and, perhaps, eventually be let go.[44] Upon receiving such work from an associate, a coach must communicate to the associate immediately that the product is substandard, not because the legal analysis is flawed, but because the draft contains basic English errors. The coach need not spend precious time instructing his or her charge in the finer points of apostrophes and semicolons, but it

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helpful teaching tools. Anne Enquist, *Critiquing Law Students' Writing: What the Students Say Is Effective*, 2 LEGAL WRITING 145, 189 (1996).

[43] Bowers, *supra* note 41, at 38.

[44] It makes no sense to lose a poor writer who may have other strengths and whose writing can, with some help, be improved. As Jane Bowers notes, every firm invests time and money in every new associate until he or she is let go, and many billable hours will be lost editing a poor writer's work if supervisors never take steps to help the writer improve it. Bowers, *supra* note 41, at 37-38. However, another expert believes that some lawyers do not have the time or the ability to improve their own writing, even with proper guidance. Mark Mathewson, *In-House Editors: Letting the Experts Do It*, 1 SCRIBES J. LEGAL WRITING 152 (1990). According to Mathewson, the "practical answer is not for all lawyers to write well, but for lawyers to pay editors to help them prepare better documents." *Id.* at 152. I disagree with the pessimism behind this suggestion. All lawyers can improve their writing, at least to some extent, but they will never improve at all if they receive only editing without coaching. Further, because style and substance are inextricably linked, the suggestion of an in-house editor sets up an inevitable conflict between the law-trained writer and the lay editor.

may be necessary to point the associate to some familiar sources of help that the associate can study on his or her own time.[45]

Process-oriented theories of writing can also help coaches diagnose problematic drafts. It pays to give some thought not only to what a problem is, but also to how that problem crept into a draft. Sometimes it is obvious whether an error stems from a writer's lack of understanding of the subject, or from mere sloppiness in editing. At other times, it may be necessary to interview the writer a bit about the process that he or she followed in order to understand why a draft looks the way it does.[46] An understanding of the process is necessary to uncover the root of the problem and make suggestions. Therefore, it is helpful if the supervising attorney could review the draft and then have a discussion with the writer to determine whether the writer has misunderstood the assignment, needs to do additional research or reread a particular source, or has simply failed to spend sufficient time editing. If a coach can couch suggestions in the context of the writing process, the writer will be able to improve his or her process to the point where it will allow the writer to generate better documents the first time around.

Attention to process can also help coaches diagnose problematic writing in another way. If a coach spends time editing an associate's document, the coach can deconstruct the editing process itself in order to determine the nature of the original problems. In other words, by thinking about what needed to be changed, and how it needed to be changed, the coach may find new, more articulate ways to describe the problem to the associate.[47] For example, a coach may see a series of problematic sentences in a document and think simply, "These sentences are bad. They're awkward." Unfortunately, these adjectives will not

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[45] *See, e.g.*, RICHARD WYDICK, PLAIN ENGLISH FOR LAWYERS (4th ed. 1998); MARY BARNARD RAY & JILL J. RAMSFIELD, LEGAL WRITING: GETTING IT RIGHT AND GETTING IT WRITTEN (1993). A less familiar but very useful reference regarding grammar is REA's HANDBOOK OF ENGLISH: GRAMMAR, STYLE, AND WRITING (1993)(published by the Research in Education Association).

[46] Indeed, a supervisor could conduct a Socratic-style conference with an associate about a draft. Such a conference could help the supervisor to diagnose the problem and also prompt the associate to think of ways to remedy it. For a discussion of how legal writing teachers can integrate such Socratic techniques into their teaching, see Mary Kate Kearney & Mary Beth Beazley, *Teaching Students How to "Think Like Lawyers": Integrating Socratic Method with the Writing Process*, 64 TEMP. L. REV. 885 (1991).

[47] For several examples of how this dynamic can operate, see Bowers, *supra* note 41, at 39-40.

help an associate understand the problems with the sentences or possible solutions to them. However, if the coach edits a few of the sentences and finds himself or herself constantly crossing out the words "there is" and "there are" and building new sentences with new subjects and verbs, the coach, upon reflection, has something much more helpful to tell the associate. Now the associate can be warned to watch out for the problematic construction and will be able to fix it in the future. Experienced lawyers have often internalized the editing process and perform it speedily and without self-consciousness. However, as explained above, slowing down now and then to perform some process-oriented reflection regarding editing can help a lawyer diagnose and explain problems to a writer so that even less editing will be necessary in the future. The goal is to help the new attorney begin to self-edit more effectively.

2. *Providing feedback*

Because supervising attorneys are attorneys first and coaches second, they often overlook the crucial importance of providing feedback to their associates, preferring to spend their time on other lawyering tasks more directly related to their clients' cases. However, associates cannot improve their writing (and indeed their performance in all areas of law practice) unless they receive information about the strengths and weaknesses of their work product.[48]

Key ideas from learning theorists can help supervising attorneys give more effective feedback to those whom they coach. For example, if an associate does not seem able to improve a draft after receiving written comments on it, it may be necessary to have a five-minute conference to explain the key problems in the document, particularly if the associate is an auditory learner.[49] At that point, the associate will be much more likely to make sense of the written comments. Supervising attorneys should try to develop a sense of how various associates respond to various means of communication and must realize that

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[48] *See* Couzijn & Rijlaarsdam, *supra* note 24, at 226.

[49] In an office setting, many supervisors who like to use dictation could take advantage of this preference to provide feedback. *See* Audrey Berner et al., *Using the Tape Recorder to Respond to Student Writers*, in EFFECTIVE TEACHING AND LEARNING OF WRITING, *supra* note 24, at 339 (suggesting how one might use tapes to provide oral feedback). However, one writer suggests that the best learning occurs over a series of face-to-face conferences, each aimed at working on a distinct problem. *See* Bowers, *supra* note 41, at 40.

different associates will respond better to different methods. This suggestion does not mean that supervising attorneys need to spend hours adjusting their methods of communication; as explained above, five minutes can go a long way toward increasing an associate's understanding.

When providing written comments, coaches should remember that their own writing, too, must be reader-based. Comments are of little value if they are not understood by the new attorney to whom they are addressed. Research in the area of effective commenting on students' legal writing has revealed specific characteristics that make written comments more likely to be understood and thus more likely to lead to better drafts.[50] First, students prefer comments that elaborate, give examples, or explain rationales for suggested changes.[51] In addition, students need positive feedback.[52] However, excessive commenting can overwhelm students and create barriers to learning.[53] Thus, supervisors should make an attempt not just to edit but also to explain briefly why changes are necessary. While explanations require time and energy, they need not take undue amounts of a supervisor's limited resources. A few carefully phrased explanations regarding the most important strengths and weaknesses of a document will provide tremendous help to an associate when he or she revises the draft. Indeed, to the extent that the revision is better than it would have been had the associate not received the comments, the supervisor may actually save time that would have otherwise been spent laboring over an inadequate second draft.

Cooperative learning theory also suggests some additional innovative coaching techniques that may actually save a supervising attorney some time. Cooperative learning strategies take some of the burden off of the teacher or coach, recognizing that novices can — with a little structured guidance — teach each other. If a coach can communicate to a group of associates some basic criteria governing a given legal document (are the point headings clear and persuasive? does the brief clearly explain the law? does it cite the law correctly? are the sentences wordy?), then the associates can teach one another by critiquing each

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[50] Enquist, *supra* note 42, at 188.

[51] *Id.* at 188-89.

[52] *Id.* at 188.

[53] *Id.* at 188.

other's documents.[54] In fact, if all of the associates occupy similar positions along the expert-novice continuum, they may actually be better able to communicate regarding a document's problems because they may be able to get around the expert-novice gap that creeps into conversations with a more expert supervisor. By clearing out the problematic underbrush in a draft, one or more associates can save a supervising attorney some time that would otherwise be spent dealing with all levels of problems. In the process, the associates will probably have learned how to make their own drafts better in the future.

3. *Inspiring*

One of the most important jobs of a coach is to inspire. It has already been noted that students of writing need positive feedback, but in the rush to generate documents and get them out the door, most supervising attorneys feel they must perform triage, focusing on the negative aspects of a draft in order to fix the errors and get an improved revision on its way. Pointing out strengths, however, is equally important in the long term. Sometimes a new writer will not know why his or her draft was good and will therefore not be able to replicate the good qualities in future documents. In addition, writers who receive little or no positive feedback will eventually lack the motivation to produce excellent drafts, even if they know how. Therefore, a few minutes spent on encouraging words can again save time in the long run and also develop a better coach-player relationship.

IV. THE NUTS AND BOLTS OF TRAINING LAWYERS TO BE WRITING COACHES

Legal writing professionals cannot teach practicing lawyers the above information unless they find an appropriate forum. Many possibilities exist, ranging from a full-scale multi-day workshop to a very abbreviated hour-long lecture at a bar meet-

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[54] Such a process could be informed by the idea of a "self-graded" draft, developed by Mary Beth Beazley in *The Self-Graded Draft: Teaching Students to Revise Using Guided Self-Critique*, 3 LEGAL WRITING 175 (1997). A supervising attorney might develop a set of general guidelines and questions for a specific category of documents and then allow associates (either the writer of the document or other associates) to critique the draft using the guidelines and questions. Once a supervisor develops a few sets of guidelines, they could be used over and over on similar types of documents. Legal writing professionals could even share their own guidelines or cover sheets with attorneys, who could modify them to suit their own specialized needs.

ing. Legal writing professionals can even organize their own continuing legal education programs focusing on coaching techniques.[55] Whatever the forum, the most effective presentations will take into account the similarities and differences between teaching lawyers and teaching law students.[56]

A. *Similarities Between Teaching Lawyers and Teaching Law Students*

First, and unfortunately, legal writing professionals are likely to run into some of the same motivational and status problems among lawyers as among law students. Many more senior attorneys may have attended law school at a time when legal writing programs did not exist, at least not in the independent, relatively well-staffed way they do today.[57] Therefore, they may not understand what a "legal writing teacher" is and may view legal writing professionals as some lower form of faculty member.[58] In addition, while most legal writing professionals are women,[59] supervising attorneys are disproportionately male (and disproportionately white). The typical biases and stereotypes with which students may view female professors[60] can also play out in a presentation to attorneys. In fact, since law students

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[55] Professor Maria Perez Crist of the University of Dayton School of Law, my co-presenter at the 1998 Legal Writing Institute Biennial Conference, described her experiences in planning and executing continuing legal education programs during our presentation.

[56] For a short but insightful discussion of lawyers as students, see George D. Gopen, *The Professor and the Professionals: Teaching Writing to Lawyers and Judges,* 1 LEGAL WRITING 79, 81-85 (1991).

[57] *See generally* Ramsfield, *supra* note 2 (tracking developments in legal writing programs from 1990 to 1994). The Legal Writing Institute has done much to spur the development of these programs since its founding in 1984 by J. Christopher Rideout and Laurel Oates at the University of Puget Sound (now Seattle University). *Id.* at 1 n.1.

[58] George Gopen notes that, insofar as lawyers have entered a "world in which success is measured mostly in terms of money," they may be disdainful of a teacher who earns significantly less than they do. Gopen, *supra* note 56, at 82. To the extent that legal writing professionals tend to earn less than other law faculty, this disdain becomes even more forceful.

[59] Pamela Edwards, *Teaching Legal Writing as Women's Work: Life on the Fringes of the Academy,* 4 CARDOZO WOMEN'S L. J. 75, 75 (1997). I will use the pronoun "she" when referring to legal writing professionals because of the disproportionate number of women in this group.

[60] A survey of faculty in nine Ohio law schools, published in 1994, revealed that only 15 percent of female faculty, compared to 55 percent of male faculty, agreed that students assume that all female teachers are competent to teach. Joan M. Krauskopf, *Touching the Elephant: Perceptions of Gender Issues in Nine Law Schools,* 44 J. LEGAL. EDUC. 311, 331 (1994).

these days are more diverse than they were twenty years ago, the classroom may actually be a more welcoming place for a young female instructor than the state bar meeting. Therefore, it may be necessary for a legal writing professional to educate an audience of practicing attorneys as to her credentials in advance in order to gain their respect.

In addition, practicing attorneys can view legal writing instruction with some of the same scepticism that students may have. As explained above, lawyers tend to be preoccupied with the specific details of legal practice and may resist the idea of stepping back and working on a more general skill like writing. Like some students and law school administrators, lawyers may view legal writing instruction as remedial and therefore beneath them.[61] They may not understand that good legal writing goes hand in hand with sophisticated legal thinking.[62] Or they may presume that they already know everything there is to know about good writing.

The best answer to this resistance may involve a bit of flattery. I have specifically chosen a "learning how to coach" theme when I address audiences of experienced attorneys because it tends to be more palatable than a "learning how to write" theme. The "learning how to coach" theme communicates respect for the audience because it presumes that the audience members already know the basics of writing. If they do not, then they are likely to learn a few things for themselves as I present some specific nuts-and-bolts material, but their initial ignorance can be their own little secret. A "learning how to write" theme sends the message that the presenter believes that the audience members themselves lack basic writing skills.[63] Some audience members will be turned off by this assumption, even if they indeed need the basic writing instruction.

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[61] *See* Gopen, *supra* note 56, at 82.

[62] I experienced this suspicion of legal writing first-hand when I lectured on legal writing to the trial lawyers' division of the state bar in my home state in the summer of 1997. Although a representative had invited me to speak and had assured me that many lawyers genuinely wanted help in improving their writing, the title that the group had assigned to my talk sent a different message: "Effective Legal Writing: Style Over Substance?"

[63] Lawyers "are not high school students," but they may feel they are being treated as high school students if a presenter is not careful to couch material in an appropriate professional context. Gopen, *supra* note 56, at 82. A presentation that lacks this context is not likely to get "a fair hearing." *Id.*

B. *Differences Between Teaching Lawyers and Teaching Law Students*

One major difference between teaching experienced lawyers and law students is that the lawyers have become full-fledged members of the legal discourse community. Therefore, they already understand the conventions of legal writing and the rationales underlying these conventions. Any supervising attorney who has read wordy drafts submitted by associates understands the need for conciseness and the frustration caused when this need is not met. The legal writing professional therefore does not have to sell the importance of effective legal writing to this audience in the way that many legal writing texts must sell their message to law students.[64]

In addition, supervising attorneys presumably are also attending a workshop on how to train their associates because they have experienced first-hand the need for such training. They therefore already possess the motivation to listen and participate that can be lacking among students in some legal writing courses.[65]

One difference between lawyers and law students may make instructing lawyers a bit more challenging: lawyers, especially in the formal setting of a large CLE workshop or bar conference, may be less likely than students to share comments and participate in small-group activities. An instructor who is used to an enthusiastic response from students assigned to get into groups may encounter self-conscious resistance from attorneys who are asked to do so. In addition, a question thrown out to a group of attorneys may be met with stony silence, whereas at least a few hands would go up under the same circumstances in a classroom situation. In part, the attorneys' reticence may stem from their being products of a different educational era. Unlike today's law students, experienced attorneys were educated at a time when small group work, interactive classrooms, and active learning were not the norm. Even today, most continuing legal

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[64] *See, e.g.*, JOHN C. DERNBACH, et al., A PRACTICAL GUIDE TO LEGAL WRITING AND LEGAL METHOD xxi (2d ed. 1994)("Although the practice of law requires a combination of negotiation, counseling, research, and advocacy skills, there is one skill upon which all the others depend. The good lawyer . . . must be able to write effectively."); RICHARD K. NEUMANN, JR., LEGAL REASONING AND LEGAL WRITING: STRUCTURE, STRATEGY AND STYLE 51-52 (3rd ed. 1998)(discussing "Your Writing and Your Career"); CHARROW et al., *supra* note 34, at 1 (discussing the importance of legal writing).

[65] Lawyers, after all, are "well trained in grabbing what is available and making the most out of it." Gopen, *supra* note 56, at 84.

education sessions are presented as lectures where audience members can sit passively and stare at a talking head. In addition, to the extent that law students may be more responsive than attorneys to questions, their responsiveness may stem in part from the fact that the classroom, after a few weeks of school, has become a familiar setting, and ice has broken between professor and students. (Of course, the prospect of heightened grades may also inspire students to participate.) In contrast, a legal writing professional lecturing to a group of attorneys will not have had an opportunity for ice-breaking, and she certainly cannot use grades to motivate her audience to join the discussion.

One suggestion for incorporating some interactivity into a presentation to lawyers is to throw out questions and ask lawyers to think about answers silently for themselves. For example, one could ask lawyers to create a mental list of three typical problems seen in associates' writing. One could also ask the lawyers to jot down answers, but in that case, the assignment should be closed-ended and concrete.[66] A presenter could ask at that point for a show of hands as to how many people had one answer or another. At the beginning of a presentation, this informal survey can break the ice a bit. In addition, it might help a presenter to break the ice if she emphasizes her practice experience or other common ground she shares with her audience. At any rate, presenters should not necessarily expect the type of informal give-and-take that can animate a law school classroom, but some of the above strategies might help to generate participation and active learning.

C. *Suggestions for Organizing a Training Session on Coaching Skills for Lawyers*

The scope of a training session for supervising attorneys who wish to become writing coaches will of course vary with the amount of time allotted, and its format will depend upon the setting and the number of lawyers attending. Nevertheless, what follows are some general suggestions for coverage.

After introducing herself and spending a few minutes on ice-breaking conversation and questions, a presenter should ex-

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[66] For example, one could ask lawyers to list the three qualities that best describe excellent legal writing. By asking for a concrete number of entries on the list, the presenter can make the task easier and less "fuzzy."

plain the difference between coaching and editing, noting that coaching will save time in the long run by making every associate a more effective writer. The presenter could also briefly explain the coverage of a typical legal writing course, so that the attorneys could understand where their associates are coming from in terms of training and experience (and why it is not reasonable to expect law graduates to be perfect legal writers). The presentation could then move to a discussion of diagnosis of typical writing problems, perhaps illustrated by samples of actual problematic documents.[67] The presenter could inform her discussion of diagnostic techniques by incorporating some ideas about reader-based prose, expert-novice problems, and writing process theory discussed above. However, because lawyers want pragmatic advice, the presentation should not dwell on theory. Instead, the presentation should mention theoretical ideas, in layman's terms, only insofar as they help to explain why a particular diagnostic technique is effective. In addition, a presenter could slip some specific writing advice into the discussion of diagnosis by discussing examples of wordy sentences, passive voice, and misplaced modifiers. By learning to look for particular problems in associates' writing, the supervising attorneys will also be learning how to avoid such problems in their own writing.

After discussing diagnosis, the presentation could then move on to effective feedback techniques. Again, examples of written comments on draft documents could provide helpful illustrations of effective and ineffective comments. If time permits, audience members could be asked to comment on a page or two of problematic writing and then compare notes. To illustrate oral feedback, the presenter could show homemade videotapes of effective and ineffective conferences. The dramatic possibilities here are intriguing if the presenter has some theatrical leanings. The presentation could wrap up with a very quick review of key points and a question and answer session. In addition, a presenter should leave audience members with handouts listing tips on diagnosis and feedback, and perhaps some favorite reference texts on writing. Attorneys will resent and ignore

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[67] Depending on the format of the presentation, it may be possible to contact attorneys in advance and have them submit actual samples of poor writing that have crossed their desks (without names, of course). Using these "real" examples could make the presentation appear even more relevant to the audience.

lengthy material, but a few pages with very pragmatic information will likely not be thrown away.

V. Benefits of Training Attorneys to be Writing Coaches

Of course, the main benefit of training attorneys to be coaches is that new lawyers will be able to improve their writing with the help of newly trained coaches. However, a legal writing program itself can benefit if one of its faculty becomes involved in this type of training. First, because teachers inevitably learn from their students, legal writing professionals can benefit by learning from the supervising attorneys whom they train. Too often, law school faculty are so swamped with teaching and administrative duties that they lose touch with current trends in law practice. This phenomenon strikes teachers of legal writing especially hard, given their extraordinary teaching loads and their tendency to be called upon to perform other administrative functions. By becoming involved with attorney training, a legal writing professional can maintain familiarity with the nature of law practice. Using this familiarity, she can insure that her legal writing program is indeed providing law students with the specific skills and information that they will need in practice. To the extent that the nature of practice is changing — economic trends and new technologies are both changing what lawyers do on a daily basis — the legal writing professional who maintains regular contact with practicing attorneys can stay on top of these changes and modify her teaching accordingly.

In addition, by making presentations to area lawyers, a legal writing professional can increase the visibility and credibility of her writing program and the law school. After a few presentations, the presenter will gain a local reputation as an expert on matters of writing. In addition, training sessions give legal writing professionals an opportunity to talk a bit about their programs to practicing attorneys. If attorneys understand a program's goals, structure, and some of the obstacles that it faces, they will be more likely to appreciate the efforts of the faculty who teach writing and less likely to attribute associates' poor writing to lack of good teaching in law school.

Once lawyers realize that a school's legal writing program is staffed by knowledgeable professionals who understand their needs, they will be more likely to support the program, both financially and through donations of their own time. For example, once relations are established, a legal writing professional could

call upon a practicing attorney to give a guest lecture or judge an oral argument. In addition, practicing attorneys could make their own donations or lobby for the administration to provide more financial support to writing programs, once the attorneys appreciate the importance of the program's mission and the paucity of resources currently available to most programs. In a state-supported school, which has a clear obligation to be of service to the state bar, the voices of influential practicing attorneys are hard to ignore.

Further, to the extent that law students see lawyers assisting legal writing professionals and consulting them for help, the students are more likely to put stock in the writing program as a source of preparation for the real world of law practice. In addition, if lawyers assist the legal writing professional by visiting classes or judging arguments, students can have opportunities to make professional contacts through the legal writing course. Students may have many reasons to give their legal writing courses short shrift,[68] but the visible support of practicing attorneys can be a powerful counterweight to these reasons, causing students to look at the course with renewed respect.

VI. CONCLUSION

Law school graduates need coaches if they are to become effective members of the legal discourse community. Law schools cannot do everything when it comes to teaching writing, but a law school's legal writing professionals can train lawyers to pick up the pedagogical baton and become writing coaches for new associates. By translating theoretical research into practical advice, legal writing professionals can train supervising attorneys to become effective coaches. This training can build productive relations between junior and senior attorneys and between legal writing professionals and the bar. Therefore, it can benefit not only practicing attorneys but also the legal writing professionals themselves.

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[68] *See* text accompanying notes 18-20, *supra*.