The Complete Professional: How Our New Professional Ideals for Law Students Help Us in the Legal Research and Writing Classroom

By Michele Bradley and Nancy Oliver

Students who understand that they have entered the professional realm of lawyers while still in law school make a smoother transition to law school and to the legal profession. These students understand that they must meet the expectations of their professors, their advisors, and their employers while in law school, just as they will need to meet the expectations of clients, employers, bar examiners, and many others once they graduate. Building this professional identity during law school helps students transition from being undergraduate students to students in a professional program. No longer should assignments, work, and professional activities be viewed as merely necessary to earn credits and avoid disciplinary actions from professors and colleges. These activities must be viewed as the first steps in creating a rewarding professional career. In fact, we hope that our students feel the joy and power of being at the beginning of something that will be very important to their lives.

In 2014, the University of Cincinnati College of Law adopted professional ideals that we call “The Complete Professional: Professional Ideals for Law Students.” These ideals were designed by the law school under the leadership of our Associate Dean and Chief of Staff, Mina Jones Jefferson, who leads our Center for Professional Development. Seeking a common language to discuss professionalism concepts tailored to the experience of law students, our staff introduced these ideals to our community in the fall of 2014.

In this article we will describe why professionalism is such an important concept in law school, particularly in the first year; how we designed and adopted The Complete Professional; and how these ideals have impacted our first-year legal research and writing courses.

A. A Law School’s Role in Moving Students Toward a Professional Mindset

It is incumbent on law schools to teach professionalism. High levels of professionalism are important for success in the practice of law, and the lawyers who will one day hire our graduates place a high premium on professionalism. Therefore, “legal educators should take leadership roles in making professionalism instruction a central part of law school instruction.”

The legal writing classroom is an ideal place to discuss these concepts because of small class sizes, multiple opportunities to submit...
work and receive feedback, and assignments that simulate the real-life work of a lawyer.

The authors are by no means the first legal writing professors to speak to students about professionalism.\(^5\) However, instilling professionalism in the legal writing classroom has often been hampered in at least two ways; first, the term “professionalism” is vague and ill-defined,\(^6\) making it difficult to discuss consistently and coherently, and second, efforts to instill professionalism in the legal writing classroom are not consistently reinforced elsewhere in the law school. As a result, students may perceive a legal writing professor’s request for professionalism as an expectation that applies only to that professor, not elsewhere. In short, inconsistency and lack of clarity can “prolong and reinforce the habits of thinking like a student rather than an apprentice practitioner.”\(^7\) If students are to internalize the ideals and values of the profession, “professionalism needs to become more explicit and better diffused throughout legal [education].”\(^8\) As explained below, The Complete Professional addresses both of these concerns.

B. Designing and Adopting The Complete Professional

In supporting the journey of students into the profession of law, Cincinnati Law faculty and staff transition students from being undergraduates to young professionals. As part of this work during the summer of 2014, Associate Dean Jefferson and the rest of the staff\(^9\) decided that adopting a common language to use with students would help better communicate the importance of professionalism during the law school experience.

For many years, the College shared the Professional Ideals for Ohio Lawyers & Judges,\(^10\) adopted by the Ohio Supreme Court, with incoming students to aid in their professional formation. These ideals supplement the formal code of ethics that bind all Ohio attorneys\(^11\) and include aspirations that seek to elevate the profession generally. Thus, they are pertinent to all lawyers and judges as well as law students. These professional ideals focus on relationships with clients, opposing parties and counsel, courts and other tribunals, colleagues, the profession, and the public, including the system of justice.\(^12\)

The Ohio Supreme Court Commission on Professionalism has also published a series of Professionalism Dos & Don’ts that offer specific examples of how to include the concepts of professionalism in a variety of practice settings, including depositions, the courtroom, and legal writing generally.\(^13\) The Professionalism Dos & Don’ts related to legal writing are particularly helpful, especially in the context of professional advocacy, including advice such as “do provide a consistent, coherent argument[,] ... do present an honest, accurate position[,] ... [and] do adopt a clear and persuasive style.”\(^14\) However, while the Professional Ideals for Ohio Lawyers & Judges may be helpful to law students, these ideals are more focused on professionalism for practicing lawyers and judges. As such, they do not directly address the particular concerns of being a law student. One can imagine students thinking that

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\(^3\) See, e.g. Beth D. Cohen, Instilling an Appreciation of Legal Ethics and Professional Responsibility in First-Year Legal Research and Writing Courses: A Perspective: Teaching Legal Res. & Writing 5 (1995); Sophie Sparrow, Practicing Civility in the Legal Writing Course: Helping Law Students Learn Professionalism, 13 J. LEGAL WRITING INST. 133, 134–137 (2007); Melissa H. Weresh, Fostering a Respect for Our Students, Our Specialty, and the Legal Writing Profession: Introducing Ethics and Professionalism into the Legal Writing Curriculum, 21 Touro L. Rev. 427 (2005); Beth Hirschfelder Wilemsky, Assignments with Intrinsic Lessons on Professionalism (or, Teaching Students to Act Like Adults Without Sounding Like a Parent), 85 J. LEGAL EDUC. 622 (2016).

\(^4\) “Legal scholars have not been able to construct and agree on a widely-accepted, clear, and succinct definition of professionalism.” Neil Hamilton & Verna Monson, The Positive Empirical Relationship of Professionalism to Effectiveness in the Practice of Law, 24 Geo. J. LEGAL ETHICS 137, 143 (2011). “[T]he definition of ‘professionalism’ is, of course, almost maddeningly elusive.” Walzvissse, supra n. 3, at 542.


\(^6\) Id. at 14.

\(^7\) During the summer of 2014, Professor Oliver was a member of the staff while serving as the Associate Dean for Curriculum and Student Affairs and participated in these activities. She has now returned to teaching full-time.\(^9\)


\(^10\) The Supreme Court of Ohio Comm’n on Professionalism, supra note 10, at 4.

\(^11\) Id. at 13, 25, 35, 39.

\(^12\) Id. at 26.
these are ideals they will someday need to apply to their work once they graduate, but not yet.

The staff of the law school decided to provide a similar set of ideals for Cincinnati Law students that are designed specifically for their experience while in law school. Like Ohio lawyers who are bound by the Ohio Rules of Professional Conduct, Cincinnati Law students were already bound by formal rules including the Honor Code and the University of Cincinnati Student Code of Conduct. Both codes subject students to discipline if they break the rules. Nonetheless, the staff realized that to be successful, students must aspire to conduct and behaviors that exceed the expectations of formal rules, and the staff sought to create a common language for Cincinnati Law to share these ideals with the law school community.

Cincinnati Law students do a good job of adhering to the formal rules of conduct, but the law school staff has been frustrated at times with students who seemed to underestimate the importance of other aspects of professionalism. The group discussed how each member had observed a student's behavior and thought, "you won't be able to get away with that when you are in law practice." For example, staff members who work in the Center for Professional Development sometimes were frustrated with students not showing up at networking opportunities with local attorneys sponsored by the school. Other staff members also noted periodic frustration when students weren't responsive to their communications. For example, the staff person who organizes the hooding ceremony routinely needs to get information from graduating students through email but has to send out many reminders before they respond. Professors were also frustrated when they occasionally had to apply sanctions to students who violated their attendance policies. After discussing these experiences, the staff decided that the law school community would benefit by articulating its expectations of law students who are about to enter the profession. The group further decided that students would benefit from professional ideals tailored to their law school experience that included specific examples of the professional behavior they are expected to emulate.

In order to design The Complete Professional, Dean Jefferson led a series of meetings in which staff members discussed their observations about student professionalism and the ways it was falling short. The staff was asked to review relevant professional standards such as the Professional Ideals for Ohio Lawyers & Judges and law school websites to see if other schools had done anything similar. For example, the Duke University School of Law website includes the “Duke Blueprint to LEAD” that describes the transformative experience of Duke's law program, which aims not only to make students into lawyers, but also aims to impart “a strong ethical compass, leadership skills, and a positive outlook,” among other important attributes.

Conversations with staff began with the task of achieving better student engagement and responsiveness based on their recent experiences and then moved into other, related professionalism concepts, including respect, resilience, and integrity. The group also discussed Cincinnati Law values, including honesty, diversity, and inclusiveness. Dean Jefferson broke the group into subcommittees to draft language for each of the five ideals eventually identified and had the group meet again to adopt the final version. The final document, The Complete Professional: Professional Ideals for Law Students, follows:

A COMPLETE PROFESSIONAL . . .

. . . is ENGAGED

Engagement is the level to which an individual devotes his or her energy and skills toward both personal and shared objectives. It is more than mere attendance or accomplishments; engagement exceeds the passive absorption

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16 Univ. of Cincinnati, Student Code of Conduct (2017) https://www.uc.edu/content/dam/uc/conduct/docs/SCOC.pdf.


18 Id.

19 University of Cincinnati College of Law, supra note 1.
of knowledge and requires deliberate process and reflection. Fundamentally, engagement is a personal choice derived from commitment, occurring when one takes ownership of his or her work and decisions.

**Engaged students . . .**

- Prepare consistently and thoroughly for classes and meetings, ask thoughtful questions, and plan ahead using weekly calendars and daily schedules.
- Seek opportunities to connect with mentors and colleagues through professional and peer organizations and build professional experiences each year of law school to create a compelling story for potential employers.
- Proactively check relevant resources, including Symplicity, TWEN, and University email.
- Arrive early, meet deadlines, and willingly contribute their skills and abilities toward the betterment of the enterprise.
- Honor both mandatory and voluntary time commitments with sincerity, enthusiasm, and professional conduct.

. . . is **RESPECTFUL**

Respect is acting in a way that demonstrates an awareness of others’ rights, beliefs, diversity, and human dignity. Demonstrating respect is a critical part of cultivating and maintaining personal and professional relationships. The College of Law community is committed to modeling the civility required and expected in a professional atmosphere.

**Respectful students . . .**

- Conduct themselves professionally and in a manner that will generate a level of esteem for the law and the profession.
- Actively listen. They consider what others have to say before expressing their viewpoint.
- Treat members of the College of Law community as they would colleagues and supervisors—with courtesy, politeness, and kindness.

- Recognize that a series of small actions over time may erode respect.

. . . is **RESPONSIVE**

To be responsive is to communicate in a timely and effective manner. In particular, all correspondence should be clear in meaning, appropriate for the audience, and communicated professionally. A responsive student is diligent and reliable in fulfilling obligations as they relate to the various modes of communication utilized at the College, including but not limited to E-mail, Symplicity, TWEN, and Blackboard.

**Responsive students . . .**

- Promptly reply to email messages in an appropriate tone. Emails should include a descriptive subject line and the sender’s contact information.
- Use the communication mode most appropriate given the circumstances, noting when a phone call or in-person meeting is more suitable.
- Utilize University of Cincinnati email to communicate with faculty and administration.

. . . is **RESILIENT**

Resilience is the capacity to endure stress and overcome obstacles. A resilient student has the ability to adapt, balance risk, and persist through adversity. Resilience is found in a variety of behaviors, thoughts, and actions that can be learned and developed throughout law school and one’s career.

**Resilient students...**

- Build a community with peers, faculty, and administration.
- Manage strong feelings and impulses, particularly following disappointment or personal failure.
- Develop and refine problem-solving and communication skills.
- Seek help and resources when appropriate.
- Take care of their physical and mental health. This includes managing stress in healthy ways and avoiding harmful coping strategies such as substance abuse.

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20 Symplicity is a software program used by the Center for Professional Development to share information with students about their job searches.
... models INTEGRITY
Substance matters. Integrity is consistently displaying strong moral character. Students at the College of Law must act with both personal and professional integrity. The ABA Model Rules of Professional Conduct state that a lawyer must be guided by more than just the Rules of Professional Conduct; attorneys must be guided by personal conscience. To be trusted to handle the affairs of others and give counsel, law students must act with honesty, fairness, and strong moral principles as they work to enhance justice for all people.

Students with integrity...
- Learn and follow the College of Law Honor Code and the University Student Code of Conduct as well as incorporate the Rules of Professional Conduct into daily interactions.
- Demonstrate consistency between word and deed, and remain steadfast even in the face of negative consequences.
- Consider other points of view, ideas, and criticisms, while critically reflecting on their own actions and ideals.
- Build their reputation by presenting themselves professionally, both in person and online.
- Take responsibility for decisions and actions and credit others when appropriate.

The College of Law introduced The Complete Professional to the faculty and incoming students during the Fall 2014 orientation program and to continuing students through a series of emails discussing each of the ideals that were called “Ethics in the Air.”

The process for drafting and implementing The Complete Professional: Professional Ideals for Law Students addressed the two limitations noted above—vagueness and lack of reinforcement. First, The Complete Professional explicitly defines the characteristics that make up “professionalism.” Then, the drafters drew on pedagogy common in the legal writing field, where professors tell students to use factual examples from case law to illustrate a rule and make it concrete and understandable. The Complete Professional does this by giving specific examples of behaviors that express those characteristics in the law school setting.

The College of Law also uses the Complete Professional to address the second limitation—the need for reinforcement throughout the law school experience—by returning to The Complete Professional repeatedly in different settings: in classrooms, in meetings with faculty and staff, and in written communications. In this way, the professional ideals are “more explicit and better diffused” throughout the law school experience.21

Cincinnati Law now has a common vocabulary, used throughout the College, to talk about professionalism and how it can be exhibited in a variety of settings and circumstances.

C. Using The Complete Professional in Lawyering Courses and Beyond
Using The Complete Professional has been extremely beneficial in first-year courses. For instance, legal writing professors use these ideals in the first-semester Lawyering I: Legal Research and Writing classes, a three-credit course that introduces legal research, writing, and analysis with a focus on predictive writing. In the spring, professors use The Complete Professional in Lawyering II: Advocacy, also a three-credit course, which furthers the study of legal research, writing, and analysis with a focus on written and oral advocacy.

Because these lawyering courses offer students their first opportunities to perform lawyering tasks, professionalism concepts are easily integrated into the classes. Students in their first year of law school are also open to such new concepts because they are excited and hungry to learn. These classes, therefore, offer a unique opportunity to teach The Complete Professional in the context of lawyering tasks to a receptive audience. To take advantage of this teaching opportunity, writing professors integrate these professional ideals in many aspects of these courses, including discussing them at the beginning of the courses, including them in the syllabi, and returning to them multiple times during the semester.

21 Sullivan et al., supra note 7, at 14.
Aspirations take on meaning when they are reinforced and applied in specific real-life situations. By way of example, Professor Bradley’s legal research and writing syllabus tells students that their grade will depend in part on their professionalism, and it explains what a Complete Professional looks like in a legal writing classroom using concrete examples. Here’s an excerpt that illustrates how the general policy is implemented in Professor Bradley’s course:

**Professionalism:** Adopting high standards of professional behavior will help you to master the knowledge and skills that are central to success in this course and as a lawyer. You learned about “The Complete Professional: Professional Ideals for Law Students” during Orientation. Here is how you can be a Complete Professional in this class:

- Be **ENGAGED** in the material and the class activities, showing enthusiasm and an eagerness to learn. Be an active participant in class discussions and team projects. Be prepared for every class and conference by arriving on time and ready to work with all assignments completed.

- Be **RESPECTFUL** of your classmates, faculty, and staff, whether in person or in email, inside class or out. Don’t interfere with others’ ability to learn, for example by talking excessively, walking into class late, or using your computer for personal matters during class.

- Be **RESPONSIVE** by honoring your commitments to me and your classmates. Stay on top of your calendar, carefully check papers to be sure they comply with assignment instructions, and turn assignments in on time. Read your emails frequently and answer them quickly. Look for ways to be helpful to your classmates.

- Be **RESILIENT** by taking unexpected events in stride, by seeking help when necessary, and by responding constructively to disappointments or criticisms. I will give you frequent feedback on your written work; strive to listen with an open mind, to reflect on the feedback, and to use it to grow as a writer and a law student.

- **MODEL INTEGRITY** by putting forth your best effort in all assignments, by complying fully with class and College policies, by honoring your commitments, by dealing with others with honesty and compassion, and by taking responsibility for your decisions.

Learning often happens best when the material is introduced in a variety of contexts, when it is reinforced through spaced repetition, and when the learner is required to use and reflect on it. To that end, legal writing faculty return to The Complete Professional throughout the semester to reiterate and reinforce these principles. For example, when talking about emails in the workplace, professors reference “responsiveness” and “respectfulness” when explaining that emails must be answered in a timely manner using a professional tone. Before returning the first set of papers with comments, professors talk about “resilience” and the need to view feedback as a helpful tool in developing professional skills. And when meeting with students one-on-one in conferences, professors draw on the language of The Complete Professional to open conversations in other areas, such as “engagement” or “integrity,” depending on the needs of the specific student.

After working The Complete Professional into legal writing classes, professors noticed a significant uptick in professionalism in writing classes, including:

- Students have attended classes on time. In fact, recently, Professor Oliver had a 9:00 am class (among our earliest) and many students were in their chairs before she arrived, even when she arrived at about 8:40 a.m. to prepare the classroom.

- Students communicated professionally, including emailing to tell professors in the rare instances when they had to miss class or to ask for an extension on an assignment.

- Students showed greater engagement by routinely doing their best on class exercises and attending office hours to ask questions.

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Students treated their classmates with more respect and participated in class discussions and exercises enthusiastically and with good humor (i.e., with minimal grumbling).

While the focus here is on the use of The Complete Professional in legal writing classrooms, other colleagues have also used these ideals to discuss professionalism in other contexts. For example, Professor Bradley also teaches an upper-class externship course. She returns to The Complete Professional in that class too, exploring how the professional ideals translate from law school to the students’ externship placements. Another professor discusses The Complete Professional on the first day of her first-year Criminal Law course. She points out where professionalism comes into play in criminal cases, including noting that a lack of engagement and responsiveness to the client’s needs can result in a client’s wrongful imprisonment or even death. She explains that respect for opposing counsel’s arguments can help an advocate identify ways to make the advocate’s own arguments better. And when students meet with staff in the Center for Professional Development, they are reminded again of The Complete Professional and the professional ideals they will call on during their job search like resilience, responsiveness, and respect.

When other faculty and staff employ the principles and vocabulary of The Complete Professional, students get the message that professionalism is not something unique to the legal writing classroom. And when students hear the same message from multiple sources repeatedly over time, it results in greater understanding, acceptance, and application of these principles. In short, the students internalize The Complete Professional.

Conclusion
Introducing professionalism concepts at the start of law school lays the foundation for professional identity formation so important to students as they enter the profession of law later on. The legal research and writing classroom in particular is perfectly suited for reinforcing these vital concepts because these courses offer the first opportunity for students to do lawyering work. And we have found that using The Complete Professional in our legal writing classrooms has built professionalism competencies in first-year students.

Our law school as a whole has also significantly benefited from The Complete Professional. Professors throughout the curriculum have included these concepts in their classes, and staff members have used the concepts in working with students outside the classroom. Adopting and using a common language about professionalism allows us to reinforce its importance each time we refer to it. By the time a student graduates, these concepts will be well ingrained, resulting in a smoother transition to the ethics and professionalism ideals required by the practice of law.

Finally, the process of drafting The Complete Professional was an incredibly positive experience for our community. We are grateful to Associate Dean Jefferson for her open and inclusive process in formulating them. The conversation about what makes a student a complete professional prompted a healthy and useful exchange of ideas, which united us. It also prompted each of us to appreciate how important professionalism concepts are in our work with students and each other.

Micro Essay
Deserted island? HeinOnline would definitely be in my back pocket. If I am not studying law, I am studying history, and HeinOnline has deep resources in both. I could idle away for years reading English Reports - Full Reprint, all of the law journal literature, publications of the Stair Society and the Selden Society, not to mention United States legislation and legislative history. As the island is deserted, I wouldn't need law practice materials—but materials that support extended thinking about law—those would ease the exile.

Margaret A. Schilt, Associate Law Librarian for User Services and Lecturer in Law, D'Angelo Law Library, University of Chicago, Chicago, Ill.
The Fact of the Matter

By Kimberly Y. W. Holst

Kimberly Y. W. Holst is a Clinical Professor at Arizona State University, Sandra Day O’Connor College of Law in Phoenix, Ariz.

Each spring, we transition from teaching our first-year law students objective writing to teaching them persuasive writing. A great deal of our instructional design centers on identifying which of the basic skills learned by the students in the fall must be transferred and applied by the students in the spring. Year in and year out, the one area of writing that causes the students the most hesitation in the spring is transitioning to writing facts in a persuasive fashion.

It’s not difficult to understand why our students struggle with this concept; we’ve spent the previous semester drilling fundamental concepts about fact writing in their head such as:

- “Present the facts accurately and objectively.”
- “Your statement of facts should focus on material facts and helpful background facts…”
- “In drafting the fact section your primary tasks are (1) selecting which facts to include, (2) organizing those facts in an effective way, and (3) remembering your predictive role.”
- Avoid legal conclusions.

As the fall semester turns to spring, we require students to rethink the presentation of facts. Now, we tell them things like:

- “The appellant's statement of facts and the appellee's statement of facts should each bring their respective client's story to the fore while stating the facts accurately, fairly, and completely.”
- “The writer must use the existing facts to persuade without appearing to persuade.”
- “The writer must recite the facts in a manner that is objective enough to be fair and simultaneously persuasive enough to be compelling.”
- “You can use persuasive writing techniques to tell the story from your point of view to highlight facts that are in your favor, and to lead the reader to draw honest and favorable conclusions about your client's case.”
- “Although the statement of facts must be accurate, it need not be objective.”
- “Be subtly persuasive.”

Simply put, we ask our students to use a skill that they’ve only recently acquired and to manipulate it like an expert. We require them to perform a new task using skills they have yet become comfortable using. It’s downright daunting to think about presenting facts in a persuasive fashion. At a “gut” level, students perceive this new persuasive presentation of facts as manipulative and may even border on lying.

It should not be surprising how difficult it can be getting

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4 Oates & Enquist, supra n. 1 at 196.
6 Edwards, supra n. 3 at 337.
7 Id. at 337-38.
9 Oates & Enquist, supra n. 1 at 349.
10 Id. at 350.
students to understand that it is possible to present facts factually, but in a persuasive fashion.

A Method to the Madness
I have used a variety of techniques to help students understand this delicate balance between writing factually and persuasively. Inspired by colleagues, and tapping into my great love of television and movies, I believe I have finally struck on a method that seems to resonate with the students. I call it Framing Facts in Film.

Origins
It all began with a post to the Legal Writing Professors Listserv—a simple, factual synopsis of the classic movie, *The Wizard of Oz*:

“Transported to a surreal landscape, a young girl kills the first person she meets and then teams up with three strangers to kill again.”

Then I discovered a synopsis of *Aliens II*, on Facebook:

“Sigourney Weaver and a platoon of space marines land on a desolate planet where they display an alarming intolerance for the indigenous population.”

I immediately thought, “Framing!” I decided to create a new lesson plan that would integrate these synopses into an exercise that would begin the students’ shift in thinking about fact manipulation in a more positive light. What resulted was an exercise that-tv-guy-98/ (accessed Feb. 2, 2017).


From the Silver Screen
At the beginning of the class, I show the students the two synopses mentioned above to begin the transition from objective to persuasive. I follow that up with a video clip from *How I Met Your Mother* with Barney’s explanation of why he loves the film *The Karate Kid*. In this clip, Barney explains why *The Karate Kid* is his favorite movie. Through his description we learn that he sees the movie’s traditional antagonist, Johnny Lawrence, as the hero of the film while the traditional protagonist, Daniel LaRusso, as the villain. See *How I Met Your Mother*, Season 4, Episode 15: *The Slingshot* (20th Century Fox, CBS Broadcast on Mar. 2, 2009).

To the Classroom
Next, with the students working in small groups, I ask them to think of a well-known movie (one appropriate for classroom discussion) and write a short synopsis from a different perspective of the student’s choosing—either from a different character’s perspective or in some fashion that highlights the key events in the film in a new light. Once the alternate synopses have been written, I have each group read their different synopsis aloud and challenge the rest of the class to identify the film. What follows are a few of the actual alternative film synopses developed by my students in the past. Can you identify the films? (The answers are in the footnotes.)

Film #1

*A man’s wife and children are brutally murdered by a serial killer and the only son to survive is left physically disabled. A serial kidnapper then kidnaps his son and in a persua*
twisted turn of events, the father has to chase the kidnapper thousands of miles with the help of a mentally disabled companion. This poor companion has been wandering around for years, unsure of where or who she is. She is desperately trying to make friends with the father who is constantly attempting to leave her behind in his journey. Despite his numerous rejections, she “just keeps swimming.” In the end, her perseverance yielded an unforgettable friendship.  

Film #2  
A grave robber turned archeologist breaks into ancient temple ignoring proper archeological techniques and safety procedures. He steals a religious artifact from the native population. Then, the U.S. government covers up supernatural events and hides evidence for monotheistic religion away in a warehouse.  

Film #3  
A fragile old woman uses the only avenue available to her in order to preserve her life. Faced with imminent death, she is forced to find another alternative when the magical flower she regularly used to preserve her life was taken from her. When a princess is born with the flower’s magical ability (accessed through the princess’s hair), the old woman, victimized by her age, weighed the risks and was compelled to take and raise the child on her own. Still fearing for her life, the old woman protects the princess from worldly harm and gives her every luxury she can afford before the princess eventually abandons her, leaving the old woman powerless and alone. Worrying for the princess’s safety, she frantically searches for her. In the end, the princess’s decision to cut her hair and abandon the power, leads to the old woman’s demise.  

Film #4  
One of the greatest and most memorable golfers of all time has his dominance challenged by an unprofessional and degenerate newcomer with questionable ethics. The established and successful golfer is also skilled in both real estate and investing. The golfer lives an extravagant life and in a shrewd move purchases the unprofessional golfer’s grandmother’s house to use as bargaining power in the future. The golf veteran is also a fan favorite with his over the top signature pistol gesticulation. The longtime tour veteran is performing admirably and in position to win the season ending golf tournament when some of the newcomer’s unruly fans become disruptive. On the last hole, the veteran is thwarted by an extremely controversial play in which the newcomer was allowed to use materials other than his golf club to finish the hole and win by one. The improper and unprecedented play should have been deemed illegal and the veteran—the rightful champion—should have been crowned again. Despite being denied the victory in that tournament and viciously assaulted by the newcomer’s fans afterward, the veteran went on to make a full recovery and is the all-time highest money earner in PGA tour history.  

Film #5  
The prince was a juvenile delinquent who, in his largest offense, orchestrated his father’s death. He imperiled himself, knowing that his father would come to his rescue and then fled the royal community without acknowledging his role in the king’s untimely demise. He abandoned all responsibility to his mother, girlfriend, and tribe, and left the kingdom to live with a couple of lay-abouts in a remote jungle. Then, when he was finished relaxing in a faraway land, he returned to the family he abandoned to seize their government (and shake up their lives) and to reclaim  

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18 Finding Nemo (Pixar Animation Studios 2003).  
20 Tangled (Walt Disney Animation Studios 2010).  
21 Happy Gilmore (Universal Pictures 1996).
the responsibility he wasn't man enough to assume ages ago.22

Film #6

After years of order, peace, and stability, a gang, including a criminal smuggler and his aggressive, unruly beast and a spoiled rich girl with a burning passion for her brother, wreak havoc in the galaxy forcing the government to respond. The rebels take advice from a senile and grammatically challenged sorcerer. The government responded proportionately and valiantly to crush the immoral rebellion, but in the end, the rebels won and many of the government's courageous, well-trained soldiers and leaders were killed in the bloody insurrection.23

To the Courtroom

After we have explored alternative ways to framing facts from movies, I share examples of alternatively framed facts from real cases beginning with oral arguments. A familiar example is Johnnie Cochrans’s closing argument in the O.J. Simpson case. In his closing argument, Mr. Cochran effectively shifts the jurors’ focus from the defendant, a famous, professional athlete, to a symbol—the ill-fitting glove. His repeated use of the phrase, “If it doesn’t fit, you must acquit,” brings the focus to the errors in the investigation rather than the evidence against defendant.24

Students are shocked to discover that judges at all levels of the judicial system regularly use framing techniques to support their opinions. One popular exercise (used by many legal writing professors) considers the facts from Walker v. City of Birmingham, 388 U.S. 307 (1967) and Shuttlesworth v. City of Birmingham, 394 U.S. 147 (1969). Both cases describe events leading up to and including the famous civil rights march through Birmingham, Alabama, on Easter Sunday, April 14, 1963.25 In Walker, the Court’s description frames the facts in a more violent fashion,26 while the Shuttlesworth Court frames it in a more peaceful fashion.27 I challenge students to tell identify the different framing techniques used by each Court to frame the reader’s perception of the march. Ideally, students will highlight framing techniques such as fact selection, how facts are highlighted or de-emphasized, particular word choices, the manner in which names and numbers are handled, the presentation of the timeline of events, and other aspects of the facts that offer contrasting perspectives. At the end of the discussion, I reveal to the students that both opinions were written by Justice Stewart—further emphasizing that a single author is capable of using framing techniques to persuade the reader.28

If time permits, we may also explore other examples of persuasive framing such as the Courts’ use of non-traditional narrative techniques to present facts in a certain light as the illustrated in Boykin v. Alabama, 395 U.S. 238 (1969).29 In Boykin, the court frames the facts to shift the focus from the defendant and the heinous crimes for which he was convicted to a story in which the focus is on the procedural defects in the case.30 This approach paints a picture of the defendant in a passive role rather than an active role within the case. (Other examples of non-traditional framing include non-chronological presentations of events or challenging the good guy v. bad guy archetypes, etc.).
“Greater exposure to uses of alternative framing techniques for the purpose of persuasion helps the students feel comfortable with using these techniques to frame the facts of their case.”

To the Spring Writing Assignment

Ultimately, greater exposure to uses of alternative framing techniques for the purpose of persuasion helps the students feel comfortable with using these techniques to frame the facts of their case. After we’ve explored alternative framing in films, oral arguments and judicial opinions, we shift to discussions of how the facts from their spring writing assignment may be persuasively (alternatively) framed for each party. This brings the exercise full circle—from a familiar context (films), to a slightly newer context (cases), to their current assignment. This leads students to the last step in the exercise: application of these techniques to the facts in their hypothetical case. The theory driving this last step in the exercise is building the students’ confidence in using narrative techniques to frame facts by starting in a familiar context (movies) and moving to a less familiar context (facts in a litigation document). During this final portion of the exercise, I ask the students to apply the techniques we used to frame movie synopses and identified in real cases to the facts of their spring writing assignment. Typically, I have the students continue to work in small groups to discuss whether a traditional framing of the facts (a chronological protagonist driven narrative) or an alternative framing of the facts best serves their client, and to identify the facts that should be highlighted or de-emphasized to achieve the best possible outcome for their client.

Conclusion

This non-traditional approach to teaching persuasive framing of facts has proven successful in my own experiences. Since I began implementing this approach to teaching persuasive framing of facts, I have found that students are more apt to try different narrative techniques and often create more compelling statements of facts in the first drafts of their briefs. As a result, my feedback on the first draft can focus on refining these statements of facts rather than on restructuring them—leading to a better final product in the final draft. And, it doesn’t hurt that we have a little fun along the way.

Micro Essay

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