

THREE SUGGESTIONS TO PROMOTE NEW SCHOLARSHIP FROM AN OUTGOING EDITOR-IN-CHIEF

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INTRODUCTION

This past year I served as the Editor-in-Chief of the *Duke Law Journal* (“*DLJ*”), Volume 70. I couldn’t be prouder of *DLJ*’s team of student editors. We produced eight strong issues, revamped several internal editing processes, implemented a rigorous substantiation policy, and hosted the nation’s premier administrative law symposium—all during a pandemic. It was a successful year by any measure.

But our tenures are short. Not only is it hard to make headway during a one-year term of office, but there are also things we didn’t know until we were too far along the way. Additionally, because student editors have so much on their plates to meet publication deadlines—all while balancing school and personal responsibilities—making inroads on policy changes can be daunting for a new leadership team.

My hope is to share a few insights that I wish I would have known when my tenure began. These suggestions are to further an admittedly selfish ambition, but one which I believe most law journals share: to encourage aspiring scholars to seek publication opportunities. These proposals are simple and can be accomplished by any law journal (including my home institution!).

END PAY-TO-PLAY: SHORT-TERM AND LONG-TERM

I made it through my tenure as Editor-in-Chief without knowing that *Scholastica* requires a fee of \$6.50 *per* submission *per* journal. I only stumbled into this fee when I made my own account with the hopes of placing an essay. Some journals, including the *Yale Law*

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Journal, the *Stanford Law Journal*, and the *Harvard Law Review*, operate their own submissions portals, which are free of charge. But most others, including *DLJ*, exclusively use Scholastica or state their strong preference for authors to make their submissions through Scholastica.

I was dismayed at the prospect of spending \$100 to apply to a mere 15 journals. When I reached out to a Duke professor to get a sense of how scholars contend with this cost barrier, he told me that Duke Law School covers the fees for faculty—a benefit it extends to current students and recent graduates by faculty recommendation, which he kindly provided on my behalf.¹

Grateful as I am for my law school's support, a new author will have to submit to many more than 20 journals for a realistic chance at publication. During the 2021 spring selection period, *DLJ* received 1,368 manuscripts and extended 17 offers. This amounts to nearly \$9,000 in submission fees for Scholastica and an acceptance rate of 0.012 percent (bad news for applicants, great news for Scholastica). Even outside of the T-14's flagship journals, competition is stiff as journals routinely receive more than 1,000 submissions.²

But not every student attends a law school as generous (or well-endowed) as Duke. And what about the not-so-recent graduates who work in government or in relatively underpaid public interest positions such as public defenders? When I was reviewing submissions on the other side of the Scholastica portal, many of the draft manuscripts came from law clerks who earn approximately \$56,000 a year (not to mention the student loan burden they probably carry).³ That period before a challenging law firm or public service job may be critical for a young person interested in producing scholarship.

One of our goals at *DLJ* was to take seriously our role as gatekeepers who could elevate critical voices in the law. We knew that an offer from our journal could mean tenure track for an up-and-

1. *Publication Support*, DUKE LAW, <https://law.duke.edu/lib/faculty/> [<https://perma.cc/UB9C-NGZY>] (last visited Oct. 7, 2021).

2. See Leah M. Christensen & Julie A. Oseid, *Navigating the Law Review Article Selection Process: An Empirical Study of Those with All the Power—Student Editors*, 59 S.C. L. REV. 175, 203–04 (2007) (“Several editors from the Top 50 law schools reported that they received between 1,500 and 2,000 articles per year.”).

3. A JSP-11 on the Judiciary Salary Plan (i.e., those “[l]aw school graduates with academic excellence and no legal work experience”) earn a base pay of \$55,726. *Qualifications, Salary, and Benefits*, OSCAR (Feb. 1, 2018), https://oscar.uscourts.gov/qualifications_salary_benefits [<https://perma.cc/4ZTB-6BMN>]; Judiciary Salary Plan, Base Pay Rates - Table 00, Effective January 4, 2021, https://www.uscourts.gov/sites/default/files/jsp_2021/jsp_base_pay_rates_-_table_00_2021.pdf [<https://perma.cc/YL95-N5D7>].

coming faculty member or putting a new scholar on the map. That said, we should not neglect to think about those who are just taking their first steps on the road to academia. Arguably, we should make access easier at the earliest entry point possible.

There is an easy, quick fix. Instead of forcing applicants to apply through Scholastica, law reviews should offer authors the option of submitting their work through the journals' own websites. If journals lack the resources to create their own submission portals, they can simply limit website submissions to those people who are unaffiliated with a law school and/or have a demonstrated financial need.

Of course, Scholastica is a useful tool for authors with institutional support or independent financial means to pay the submission fees. Among its many benefits, Scholastica provides the convenience of allowing applicants to submit their articles to various journals at once and a system for authors to request expedited review after receiving acceptance from another journal.

In the long-term, law schools should coalesce to create a free alternative to Scholastica that offers those same benefits. It could be hosted at a single school, or it could be jointly operated by a group of schools. There would have to be a critical mass of institutions that agree to join the coalition to make it a convenient alternative over Scholastica for reaching a broad array of law journals.

The Top Law Review Conference (“TLRC”)—the association of the top 15 law reviews that meets on an annual basis—is an ideal body to create and manage the system. The TLRC has a track record of meeting regularly and operating as a continuing body (despite the annual turnover of journal leadership) and as the association of leaders from the top law reviews, it has leverage to make changes that many other law reviews will adopt. Rather than enriching a third-party vendor and suppressing submissions, we should offer scholars a no-cost system for placing their scholarships.⁴

4. A new company called ScholarSift may provide another option for law reviews. *See About Us*, SCHOLARSIFT, <https://www.scholarsift.com/about> [<https://perma.cc/HB3N-4NCL>]. A company representative explained to me that once operational, ScholarSift will function as an alternative to Scholastica and allow authors to submit manuscripts free of charge. The company intends to turn a profit by “charg[ing] authors separately for analytics and search services, where we recommend literature they may have missed based on analyzing their drafts.”

INCENTIVIZE STUDENTS TO PUBLISH THROUGH WRITING
COMPETITIONS

Second, we should offer students more avenues for publication (and a nice accolade for their budding CVs) by establishing writing competitions at individual institutions and opening these competitions to students from other schools. Ideally, they would be open to recent graduates as well. The winner would then receive a publication offer from the law journal.

In the weeks leading up to the deadline, I heard from three Duke Law friends who were planning to submit their student notes to the Baker Motley National Student Writing Competition hosted by the University of Pennsylvania. The winner of the competition receives an offer of publication with the *University of Pennsylvania Journal of Constitutional Law*.

We should encourage that kind of enthusiasm more broadly because it is difficult to publish scholarship as a student. For one thing, there is steep competition to publish a student note or comment. To take two of the more competitive examples, in 2020, the *California Law Review* had 83 third-year law students on its journal and published 12 notes. The *Georgetown Law Journal* has a smaller cohort—about 60 third-year students—and publishes seven notes. For its part, Volume 71 of the *DLJ* has decided to reduce the number of student notes to publish more externally written pieces.

For non-journal members, the road is even more difficult. Apart from the write-on process, journals do not often accept draft articles from non-members.⁵ And for those lucky enough to publish a note with our home law journals, the next question is what's next? Producing a rigorous piece of scholarly writing before entering practice is surely a laudable accomplishment.

But for others, a note is a launching pad for future scholarship. An essay competition could be the next step and a helpful incentive encouraging students to seek a second publication. One might think of it like signing up for a 5k—you may not win the race, but you gain a lot of confidence and know-how in the process.

Though print publication would be wonderful, offering online publication is a great way for law reviews to provide publication opportunities while staying within their limited print edition page

5. Nancy Levit, Lawrence Duncan MacLachlan, Allen K. Rostron & Drew Greaves, *Submission of Law Student Articles for Publication* app. A (Aug. 30, 2016) (unpublished manuscript), <https://ssrn.com/abstract=1656395> [<https://perma.cc/8QF2-APFU>].

counts. Online platforms have the added benefit of shorter editing timelines, allowing authors to timely publish on the legal issues of the day. And though the accompanying prize money that sometimes comes with winning an essay competition is a nice touch, the writing experience and boost to an aspiring scholar's CV is a win in-and-of-itself.

INCREASE ACCESSIBILITY THROUGH AUDIO CONTENT

Lastly, we need to begin offering audio content online. One of *DLJ*'s article editors shared with me that she developed an interest in legal scholarship even before law school. As a college student, she read article after article, which cemented her interest in law school and helped shape her scholarly interests when she joined *DLJ*. I did not read that many, but I too read several articles before starting law school, which informed my own academic interests.

For content that was easier to understand, I turned to podcasts. There were only a few available when I was a college student, but I loved the National Constitution Center's podcast (I also enjoyed annoying my roommates by reciting their catchphrase: "[T]he only institution in America chartered by Congress to 'disseminate information . . .'"⁶). I can't speak for everyone—perhaps just to the kind of person willing to read this essay—but I would have loved to listen to more podcasts hosted by law reviews about the work they were publishing. This, I think, would have made the written content more accessible to a person just beginning to learn about the law.

Here's my proposal. Many of our libraries have recording software and studios available. An easy way to host a podcast is to have our articles editors interview authors soon after publication for deep dives into their pieces. In my experience, authors enjoy the chance to share their scholarship with students, and students enjoy the chance to work with scholars whose research inspires them. We could then offer a podcast episode along with a PDF copy of the article on our websites. Voilà— a treasure trove of audio content for bleary-eyed law nerds.

For that matter, affluent journals should consider contracting with third parties to record their articles too. This would offer wider accessibility for the visually impaired, those who struggle with dyslexia, or people who have other reading disabilities. Who knows? Maybe

6. *Welcome to the National Constitution Center!*, NAT'L CONST. CTR., <https://constitutioncenter.org/about/president-and-ceo> [https://perma.cc/E2LQ-GPNQ] (last visited Oct. 7, 2021).

many more will prefer listening along than reading page after page on a computer screen. I, for one, spend a lot of time converting articles to read-aloud Microsoft Word documents, so that I can upload them to audio software and listen to them on runs. The trouble is those pesky footnotes (Volume 70's research editors will concur). To this day, no software that I know of—and I've tried many—can recognize and skip over footnotes to make read-aloud more accessible.

CONCLUSION

These proposals are just a few steps we can take to help would-be authors pursue academic writing. As the custodians of legal scholarship, let's do our best to ensure that those aspiring to break into the academy have avenues to publish and are not deterred by cost barriers. And let's start even earlier in the pipeline by offering readers access to audio content that might inform their interests in law.

I believe that it's our shared goal to disseminate legal scholarship, to elevate voices that need to be heard, and ultimately, to shape the course of the law. I hope that we can use our important platforms, which we hold for such a short period of time, to broaden access for those looking to produce and engage with legal scholarship.