

# Scholarly Writing (510-005), Autumn 2021

Professor Ross E. Davies (rdavies@gmu.edu); August 12, 2021 version

**Sketch of the course and learning outcomes:** In this course, you will not learn everything you need to know about scholarly writing. You will learn (or at least have a reasonable opportunity to learn) enough to get started and then continue to learn more through other coursework, independent study, and practical application. That is the purpose of the course – to get you rolling toward expertise in:

- (1) identifying a proper, manageable topic for a scholarly article – in writing (including preemption checking);
- (2) gathering facts, law, and scholarship relevant to a topic, including material that supports your thesis and material that does not;
- (3) organizing and describing – in writing – the facts, law, and scholarship (sometimes called the “background”);
- (4) analyzing – in writing – the facts, law, and scholarship (sometimes called the “analysis”);
- (5) proposing and defending a thesis – in writing – based on that analysis (sometimes called the “solution”);
- (6) applying “Bluebook” rules of legal citation;
- (7) managing the research and writing schedule necessary to put it all together and complete an article on time; and
- (8) generally thinking and acting like a lawyer – critically, constructively, creatively, civilly, ethically, and articulately.

It can be tempting to make a course like this more complicated and difficult than it is. Please resist temptation! All you need to do is write a good, scholarly law paper, and be a good citizen of our class. To that end, our meetings will be spent on the practicalities of finding the topic, doing the research, and doing the writing. It will be a collaborative course, and I hope and expect it will be fun as well.

**Class sessions and office hours schedule:** We will meet most Mondays from 8:10 to 10:10 p.m. Some Mondays will be class sessions (required), some will be office hours (optional). If COVID-related rules permit eating and drinking during our meetings, you should feel free to do so. Good nutrition is an important part of good health and a good education.

**Class sessions:** In keeping with the practical spirit of this course, these will be part-lecture/part-labor sessions. At the beginning of class the instructor will speak about the subject of the day, and then everyone will get to work, with the instructor and students circulating and conferring and chatting as needed to make some progress every Monday. In other words, you will work and I will chatter – offering commentary and guidance and answering questions as we roll through this process together.

**Office hours:** Mondays on which we do not have a class session we will usually have office hours at the same time, in the same room. I will not take attendance, and will not reward people for attending. You won’t hurt my feelings by not coming. Nor will I be offended if you wander in and out, or show up for a few minutes and leave. Office hours will be collaborative. If you have questions about your topic, or research, or outline, or draft, this is the time to ask. But do not expect the instructor to read whatever you have questions about during office hours. You must email it to the instructor (and all your classmates) ahead of time, both to give the instructor (and your classmates) time to read and also so that office hours can be spent dealing with everyone’s questions, not reading and discussing just your work. There are several reasons for this approach. Here are a few. First, making the sessions open to everyone preserves a level playing field and gives everyone a chance to learn from everyone’s questions and answers (collaboration!). Second, it improves the quality of answers to questions, because students often come up with great answers to office hours questions (more collaboration!). Third, it enables people who are reluctant to speak up (at least at the start) to be part of office hours, because it is also fine to attend and simply listen. If you need to talk with the instructor about something that is not appropriate for office hours (a personal issue or an ethical concern or the like), feel free to make an appointment. Finally and very importantly, if you have a concern you are not comfortable raising with the instructor, you should raise it with Christine Malone (cmalone4@gmu.edu), the impressively knowledgeable, wise, kind, and resourceful Assistant Dean of Student Academic Affairs at our law school. I have worked with Dean Malone for many years and have the highest respect for and trust in her.

**Disability accommodations:** Disability Services at George Mason University is committed to upholding the letter and spirit of the laws that ensure equal treatment of people with disabilities. Under the administration of University Life, Disability Services implements and coordinates reasonable accommodations and disability-related services that afford equal access to university programs and activities. Students can begin the registration process with Disability Services at any time during their enrollment at George Mason University. If you are seeking accommodations, please visit <http://ds.gmu.edu/> for detailed information about the Disability Services registration process. Disability Services is located in Student Union Building I (SUB I), Suite 2500. Email: [ods@gmu.edu](mailto:ods@gmu.edu) | Phone: (703) 993-2474.

**Required texts:** None, though you will need to have access to the latest edition of *The Bluebook* in order to properly format your cites.

**Recommended texts:** The best way to get good at writing is to read a lot of good writing, pay attention to what makes it good, and then get a lot of practice producing the same kind of thing. This course is practice (with, yes, a grade at the end) doing a particular kind of good writing: good scholarly legal writing. Of course, what counts as “good” depends on a lot of things, and especially on who your audience is and what you are seeking to do for that audience. Practically speaking, your paper in this course has two audiences: (1) the instructor who is going to grade it, and (2) the journal editors who are going to do whatever they do with it. It may end up having other audiences – for example, if it gets published or if you use it as a writing sample in job applications – but for now it’s probably best to assume that a paper that pleases audiences #1 and #2 will work OK with at least some others.

First, about a book: You may hear that students in some sections are required to get a book by Eugene Volokh. Feel free to buy it, if you like. It is a good book. But the most useful Volokh advice (and he does give great advice!) for our course is available for free in an article he wrote titled . . . *Writing a Student Article*, 48 J. Legal Educ. 247 (1998)! You should read that article. I will refer to it in class.

Second, about other guides to good scholarly legal writing: I know what one of your audiences – the instructor – wants. I do not know what your other audience wants. I cannot find any clues on the journals’ websites. It seems pretty likely that your editors will tell you more. When they do, please share that information with me, so that we can integrate it into our course. After all, what we’re aiming for is a paper that satisfies both of your audiences! Some journals at other schools offer advice that I like (and that your editors might like too).

For example: (a) the *Georgetown Law Journal* has loads of information here ([www.law.georgetown.edu/georgetown-law-journal/submit/](http://www.law.georgetown.edu/georgetown-law-journal/submit/)), including a link to a useful “Notes Manual”; and (b) the NYU journals provide a splendidly comprehensive, useful, and accessible collection of guidance here ([www.law.nyu.edu/students/studentwriting/writingprocess](http://www.law.nyu.edu/students/studentwriting/writingprocess)). Time spent checking out the information at the links on the left side of the NYU webpage will also not be wasted. I will be referring to the guidance offered at the Georgetown and NYU sites in class, so I recommend that you go ahead and read up! You will see that their guidance is not identical, but that there are strong common themes – about topic selection, about research, about organization, about writing – a circumstance that fits with the spirit of our course, which is: There is no one best recipe for the content of a good piece of scholarly legal writing, and no one best cookie-cutter format for its shape, but there are good general approaches. We will talk about approaches, and look at a variety of recipes and cookie cutters. You will choose (or even create) your own based on your own topic, your own style, and your own sense of what will help you achieve what you want with both of your audiences. Other good sites include: (c) the *University of Chicago Law Review* ([lawreview.uchicago.edu/becoming-member](http://lawreview.uchicago.edu/becoming-member)); and (d) Texas A&M (<https://law.tamu.libguides.com/c.php?g=615575&p=7776312>).

Third, some particular guidance about writing for a particular audience: Writing successfully for an audience starts with knowing what appeals to that audience – knowing what that audience thinks is good. Knowing what your editors themselves wrote when they took this course might well give you a good sense of what those people – the primary publication decision-makers for your work – think is good. Put another way, it is all well and good to read Georgetown’s or NYU’s or even Volokh’s recipes for a good paper, but it is even better to read the favorite recipes of the people who are actually going to decide whether your paper is good. So, I recommend that you ask your editors to share their work with you. In the same vein, it would probably be worthwhile for you to spend some time looking at student works your journal has published in the recent past. What kinds of topics, approaches, formats, lengths, and so on do you see? I will close this paragraph with a question and a grin: If you think I am giving good advice here, what is the cite for another student paper you might glance at (but not waste your time actually reading)?

### **Assignments and class schedule:**

Assignments are subject to change based on the pace of the course, instructions from the editors of your journals and from our law school, and the whim of the instructor.

<b>Date</b>	<b>Subject of class session or office hours</b>	<b>Assignment: email to the instructor at least one day ahead of time (in other words, Sunday before class)</b>
Aug. 23	Class: course overview, topic selection, preemption, and research, with special guest John Scherrer, reference librarian extraordinaire	one or more paper topic ideas; don’t worry about whether they are brilliant, or even good – just think of some!
Aug. 30	Class: more topic selection, preemption, and research (with a short but serious rant about credit where credit is due: quoting, citing, and not plagiarizing)	one or more topic ideas (they need not be the same as last week’s) with preliminary preemption checks; don’t worry about whether your check is perfect – just do your best!
Sept. 13	Office hours	
Sept. 20	Class: outlining: background, analysis, solution, and conclusion	your preemption-checked topic for your journal
Sept. 27	Office hours	
Oct. 4	Class: more outlining, and drafting	your outline of your paper (whatever you have done)
Oct. 12	Office hours	
Oct. 18	Class: more drafting	your expanded outline or first draft (whatever you have done)
Oct. 25	Office hours	
Nov. 1	Class: more drafting, with focus on revising	your first draft (whatever you have done)
Nov. 8	Office hours	
Nov. 15	Class: Bluebooking	your current draft (whatever you have done)
Nov. 22	Office hours	
Jan. 5 (Wed.)	Office hours (if permitted; this is during Winter term)	
Jan. 9*	paper due (my understanding is that this is the journals’ deadline)	your final paper (done!)

\* My August 8 email has been superseded. The paper I will grade is the one you submit to your journal at its deadline (no earlier grading).

**Grades:** Your grade will be based on a paper and class participation. **Paper:** The paper will be 100% of your grade, unless you earn an adjustment up or down for class participation. The grading standards are simple. There are three prerequisites: (1) your paper must be delivered to me by your journal’s deadline; (2) it must be delivered in whatever format your journal requires (I am not going to make you reformat your paper just for me); (3) and it must be of a length that falls within the range of whatever your journal requires, which seems fair, since the paper being graded is the same as the one you give to your journal (if your journal does not specify length, we’ll go with 30-45 pages, Times New Roman 12-point double-spaced text and 11-point single-spaced footnotes, which is roughly 12,000-18,000 words or so). If your paper meets the prerequisites, I will read it and assign it a letter grade somewhere on the A-to-F range based on how well it meets the standards (explicit and implicit) of good scholarly writing discussed during our course. There is no curve. Thus, for example, if all papers are “A” papers, then all papers will get an “A” grade. Any paper assigned a “C” letter grade or better will result in a course grade of “CR” for the author, while a grade lower than a “C” will result in an “NC” grade, unless there is an adjustment based on the author’s class participation. **Class participation:** When determining your course grade, the instructor may apply a single-increment (one third of a letter grade) adjustment to the paper grade, upward or downward. Obviously, this will not matter for your course grade in an CR/NC course like this one unless your paper grade is a C- (in which case an upward adjustment would change an “NC” to a “CR”) or your paper grade is a “C” (in which case a downward adjustment would change a “CR” to an “NC”).

**Academic regulations:** They are here: [www.law.gmu.edu/academics/regulations](http://www.law.gmu.edu/academics/regulations). If you have not read them yet, you should!

**Intellectual property:** The instructor owns all course content, regardless of form. You may share copies of that content with classmates during the course, but other than that you must keep all of it in any format to yourself forever. Copyright 2021 Ross E. Davies.