

# Education & Practice

Published by the Virginia State Bar – SECTION on EDUCATION of LAWYERS – for Practitioners, Judges, and Law Teachers

## Spring 2023

Chair's Message 1  
Professor David H. Spratt

William R. Rakes 2  
Leadership in  
Education Award  
2023 Recipient:  
Anita O. Poston

Justice from the 3  
Margins  
Margaret P. Kelsey  
S. Ernie Walton

Legal Writing 4  
Workshop

Chat GPT and 5  
the Law  
Derek Green

Richmond 6  
Criminal Justice  
Forum Sheds Light  
on Practicing  
Criminal Law  
University of Richmond

2023 Annual 7  
Meeting

2022-2023 Board 8  
of Governors



## Chair's Message

by David H. Spratt

Associate Director, Legal Rhetoric Program

Professor of Legal Rhetoric

American University, Washington College of Law

As the end of the semester approaches (and I can procrastinate no more), my thoughts turn to grading appellate briefs and the importance of providing legal writers with effective feedback.

It might sound simple in theory, but making comments on another's work product is an acquired skill that requires forethought and practice. Whether true, most novice legal writers think that they are good writers (and most probably are, but not necessarily in the *legal writing* context). If you are reading this Chair's Message, you are likely involved in legal education. You might be a professor or dean at a law school, a practicing lawyer who mentors new attorneys, or a judge who works with law clerks. No matter your specific role, one of your goals as a "teacher" is likely to provide less-experienced legal writers with effective comments on their draft work product. Comments must be well-thought, on-point, and specific to be effective. If the comments seem sarcastic, hurried, or appear to be cut and pasted from another's work, then the writer is less likely to read them, let alone assimilate them and apply them to their next draft.

Here are some tips that should help you provide effective comments on the work product of those you supervise:

### Accentuate the Positive.

Even the worst legal document has some merit. Solid editing and proofreading, creative analysis, attention to formatting detail, well-researched – these are a few areas that you might positively highlight in documents that are otherwise poorly drafted. On occasion, you might have to stretch a little because some drafts are little more than grammatical and stylistic nightmares. Resist the temptation to lash out at the writer without providing some sort of positive reinforcement. Search for something that worked well in the document without being cutesy. "Nice name," "Good choice of font!" or "Excellent margins!" may seem funny to you but can demoralize a writer who *might* have worked

hard on the document. Positive comments also typically increase the writer's incentive to do better on the next draft.

### **Avoid Using Red Pen to Make Comments.**

Studies show that writers respond better to "cool" colors (like blue, green, or purple). To borrow from another academic, red ink looks like blood and screams at the writer, "How dare you make this mistake!" It also brings back painful memories of our high school English teacher, and that is never a good thing.

### **Do Not Line Edit or Rewrite the Paper for the Writer.**

Our goal as "teachers" is to teach the writer to internalize good writing strategies and make their own decisions. It is useful to edit one section or sentence and then refer the writer to that section as an example of how to improve the rest of the document. I can hear you reading this suggestion and telling me that you do not have time to engage in reviewing multiple drafts. I feel your pain. Having said that, once a writer begins to make wise decisions about her own writing, the amount of time necessary for a supervisor to edit a draft becomes far less substantial.

Correcting or noting *all* errors of style or grammar prevents a writer from taking responsibility for self-editing. Line editing shows your annoyance, but it teaches very little. Pointing out two or three kinds of errors can show the need to focus revision on these specific areas.

Remember, your goal is not to teach each writer to write exactly like you do (see below) but to implement effective writing strategies. There is more than one effective way to write a good legal document.

### **Be Specific.**

Writers usually respond better to specific comments. If a comment is vague or difficult to understand, a writer will likely ignore the comment.

### **Watch Your Tone.**

Comments that appear helpful, supportive, and encouraging are more effective than those that express frustration, sarcasm, or annoyance.

## Anita O. Poston Receives 2023 Leadership in Education Award



Anita O. Poston, a senior partner at Vandevanter Black LLP in Norfolk, has been named the recipient of the [William R. Rakes Leadership in Education Award](#) from the Section on the Education of Lawyers in Virginia.

Poston was nominated by Davison M. Douglas, former dean of William & Mary Law School and current John Stewart Bryan Professor of Jurisprudence at the Law School.

Says Douglas, "Anita has been one of the driving forces behind legal education in Virginia. She is not only a very fine lawyer but someone who is always working to make the profession better. She sees a need and raises her hand. The very spirit of this award is set forth in Anita Poston."

[Read more](#) about Anita's achievements and her dedication to legal education in Virginia.

The Leadership in Education Award will be presented to Poston on June 16, 2023, at the VSB Annual Meeting in Virginia Beach.

However, if a writer clearly hasn't expended effort on a draft, let them know in no uncertain terms, for example, "This document is more of an outline than a draft; you have a lot of work to do on this document to get it up to acceptable standards."

### **Provide Advice and Explanation.**

Studies indicate that writers think that advice and explanation allow more room for productive revisions. Try to suggest, rather than command, ways to revise, and provide explanation for your revisions, where applicable and when time allows.

### **Avoid Sarcasm and Humor.**

Even the most innocent humorous comment can be misunderstood as mocking or sarcastic. Resist the urge to type "WTF: **Why the Fail?**" on a document that you are reviewing. When I first started teaching some 28 years ago, I strived to ensure that each of my students wrote a "perfect" legal document, i.e., one that was written just the way that I would have written it. I line edited, I redrafted, and I showed them by my revisions exactly what a "perfect" legal document should look like. Now definitely older (and arguably wiser), I strive to teach my students effective writing strategies that they can apply to future assignments. Do the same with those whom you supervise; taking the extra time now to work with and groom a novice legal writer will pay off in the end.

Now, on to grading and practicing what I preach – no more time for procrastination.

---

*David H. Spratt*  
*Section Chair, 2022-2023*

---

## **Justice from the Margins**

The concept of justice is a central pillar of the legal profession today—and has been for centuries. In ancient Jewish law, justice required both (1) giving every person what they were “due,” whether punishment or reward, and (2) a positive obligation to care for the less fortunate.<sup>1</sup> One application of the

latter definition of justice took root in the principle of “gleaning.” According to the Torah, landowners were obligated to *not* plow to the edges of their fields—or to gather the useful remnants of the crop.<sup>2</sup> Instead, the “margins” of the harvest were to remain for the widow, the orphan, the poor, and the foreigner. Note that this was not an optional act of charity; doing justice *obligated* those who had resources to assist those who did not. While those in the legal profession today may not be harvesting grain fields, the principle of giving from the margins of our time and talents to care for the less fortunate remains an essential aspect of justice.

At Regent Law, we live out this principle through our Center for Global Justice (CGJ). The CGJ exists to equip Christian advocates to promote the rule of law and pursue justice for the world’s downtrodden, while also serving and supporting those already engaged in such advocacy. Since its formation in 2010, the CGJ has attracted hundreds of students from across the world who are passionate about using their talents to advocate for the voiceless. The students do so by giving their “extra” time and talents—their margin—to volunteer with the CGJ.

Throughout the school year, students and staff research and write briefs and legal memoranda on behalf of legal organizations worldwide, including International Justice Mission, the National Center on Sexual Exploitation, Shared Hope, the Virginia Coalition Against Human Trafficking, Advocates International, Justice Ventures International, and others. In the summers, select students receive public interest grants to intern with human rights organizations around the globe. On campus, the CGJ sponsors special events, symposia, and academic courses in human rights law. And the Regent Journal of Global Justice & Public Policy advances a corresponding vision through academic scholarship.

This semester, the CGJ is working on a variety of pro bono legal projects, including assessing the obligations of a European nation to prevent sex trafficking and torture as outlined in the European Convention on Human Rights, summarizing key U.S. human trafficking bills and cross-referencing

<sup>1</sup> See TIM KELLER, *GENEROUS JUSTICE: HOW GOD’S GRACE MAKES US JUST* (2010).

<sup>2</sup> Deut. 24:19–21; Lev. 19:9.

them with various state policy goals, analyzing the gaps in Virginia's vacatur law for human trafficking victims, and drafting Universal Period Review reports to promote religious freedom for persecuted minorities (to be submitted to the United Nations Human Rights Council). Moreover, as part of an ongoing partnership with the Office of the Director of Public Prosecutions in Uganda, the CGJ is drafting recommendations on how Uganda can improve its anti-trafficking efforts by analyzing Namibia's recent success in becoming a Tier 1 nation in the U.S. Department of State's annual Trafficking in Persons Report. Locally, the CGJ is coordinating with attorneys and anti-trafficking stakeholders to offer pro bono counsel to human trafficking survivors in Virginia.

The accumulation of these efforts has resulted in over 70,000 pro bono hours worked for more than 70 organizations in 14 states and 20 countries. CGJ students have contributed research toward briefs in landmark cases, drafted legal memos for understaffed nonprofits, and helped secure convictions of human traffickers and freedom for the wrongly accused. And yet, the impact of these projects pales in comparison to the enduring impact of the CGJ's long-term vision: deploying hundreds of excellent attorneys who are zealous advocates for the oppressed, enslaved, and abused.

Equipping within the CGJ extends beyond academics and hands-on training to providing mentorship within a Christian worldview, acknowledging that our lives serve a greater purpose than our own self-actualization. For some involved with the CGJ, the calling is to full-time work in human rights law. For others, it might be offering their "margin" through pro bono work at their firm. Regardless of the career path, the privilege of a law degree is a resource to be intentionally allocated, at least in part, to the poor and oppressed.



**Margaret "Meg" P. Kelsey**  
Fellow, Center for Global Justice  
Regent University School of Law



**S. Ernie Walton**  
Associate Dean of Administration and Admissions  
Assistant Professor  
Director, Center for Global Justice  
Regent University School of Law

## 5<sup>th</sup> Legal Writing Workshop

May 5, 2023

Bobzien-Gaither Education Center  
Glen Allen, Virginia

[Register Here](#)

**This intensive legal writing course, facilitated by judges, legal writing processors, and experienced attorneys will focus on the following:**

- Basic grammar and writing strategies
- Understanding and implementing roadmaps and transitions
- Tailoring your legal writing to your audience and purpose
- Ethical considerations and professionalism in legal writing
- Effectively writing a discussion or argument section of a memo
- The importance of persuasive characterization and fact emphasis
- The differences between oral and written advocacy and advice on to how to effectively engage in each type of advocacy

**Pending CLE: 7.5 credits, including 1.0 ethics**

Regular Registration: \$329

**Section Members pay: \$304**

Featured Faculty:

- Hon. David W. Lannetti
- Hon. Mary Grace O'Brien
- David H. Spratt
- Heather E. Ridenour
- John M. Bredehoft
- Andrea L. Bridgeman
- L. Steven Emmert

The Virginia State Bar Section on the Education of Lawyers, Virginia CLE, and the American University Washington College of Law Legal Rhetoric Program are pleased to cosponsor the Legal Writing Workshop.

## ChatGPT and the Law

Move over Siri, Alexa, and Google Assistant, there's a new AI in town and it's ready to have a chat! Say hello to ChatGPT, the language model developed by OpenAI that's making waves in the world of natural language processing. With its ability to generate human-like text based on user input, ChatGPT is quickly becoming the go-to AI for everything from chatbots to language-based apps. So, grab a cup of coffee, sit back, and get ready to discover the ins and outs of this exciting new technology!

Developed by OpenAI, ChatGPT is an AI-powered language model. It uses deep learning algorithms to generate human-like text based on input provided by the user. OpenAI is an artificial intelligence research lab consisting of the for-profit technological company OpenAI LP and its parent company, the non-profit OpenAI Inc. It was founded in 2015 by Elon Musk, Sam Altman, Greg Brockman, Ilya Sutskever, Wojciech Zaremba, and John Schulman with the goal of promoting and developing friendly AI that benefits humanity. OpenAI conducts research in various areas of AI, including machine learning, computer vision, and natural language processing (NLP). Some of its most well-known projects include GPT-3, OpenAI Gym, and the Dota 2 AI system. OpenAI aims to ensure that AI technology is developed and used in a responsible and safe manner.

ChatGPT is capable of a range of tasks, including:

1. Text generation: ChatGPT can generate text based on a given prompt or seed text.
2. Question answering: ChatGPT can answer questions based on its training data.
3. Language translation: ChatGPT can translate text from one language to another.
4. Chatbots: ChatGPT can be used to build conversational chatbots for customer service, sales, and more.
5. Sentiment analysis: ChatGPT can be used to analyze the sentiment of text.
6. Summarization: ChatGPT can be used to summarize text.

7. Text classification: ChatGPT can be used to classify text into different categories, such as spam or not spam.
8. Named entity recognition: ChatGPT can identify named entities in text, such as people, organizations, and locations.

These are some of the main tasks that ChatGPT can perform, and the capabilities continue to expand as the technology evolves.

This new software, if you can even call it that, can seem awfully tempting for anyone who has a paper, assignment, article (see: me), or anything written due soon. A lot of the talk around ChatGPT is centered on college students.

But, you know who writes the most: lawyers. Imagine a world where lawyers have a new trusty sidekick, not a paralegal, but a chatbot powered by ChatGPT! This AI assistant can generate legal documents in a matter of minutes, answer clients' questions with ease, and even help win cases with its vast knowledge database. No more late nights at the office and endless research, ChatGPT has got it all covered. With its human-like language abilities, it's like having a legal genius in your pocket, ready to take on the toughest cases with a witty quip and a sharp legal mind. Lawyers, buckle up, because the future of law is here and it's powered by ChatGPT! With the news ChatGPT scored in the 90<sup>th</sup> percentile of the UBE and 88<sup>th</sup> in the LSAT<sup>1</sup>, it has never been more tempting for a lawyer to try it out with their own legal issues.

It isn't without its faults, however. There are a few reasons why lawyers may want to avoid using ChatGPT or other AI language models:

1. Accuracy: AI language models are not always 100% accurate and may generate incorrect information, which can be harmful in legal contexts.
2. Bias: AI language models are trained on large amounts of text data and may reflect the biases and stereotypes present in that data.
3. Ethical concerns: The use of AI in legal contexts raises questions around issues such as data privacy, confidentiality, and accountability.

<sup>1</sup> <https://cdn.openai.com/papers/gpt-4.pdf>

4. Limitations: AI language models are not yet advanced enough to fully replace human lawyers and may not be able to handle the complexity of certain legal tasks.

Therefore, lawyers should exercise caution when using AI language models and should seek the advice of legal experts before relying on them in legal contexts.

Lawyers can best use ChatGPT to avoid accuracy, bias, or ethical concerns by following these best practices:

1. Use reliable training data: Ensure that the training data used to build the ChatGPT model is accurate, up-to-date, and free from bias.
2. Monitor output: Regularly monitor the output generated by ChatGPT to ensure that it is accurate, unbiased, and in line with ethical considerations.
3. Implement safeguards: Implement safeguards, such as algorithms or human review, to catch any errors or biases that may occur.
4. Stay informed: Stay informed of advancements and updates in the field of AI ethics and bias, and be proactive in implementing changes to maintain accuracy and fairness.
5. Seek professional advice: Seek professional legal and ethical advice when implementing ChatGPT in a legal setting.

By following these best practices, lawyers can use ChatGPT with confidence and avoid potential ethical and accuracy concerns. However, it is important to note that even with these best practices, there is still potential for bias or inaccuracies to occur, so it is always best to review the output generated by ChatGPT carefully.

While ChatGPT is a useful tool, it won't be replacing the role of a lawyer, paralegal, or legal education as a whole. It can be used, however, to write articles for Virginia State Bar Education & Practice Spring 2023 Newsletter – which is what it did here.



**Derek Green**  
Associate Director of Employer &  
Student Services  
Liberty University School of Law

### Would you like to contribute to the next newsletter?

Education Section leaders seek content that will inform Virginia lawyers, educators, and law students and connect section members across the state:

- Topical articles that you have written
- Articles that you have read and think bear reprinting
- Cases that you would like to discuss
- CLE ideas or programs of interest
- Law School happenings



Direct submissions to the newsletter editor, Leslie Haley, at [lhaley@oag.state.va.us](mailto:lhaley@oag.state.va.us)

## Richmond Criminal Justice Forum Sheds Light on Practicing Criminal Law

The University of Richmond School of Law has created a new program designed to introduce law students to the breadth of opportunities available in the field of criminal law. Launched in the fall of 2023, the Criminal Justice Forum sponsors networking events, panel discussions, roundtable conversations, and other activities that provide opportunities for law students to hear directly from lawyers practicing law in the criminal justice field.

The Forum is spearheaded by Dave Johnson who served for 17 as Executive Director of Virginia Indigent Defenders before retiring last summer and joining the Richmond Law faculty.

“We are so excited to have Dave Johnson join our faculty,” observed Dean Wendy Perdue. “He is the perfect person to lead the Criminal Justice Forum. There is probably no other lawyer in Virginia who

knows as much about criminal practice as he does.”

Criminal law has long been an area of high interest among Richmond Law students and the co-curricular programs of the Forum complements the many course offerings that the school has in this area.

“We wanted to bring together the more than 25 criminal law courses that we offer and give students a clear path for how they can pursue a career in criminal justice,” said Professor Johnson. “It’s important that students know what actual careers in this field look like and what they should be doing during law school to prepare themselves for success.”

A cornerstone of the Forum is its speaker series, which has featured attorneys who practice throughout the spectrum of the criminal justice system.

For example, the program’s inaugural event welcomed Commonwealth's Attorney for the County of Henrico and Chief Public Defender for the County of Chesterfield for a discussion about the “Two Ends of Criminal Justice.” The two speakers shared the paths they took to arrive in their current positions, the challenges they face in these roles, and their respective viewpoints on job satisfaction.

Other speakers have held roles as assistant public defender, assistant commonwealth’s attorney, and U.S. attorney for the Eastern District of Virginia.

In addition to hearing from individuals practicing in the field, the Forum also provides programming on a host of criminal justice related topics that foster important discussions about these issues.

Topics have included internships in criminal justice, women leaders in criminal justice, abolishing the death penalty in Virginia, solitary confinement, and the intersection of faith and the criminal justice system.

“Public interest attorneys report having a high level of job satisfaction,” Professor Johnson said. “The Forum is one way to expose students to rewarding, impactful careers in criminal justice.”

---

*Submitted by:*

***University of Richmond School of Law***

---



## Annual Meeting Registration & Info

**Friday, June 16**

**Hilton Garden Inn**

**10:10 a.m. – 11:40 a.m.**

### **Butting Heads: Negotiation Tactics and Ethical Boundaries for Lawyers**

From discovery disputes to deal-making to client conflicts, attorneys negotiate regularly, but few have had the training to truly distinguish themselves. Worse yet, some rely on the Hollywood vision of lawyers yelling across the table, a model that is not only ethically dubious but also empirically leads to weaker agreements. In this interactive session you will learn strategies for handling these situations by engaging in live exercises.

1.5 hours CLE; 1.0 Ethics (pending)

#### **Speakers:**

- Prof. Eric A. DeGroff, Regent University School of Law, Virginia Beach
- John M. Kaptan, Hunter Hanger and Associates PC, Virginia Beach
- Prof. Kathleen A. McKee, Family Law Clinic, Regent University School of Law, Virginia Beach

Sponsored by the VSB Section on the Education of Lawyers and the Young Lawyers Conference



## Virginia State Bar Education of Lawyers Section Board of Governors 2022-2023

**Professor David H. Spratt, Esq.**  
American University,  
Washington College of Law  
**Chair**

**Kristine L. H. Smith, Esq.**  
Liberty University  
School of Law  
**Vice Chair**

**Vacant  
Secretary**

**Dean B. Keith Faulkner**  
Appalachian School of Law  
**Immediate Past Chair**

**Leslie A. T. Haley, Esq.**  
Deputy Attorney General  
**Newsletter Editor**

Hon. Linda L. Bryant Judge, Chesapeake General District Court	Hon. David W. Lannetti Norfolk Circuit Court	Prof. Doron Samuel-Siegel University of Richmond School of Law
Prof. Henry L. Chambers, Jr., Esq. University of Richmond School of Law	Dean Bradley J. Lingo Regent University School of Law	Dean A. Benjamin Spencer William & Mary Law School
Prof. Katherine Mims Crocker William & Mary Law School	R. Lee Livingston, Esq. Michie Hamlett	Hon. Jacqueline F. Ward Talevi Roanoke County General District Court
Thomas A. Edmonds, Esq.	Dean Wendy Collins Perdue University of Richmond School of Law	Dean Morse H. Tan Liberty University School of Law
Sharon K. Eimer, Esq.	Hon. Cleo E. Powell Justice, Supreme Court of Virginia	Hon. Michael F. Urbanski United States District Court Western District of Virginia
Dean Risa L. Goluboff University of Virginia School of Law	Dean Kenneth C. Randall Antonin Scalia Law School, George Mason University	Dean Melanie D. Wilson Washington and Lee University School of Law
Prof. Laura A. Heymann William & Mary Law School	Hon. Wesley G. Russell, Jr. Justice, Supreme Court of Virginia	

**Get involved! If you wish to serve on the Board of Governors of the Section on the Education of Lawyers or would like to learn more about available positions, please email Mallory at [mrалston@vsb.org](mailto:mrалston@vsb.org).**