

# The Complete Pre-Law Writer



# The Complete Pre-Law Writer

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# Online Materials

Additional content for *The Complete Pre-Law Writer* is available on Carolina Academic Press's *Core Knowledge for Lawyers* (CKL) website.

*Core Knowledge for Lawyers* is an online teaching and testing platform that hosts practice questions and additional content for both instructors and students.

To learn more, please visit:

[coreknowledgeforlawyers.com](http://coreknowledgeforlawyers.com)

Instructors may request complimentary access through the “Faculty & Instructors” link.



# Preface to *The Complete Pre-Law Writer*

This book teaches legal writing and research skills to undergraduate pre-law students, new law students who need a boost before starting law school, and paralegals starting their careers in law firms. Readers will learn about the U.S. legal system, how to read and interpret judicial opinions, how to write professional legal documents, how to interact with legal supervisors, how to read a client file, how to write a legal research article, and more. After reading this book and doing the writing assignments, readers will be prepared for law school or a career where legal knowledge is crucial.

This book is the third title in *The Complete Series for Legal Writers*, a series of legal writing handbooks for students and practitioners edited by Professors Alexa Z. Chew and Katie Rose Guest Pryal of the University of North Carolina School of Law. The series emphasizes a systematic and transferable approach to legal writing, which includes the genre discovery approach, citation literacy, and giving feedback. Readers can easily apply these skills to a variety of unpredictable situations. To be *complete* does not mean to list every possible scenario, but rather to prepare readers to encounter them.

## A. History: A Short Guide to Writing About Law

Although this book is part of *The Complete Series for Legal Writers*, many years ago, in an earlier version — what we consider its first edition — it had a different title. *The Complete Pre-Law Writer* is, in actuality, the second edition of a book Professor Pryal wrote for Pearson Education in 2010, titled *A Short*

*Guide to Writing About Law*. When it was time to write a second edition of that book, Pearson's higher education division had largely shifted away from print books. Professor Pryal's editor at Pearson gladly returned her rights to her book. Professor Pryal brought the book to Carolina Academic Press, the publisher of *The Complete Series*, and CAP welcomed the book into the series.

When she set about writing this book, Professor Pryal sought a co-author who was familiar with teaching pre-law writers and with *A Short Guide to Writing About Law*. Professor Louis Di Leo was a perfect fit as a co-author. With a law degree and a doctorate in English, plus years of experience teaching undergraduate pre-law writing, Professor Di Leo brought a fresh perspective to the book.

## B. Genre Discovery and Other Key Features

After ten years, *A Short Guide to Writing About Law* needed a major overhaul.

For our undergraduate writing audience, we needed the book to better reflect the best practices of composition and legal writing pedagogy, which have changed a lot since 2010. For example, pre-law students write more law school and professional-oriented documents (e.g., case briefs and memos), rather than only research papers (although they do write those, too). The new book teaches beyond the research paper. Today there is also far more emphasis on teaching with genre pedagogy at the undergraduate and law school levels. Thus, although the *Short Guide* did lean on genre pedagogy, this book uses it far more explicitly.

We also wanted the book to be useful to pre-law students beyond undergraduate institutions. Specifically, we wanted those who are approaching law school as a second career to be able to use this book as a self-teaching tool to prepare for law school, and we wanted academic support programs (ASPs) in law schools to be able to use this book in summer prep programs to help students prepare for the rigors of law school.

With these goals in mind, we revised, bringing in key features from *The Complete Series for Legal Writers*, as well as tried-and-true methods tailored for the specific audience of *The Complete Pre-Law Writer*.

### Genre Discovery

A new emphasis on genre pedagogy brings the book in line with the rest of *The Complete Series for Legal Writers*. A **genre** is a recurring document type that has certain predictable conventions. The series is built on the premise that



all texts are genres: An office memo. A client letter. A trial brief. All of them, as well as the rest of the documents that lawyers write, are genres. **Conventions** are the *parts* of a genre and the *ways* that audiences expect a genre to be written. Conventions are like the “rules” of a genre, but these rules are both flexible and ever-changing because an audience’s expectations are also flexible and ever-changing.

**Genre discovery** is an approach for learning how to write unfamiliar genres, by which a writer studies samples of a genre to identify the genre’s conventions so that she can write the genre.<sup>1</sup> Because a genre is a *recurring* document type, we can study multiple samples of a genre to figure out — to *predict* — what the genre’s conventions are. We identify conventions by spotting patterns among sample documents. Then we can use those patterns to write our own documents that follow the conventions of the genre. In fact, lawyers in practice have been writing in this fashion for decades every time they use a sample or “go-by” to help them write an unfamiliar legal document type. Lawyers typically haven’t theorized their go-bys as “genre discovery.” (Until now.)

In this book, we provide a sample of the genre, and then we walk readers through how to write the genre step by step, by breaking down the genre’s conventions into small parts, and then demonstrating how to write each part. You can think of this as “slow-motion” genre discovery. Whether you are a professor or a reader, we encourage you to go find additional samples beyond the ones that we include in the book to allow for the study of patterns.

Although some of the genres in this book are specialized legal genres, by learning to analyze and then write them, students learn to analyze and write *any* genre. The tools of genre discovery transfer across the curriculum and across professions.

## Professionalism

The pedagogy of the book also teaches professionalism. In Chapter 1, readers are welcomed into a fictional law firm via a memo from a supervising partner. Each of the book’s writing assignments comes via a new assigning memo. In Chapters 2 and 3, readers engage with four judicial opinions on the

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1. Professor Pryal first presented her theory and pedagogy of genre discovery in *The Genre Discovery Approach: Preparing Law Students to Write Any Legal Document*, 59 *Wayne Law Review* 351–81 (2014). She has added to her work on the subject in *Genre Discovery 2.0*, *Barry Law Review* (forthcoming 2023). These resources are available on the Complete Series website, [completelegalwriter.com](http://completelegalwriter.com).

subject of attractive nuisance, writing a case brief on one and a rhetorical analysis essay on another. In Chapter 4, readers receive a client file: the firm's fictional client has come for assistance with an attractive nuisance claim, and a senior partner needs an email memo analyzing the case. To write the email memo, readers must use the opinions they studied in the earlier chapters. Finally, readers write a law firm blog post about a new development in attractive nuisance law, another assignment from their supervisor.

## Citation Literacy

In writing this book, we also relied upon another foundation of *The Complete Series for Legal Writers*: **citation literacy**, i.e., the ability to first read, and *then* write, citations fluently. This radical approach to citation — read first, write second — helps new legal writers approach citation without fear.<sup>2</sup>

Professional legal writers use *Bluebook* citation style or something similar. *The Bluebook* is a citation and style manual used by lawyers and other legal professionals and also by legal scholars who publish in law journals. Learning legal citation using *Bluebook* style is part of the core curriculum of law school legal writing courses.

Many students (as well as professors and lawyers) find *Bluebook* citations intimidating. Citation literacy takes away much of the intimidation factor. In this book, we use citation literacy to teach *Bluebook* style so that readers can understand the citations that they *read* in judicial opinions and other documents. After all, citations are integral parts of opinions and other legal documents that students read; reading citations fluently is crucial to understanding a legal document.

However, we do not expect readers to be able to fluently write *Bluebook* citations after reading this book. Teaching the writing of *Bluebook* citation in depth is beyond its scope. Furthermore, undergraduate students should use the citation style recommended by their instructors, which might not be *Bluebook* style.

## Peer Feedback

Although the *Short Guide* gave some good instruction on how to do peer workshops, peer feedback receives greater emphasis in this book. An entire

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2. See Alexa Z. Chew, *Citation Literacy*, 70 *Arkansas Law Review* 869 (2018).

chapter is devoted to peer feedback. The chapter explains, among other things, how to give feedback to and receive feedback from peers, an important skill given the importance of peer review practices in writing classrooms, in law school, and in legal workplaces. The chapter also includes explicit instructions for students to run different types of peer feedback workshops.

## The Complete Legal Writing Glossary

At the end of this book, you will find The Complete Legal Writing Glossary. It is a robust glossary of legal writing terms that you can find in every book in *The Complete Series for Legal Writers*. If readers need to find the definition of a legal term that is not in this glossary, we recommend the free NOLO online dictionary ([nolo.com/dictionary](http://nolo.com/dictionary)).

## C. Overview of Writing Projects

Crucial elements of the *Short Guide*, such as the structure of the U.S. legal system; the history of rhetoric and law; the focus on citation, research, and peer feedback; and the teaching of revision and editing skills all remain in this book. Each, however, is updated and expanded here. If you have taught with the *Short Guide* in the past, you will enjoy teaching with *The Complete Pre-Law Writer*.

The two major changes are these: the topic of the case law and the genres taught. This book teaches five genres, in this order:

- a case brief
- a rhetorical analysis essay of a judicial opinion
- an email memo
- a law firm blog post
- a legal research paper
- an abstract of a legal research paper

Although some of these are specialized legal genres, by learning to analyze and then write legal genres, students learn to analyze and write *any* genre. The tools of genre discovery transfer across the curriculum and across professions. Also note that, as in the *Short Guide*, this book continues to teach students how to write legal scholarship; it provides deep guidance on how to research and write a legal research paper *and* how to share their research with others by writing abstracts and giving oral presentations.

## D. Overview of Chapters

Chapter 1 introduces readers to legal writing, to the U.S. legal system, and to genre discovery. At the conclusion of the chapter, readers are introduced to the fictional law firm that they will work with through the remainder of the book.

Chapter 2 teaches readers how to read judicial opinions like a legal reader, and then how to write a case brief. At the end of the chapter, readers are asked by a senior partner to write a formal case brief of a judicial opinion to help catch the partner up on the attractive nuisance doctrine.

Chapter 3 teaches readers about Western rhetoric, its relationship with law, and the tools of rhetorical analysis. At the end of the chapter, the senior partner assigns readers to write a rhetorical analysis essay of a judicial opinion to help them better understand how to analyze arguments.

Chapter 4 introduces readers to the component parts of legal analysis and the logic that supports it. At the end of the chapter, readers complete a prewriting task: they map the parts of a judicial opinion's legal analysis onto the parts of C-RAC.

Chapter 5 teaches readers how lawyers use legal analysis to solve legal problems and how to write an email memo. Readers receive a client file for their firm's fictional client, who has come for assistance with an attractive nuisance claim. At the end of the chapter, the senior partner assigns readers to write an email memo analyzing their client's case.

Chapter 6 teaches readers how to summarize the law, including judicial opinions, for a public audience. They learn to write an **employer website blog post**, i.e., an online genre published by law firms to provide information about recent developments in the law to their clients and the general public and their supervisor assigns them to write one about a recent development in attractive nuisance law.

Chapter 7 teaches readers how to compose a legal research paper, from the selection of a topic and the development of a thesis to developing their papers using outlines based on arguments. Finally, the chapter provides readers with a sample legal research paper modeling these strategies.

Chapter 8 teaches readers general oral presentation skills. Next, it focuses on the genre of oral presentations of research, which can be presentations at scholarly conferences or class presentations. Lastly, this chapter walks readers through the steps of submitting work to a scholarly journal.

Chapter 9 teaches readers the basics of citing authorities and how to integrate authorities and citations into their legal writing, both practical and scholarly. Readers learn the rhetorical purposes of citation, the method of

“citing while you write,” and the basic framework of citation, a framework shared across many citation styles. The end of the chapter introduces readers to *Bluebook* style.

Chapter 10 teaches readers revision and editing skills, including how to use a reverse outline, how to check topic sentences, and how to create “flow.” It also provides readers with a detailed list of editing strategies for fixing sentence-level errors.

Chapter 11 teaches readers peer-feedback skills, including a step-by-step guide for doing peer feedback in and outside of class.

Chapter 12 teaches readers about principles of legal research and how to use readily available online legal research tools to gather authorities in an efficient manner.

Lastly, the book includes The Complete Legal Writing Glossary, which we describe above.

## E. Additional Resources

If you are teaching with this book, you can acquire the teacher’s manual, which includes a sample syllabus. Please contact Carolina Academic Press for a copy.

*The Complete Series* website also has a plethora of resources for readers, students, and professors. You can find it at [completelegalwriter.com](http://completelegalwriter.com).

If there are features you would like to see added to future editions of this book or to the teacher’s manual or website, please contact us at [authors@completelegalwriter.com](mailto:authors@completelegalwriter.com).

## F. Acknowledgments

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We would like to thank artist Lauren Faulkenberry, who provided the cover art for this book. She has created the art for all of the titles of this series, including “The Tree Book” (*The Complete Legal Writer*) and “The Fish Book” (*The Complete Bar Writer*). Now, she adds the glorious cover of “The Fox

Book” to the collection. You can find her art at [laurenfaulkenberry.com](http://laurenfaulkenberry.com). Prepare to be blown away.

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## Professor Pryal

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## Professor Di Leo

I would like to thank my parents, Lou and Diane, who supported the academic pursuits that took me across the country—from New Jersey to New York, Maine, Florida, and Mississippi. That they encouraged these endeavors

and helped me throughout the journey—and did so with only vague assurances that I was creating a cohesive skillset—speaks to their dedication and trust.

I thank my siblings, attorneys Michael J. Di Leo and Julianne C. Smith, for taking my calls at all hours as I sought their advice on professional legal style and more. For their support and tolerance of those sometimes lengthy phone calls, I'm also grateful to Kristen and Park. I thank my children, each a rising mountain of awesomeness and curiosity, for their patience with me and for the inspiration they give me. And for her relentless optimism, I thank Mandalyn Di Leo.

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If we have missed anyone, please know how much we appreciate your support and input—and we hope you will let us know about our oversight so that we can make our list complete.

*Katie Rose Guest Pryal, Chapel Hill, NC*

*Louis Di Leo, Westfield, NJ*

*December 2021*

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*Although The Complete Pre-Law Writer is not technically a second edition according to publishing's rules, it is a second edition in the hearts of the authors. We taught with the "first" edition for many years, and it brought us together as co-authors. Here, then, is the preface to the first edition.*





# Preface to *A Short Guide to Writing About Law* (2010)

This book has grown out of my experiences teaching first-year and advanced composition in the Writing in the Disciplines program at the University of North Carolina at Chapel Hill. There, I developed a first-year writing course titled Writing in Law. In Writing in Law, freshmen study documents of legal discourse, such as cases, statutes, and law journal articles, to learn about writing organized and persuasive papers. When they begin the course, Writing in Law students take the leap into academic and professional writing under the guidance of one of the most complex discourse communities of all—that of lawyers, judges, and law professors. To rephrase a common maxim, if students can make it in the legal discourse community, they can make it anywhere.

This book fills a gap: it teaches non-lawyers and non-law students how to write about law, a complex professional discourse that has begun to creep into undergraduate courses. First-year college students, advanced undergraduates, and graduate students who are interested in writing about law will find guidance here. Students of composition, rhetoric, law, political science, and interdisciplinary fields such as law and literature will find this book a helpful reference. Here, students will find a rough-and-tumble introduction to the American legal system, the rhetoric of law, appellate court opinions and statutes, and wide-access online search engines for conducting legal research. The book includes instruction for writing a variety of pre-professional and professional legal genres, including a research paper modeled on a law school seminar paper, and ways to share this research with the wider community via conference presentations and scholarly publishing.

The most challenging aspect of writing about law is learning to read and write in legal discourse. Legal discourse presents unique challenges to the uninitiated, including (1) a highly specialized vocabulary, (2) obscure genres and document forms, and (3) unique application of certain rhetorical devices. This book address each of these challenges. Because judges and lawyers write in a highly specialized language with vocabulary that spans a thousand years and a variety of languages, key legal terms appear in this text in bold. They are defined in the text as well as in a glossary in the appendix.

I strive to render the array of legal genres less complex by taking a genre-based approach to legal discourse. I address some genres as writing projects (such as the case brief and the scholarly research paper) and some as sources of legal authority (such as the judicial opinion or appellate brief). Whenever a legal genre arises in the text for the first time, I define its purpose and describe its uses in legal practice.

Lawyers use a variety of rhetorical devices to make arguments that are unique to legal discourse. For example, in our common law system, lawyers use analogy and distinction to argue that certain past opinions should or should not be followed in a present case. I suggest that deciphering how judges and lawyers make legal arguments are tasks best tackled using classical rhetoric. As I explain in Chapter One, the first lawyers were rhetoricians, and the first rhetoricians were lawyers. The study of law through the lens of rhetoric is therefore not only an obvious choice, but an essential one. Rhetoric and composition theories guide this book generally. The first chapter introduces rhetorical analysis; Chapter Eight covers revision and workshop techniques.

In the end, this is a book about writing well: about inventing sound arguments, conducting thorough research, and using that research to support arguments in a well-organized and eloquent final document. These are the tools of legal writing in particular, yes, but also of academic writing in general. The many interactions between legal writing and academic writing anchor this book. There is much that academic writing can learn from both scholarly and professional legal writing. Legal writing emphasizes strength of research and authority, deep attention to organization, and a persuasive tone that manages to be purpose-driven and maintain critical distance simultaneously.

Some aspects of this book are unique. For example, in the second chapter you will find a list of seven legal *topoi*—commonplaces of legal argument that can be found in many judicial opinions, especially those of constitutional law. I developed the list through years of close study of judicial opinions. For the non-lawyer, the *topoi* provide a framework for analyzing legal writings and inventing arguments for research papers.

In Chapter Six, I provide an extensive list of primary legal documents and suggestions for how to cite them in MLA style. Drawing from the modest coverage of the legal documents in the *MLA Style Manual*, I combine principles of the professional legal citation style (called *Bluebook*) with principles of MLA style to create citation guidelines useful for non-lawyers.

The last chapter guides students interested in sharing their legal research with a wider audience, either through conference presentations or publishing in scholarly journals. Publication is an important step in the work of legal scholarship. Legal scholarship bridges the gap between the academy and legal practice in that lawyers and judges produce and rely upon such scholarship in their professional work. Once legal scholarship is published, it influences those in legal practice.

This is a short book and it is necessarily narrow in scope. For example, most of the cases I examine in the text were decided by the U.S. Supreme Court. These cases address constitutional questions of Equal Protection and Due Process. This book is intended to be used, however, with any sequence of cases from any area of law — criminal law, torts, securities, and so on.

In fact, this book provides great flexibility to instructors. Although the book provides some writing assignments designed to aid students in their understanding of legal discourse, the text does not cater to these assignments. This book will work well as a reference for any course in which students read or write legal discourse, such as political science courses or history courses.

I have also narrowed the scope of this book by focusing heavily on MLA citation style, a style used in most composition courses and courses in the humanities. I chose to focus on MLA because it is simple to learn and shares principles with other styles such as APA and Chicago. Although I focus on MLA, I provide guidance on general principles of citation and encourage students to recognize how many citation styles share these principles. My knowledge of *Bluebook* style informs the guidance I provide here.

Lastly, this book focuses on scholarly legal writing and the genres that support it, such as the student case brief, the argument-based outline, and the research paper. This book does not focus on the genres of professional legal writing — the office memo, the appellate brief, the demand letter, and other documents typically taught in a law school first-year writing course. In the Introduction, I discuss the differences and similarities between scholarly or academic legal writing and professional legal writing. I wrote this book on the former rather than the latter for two reasons: because there are few resources for the undergraduate and graduate students who want to incorporate legal texts into their scholarly writing, and because there are many, many excellent textbooks on writing professional legal genres.

## Overview of Chapters

Chapter One introduces students to the history and principles of rhetorical and legal reasoning, beginning with the sophists of ancient Greece. This chapter presents the rhetorical triangle, Aristotle's three types of oratory, and syllogisms, culminating with instructions for writing a rhetorical analysis of a court opinion. Chapter Two introduces court opinions and the appellate process generally. Readers learn the genre of the case brief and the use of legal *topoi* to analyze judicial rhetoric. Chapter Three introduces the genre of scholarly legal writing. It provides guidance in framing legal arguments, developing a topic for research, and writing an argument-based outline. Chapter Four provides a primer on legal research for non-lawyers, that is, for those who do not have access to expensive professional legal research databases. This chapter provides an annotated list of open access databases as well as databases commonly subscribed to by university libraries. Chapter Five draws from the strong organizational frameworks of professional legal genres to guide scholarly writers in shaping effective research papers. The chapter focuses on writing a variety of effective and eloquent paragraphs. Chapter Six introduces principles of citation in academic writing generally and in legal writing in particular. This chapter also discusses ways to integrate legal sources into scholarly writing and cite them properly. Chapter Seven provides detailed guidance for revision of scholarly writing. This chapter gives tips for both solo revision and peer workshop revision and it details common errors made by writers new to legal discourse. Chapter Eight provides guidance for oral presentations, including conference presentations of scholarly research. The chapter also walks readers through the steps of publication in scholarly journals, including undergraduate journals.

The chapters need not be read in order. Each can stand alone as a resource. First and foremost, this book is a reference for those who want to enter into legal discourse.

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*Katie Rose Guest Pryal*

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