

SPRING 2022: UNENDING CONVERSATIONS

STETSON LAW REVIEW FORUM

The Unending Conversation in Legal Writing Scholarship: An Introduction

Anne E. Mullins*

Imagine that you enter a parlor. You come late. When you arrive, others have long preceded you, and they are engaged in a heated discussion, a discussion too heated for them to pause and tell you exactly what it is about. In fact, the discussion had already begun long before any of them got there, so that no one present is qualified to retrace for you all the steps that had gone before. You listen for a while, until you decide that you have caught the tenor of the argument; then you put in your oar. Someone answers; you answer him; another comes to your defense; another aligns himself against you, to either the embarrassment or gratification of your opponent, depending upon the quality of your ally's assistance. However, the discussion is interminable. The hour grows late, you must depart. And you do depart, with the discussion still vigorously in progress.

Kenneth Burke, *The Philosophy of Literary Form* 110–11 (1941).

Directly responding to and engaging with other scholars, through the written word, is crucial to the development of every scholarly discipline. The Institute for the Advancement of Legal Communication and *Stetson Law Review* created this issue of the *Stetson Law Review Online Forum* to serve as the Burkean parlor for the discipline of legal writing. It is a space for scholars to come together to examine, explore, and vigorously respond to thoughts and ideas in extant legal writing scholarship. The breadth and interdisciplinary nature of legal writing scholarship means that there is both much to say in the first instance, and much to say in response. The Unending Conversation is a forum to respond and to provoke further discussion and debate through targeted essays.

This inaugural issue of the Unending Conversation features four responsive essays. In the first essay, Professor Rebekah Hanley takes a decidedly pro-plagiarism position. Hanley's *Yes, We Can: Embrace The Case for Plagiarism to Enhance Access to Justice*¹ amplifies Professor Andrew Carter's message in *The Case for Plagiarism*.² Hanley argues, among other things, that plagiarism can help the legal profession become more client-centered and promote access to justice. Hanley

* © 2022, Anne E. Mullins. All rights reserved. Editor, Professor of Law, Stetson University College of Law. I am grateful to Stetson University College of Law for its support of this important project. I am also grateful to the *Stetson Law Review* and the authors featured in this volume. Working with these scholars and students was a joy.

¹ Rebekah Hanley, *Yes, We Can: Embrace The Case for Plagiarism to Enhance Access to Justice*, 5 STETSON L. REV. ONLINE No. 2 (2022).

² Andrew M. Carter, *The Case for Plagiarism*, 9 U.C. IRVINE L. REV. 531 (2019).

also offers concrete suggestions to guide and regulate permissible plagiarism, including changes to the Model Rules of Professional Conduct and the uniform rules of legal citation, which are contained in the *ALWD Guide to Legal Citation* and *The Bluebook*.

Professor Kim Ricardo takes a non-traditional approach in *I Mua Kākou: A Response to Dean Dickerson's Call to "Abolish Caste."*³ Written in part through first person narrative, Ricardo responds to former American Association of Law Schools President Dean Darby Dickerson's letter to the legal academy in the Fall 2020 AALS Newsletter. In her letter, Dickerson condemns discrimination in legal academia based on subject matter expertise and proposes solutions to the problem.⁴ Ricardo characterizes Dickerson's solutions as grounded in formal equality, and therefore subject to the same flaws and limitations that plague formal equality. Framing solutions through the lens of substantive equality, Ricardo argues that substantive equality is the right approach to dismantle the discrimination in legal academia.

In *The Legal Writing Community's Bonds Enable it to Flourish*,⁵ Professor Amy Soled roundly rejects Professor Kevin Bennardo's claim that the legal writing discipline is protectionist.⁶ Soled methodically examines the evidence Bennardo advances and argues that none proves protectionism. Soled posits that the collegial nature of the discipline fosters intellectual rigor and engagement while improving the status of the profession.

Finally, Professor Kathy Stanchi's *The Unending Conversation: Gut Renovations, Comparative Legal Rhetoric and the Ongoing Critique of Deductive Reasoning*⁷ both amplifies and challenges Professors Elizabeth Berenguer, Lucy A. Jewel and Teri A. McMurtry-Chubb's *Gut Renovations: Using Critical and Comparative Rhetoric to Remodel How the Law Addresses Privilege and Power*⁸ and Professor Lucy A. Jewel's *Comparative Legal Rhetoric*.⁹ Stanchi explores the authors' argument that deductive reasoning is inherently biased. Stanchi challenges the authors and the legal writing community to explore potential bias in deductive reasoning more deeply by, for example, examining specific instances of biased deductive reasoning to reveal where and how the bias operates and differentiating between biased substantive law and biased interpretive methodology.

The conversation does not end with these essays. Examine, explore, and vigorously respond to the ideas within them! Did the essays fairly characterize the pieces to which they responded? If an essay proposed solutions, are those solutions workable? Do they actually solve

³ Kim D. Ricardo, *I Mua Kākou: A Response to Dean Dickerson's Call to "Abolish Caste,"* 5 STETSON L. REV. ONLINE No. 3 (2022).

⁴ Darby Dickerson, *President's Message: Abolish the Academic Caste System*, AALS.ORG, <https://www.aals.org/about/publications/newsletters/aals-news-fall-2020/presidents-message-abolish-the-academic-caste-system/>.

⁵ Amy H. Soled, *The Legal Writing Community's Bonds Enable it to Flourish*, 5 STETSON L. REV. ONLINE No. 4 (2022).

⁶ Kevin Bennardo, *Legal Writing's Harmful Psyche*, 105 MINN. L. REV. 112 (2020).

⁷ Kathy Stanchi, *The Unending Conversation: Gut Renovations, Comparative Legal Rhetoric and the Ongoing Critique of Deductive Reasoning*, 5 STETSON L. REV. ONLINE No. 5 (2022).

⁸ Elizabeth Berenguer, Lucy A. Jewel & Teri A. McMurtry-Chubb, *Gut Renovations: Using Critical and Comparative Rhetoric to Remodel How the Law Addresses Privilege and Power*, 23 HARV. LATINX L. REV. 205 (2020).

⁹ Lucy A. Jewel, *Comparative Legal Rhetoric*, 110 KY. L.J. 1 (2021).

the problem they purport to solve? Did the essays engage in meaningful critique when critique was necessary? Did the essays miss opportunities to amplify, question, or examine closely?

The conversation continues...