

# **“LEARNING” RESEARCH AND LEGAL EDUCATION: A BRIEF OVERVIEW AND SELECTED BIBLIOGRAPHICAL SURVEY**

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Donald J. Kochan\*

## INTRODUCTION

At its core, education is about learning. Every educator, legal or otherwise, must at the same time be both a teacher and a student in the learning enterprise. Luckily, there is a wide literature to help us in these roles and it is growing every day. It should be a goal of every legal educator to appreciate this area of scholarship, understand its breadth and importance, and engage with it in our teaching and writing. This research overview aims to aid the legal educator seeking to learn about learning and access tools for self-improvement. It also provides some preliminary assistance to those researchers beginning to traverse the field on the subject of “learning” and legal education, and it equally serves as a warning of the daunting task that awaits the researcher on that multifaceted subject.

This overview and selected bibliographical survey focuses on several areas of literature and study on educational philosophy, psychology, and pedagogy as it relates to the process of education in law schools. It also surveys much of the literature related to legal writing, “thinking like a lawyer,” and law school environment, experience and success. This overview and selected bibliography compiles in footnotes selected sources collected through various searches on legal databases, library collections, and other available sources. The text serves as a guide along the way with some explanatory material to describe the fields. The compilation of these sources will serve independently as a valuable survey, bibliographic

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\* Associate Professor of Law, Chapman University School of Law. J.D., Cornell Law School, 1998; B.A. Western Michigan University, 1995. I thank the participants at the Chapman University School of Law faculty 2010 Blank Lecture Series for their instructive comments on this project. I also thank Jennifer Spinella for valuable comments and support.

collection, and research tool for others (including educators, academic scholars, librarians, students, and lawyers).<sup>1</sup>

This research overview is the fruit of the labor on a separate topic that required a basic understanding of the available literature in these general areas of learning research. While conducting my research, I discovered that many of the sources cited herein have never been collected in one place; so I began to compile them. Unless they have eluded me, there are no readily available, reasonably comprehensive bibliographies for several of the subjects covered in some of the lists herein provided. Where there are available bibliographies, this research overview points the reader to them. Having completed that independent project, this survey shares the bounty from the collection, sorting, and then compilation of these sources—in the hope that researchers who may embark on a similar search, for a variety of purposes, will find it useful.

Of course, this type of project demands inclusion of certain disclaimers. The choices to include certain materials in any of these bibliographic footnotes is not intended to be exhaustive, nor is their inclusion intended to imply any endorsement by this Author. Other limitations to the compilations will be explained at different points throughout this writing where they are not otherwise evident.

This compilation does not follow a traditional format of a “bibliography,” but it intends to serve some of the same important values. As Nancy Babb has explained, “Bibliography has long been a bastion of scholarly research, both as end result and as source,” and further “[s]cholarly bibliography serves a critical function within a multifaceted research process, that of guiding researchers to both the best and the most elusive of sources.”<sup>2</sup> This research overview aims to achieve those same purposes. As much as some of this material has served as building blocks in my own scholarship and my own learning to enhance my teaching, I hope that it will serve as a similarly useful foundation for others moving toward related ends.

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1. For a previous endeavor by this Author to publish and share research associated with larger projects, see Donald J. Kochan, *Pages Per Term in the United States Reports and Converting Supreme Court Citations to Term Announced: A Statistical Research Tool*, 1998 DETROIT C.L. MICH. ST. L. REV. 1095 (1998).

2. Nancy Babb, *Bibliography Versus Auto-Bibliography: Tackling the Transformation of Traditions in the Research Process*, 98 LAW LIBR. J. 451, 451-52 (2006) (citing, *inter alia*, RUDOLPH BLUM, *BIBLIOGRAPHIA: AN INQUIRY INTO ITS DEFINITION AND DESIGNATIONS* 8 (Mathilde V. Rovelstad trans., American Library Association 1980); ROY STOKES, *THE FUNCTION OF BIBLIOGRAPHY* 1 (2d ed. 1982)).

## I. AN OVERVIEW AND BIBLIOGRAPHIC SURVEY OF GENERAL LITERATURE ON LEARNING AND TEACHING

There is an overwhelming body of literature on how people learn, taking on a number of permutations in titles or categories—learning theory, learning sciences, learning methods, learning processes, learning skills, learning styles, learning type, learning techniques, and the like. Correlated with the “learning” realm is the scholarship and theories on “teaching” with an equivalent number of categorical designations and permutations. Furthermore, within these categories, one can easily get lost in the subcategories or specialties, and sub-subcategories and progression downward. The maze becomes even more difficult to traverse once you start looking at applications of each of these categories or sub-categories to particular disciplines, like law.

Separately, the research on the mind, brain, neuroscience, and thinking functions is extensive, complex, evolving, and constantly advancing.<sup>3</sup> I will not try to tackle the full extent of those specialized subjects here except where they are covered in articles on their relationship to legal education.

To put it simply, as Professor James Royer of the University of Massachusetts has so aptly described, there is “dizzying array of research from widely disparate disciplines” on the subjects of learning and teaching.<sup>4</sup> The massive presence of this literature in the field of education demands recognition in any work that touches those enterprises.

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3. For a fascinating introductory survey and review of brain research from the leading experts, see an eleven-episode collection of *Charlie Rose: The Brain Series*, originally aired monthly between October 2009 and July 2010. *Charlie Rose: The Brain Series*, <http://www.charlierose.com/view/collection/10702> (last visited Jan. 24, 2011). *The Brain Series* was a special of the Charlie Rose Show with guest co-host Dr. Eric Kandel, the Nobel Prize winner in Physiology or Medicine for his research into the biological mechanisms of learning and memory. Kandel’s 1400-page text on neuroscience provides comprehensive material on the scientific understandings of human behavior and the workings of the neuron and brain. See ERIC KANDEL, *PRINCIPLES OF NEURAL SCIENCE* (4th ed. 2000). For another related comprehensive text, see MARGARET A. BODEN, *MIND AS MACHINE: A HISTORY OF COGNITIVE SCIENCE* (2006) (discussing cognitive science and related disciplines in a two volume, 1,600-page text). For some recent collections of research on the brain and mind, see, e.g., *CEREBRUM 2010: EMERGING IDEAS IN BRAIN SCIENCE* (Dan Gordon ed., 2010) (containing a collection of some of the latest articles on the brain); *BEST OF THE BRAIN FROM SCIENTIFIC AMERICAN: MIND, MATTER, AND TOMORROW’S BRAIN* (Floyd E. Bloom ed., 2007) (a collection of short articles between 1999 and 2006).

4. James M. Royer, *Learning Science as a Guide to Educational Practice*, 46 *CONTEMP. PSYCHOL.: APA REV. BOOKS* 570, 570 (2001) (reviewing *HOW PEOPLE LEARN: BRAIN, MIND, EXPERIENCE, AND SCHOOL* (John D. Bransford, Ann L. Brown & Rodney D. Cocking eds., 1999)).

In the late 1990s, the National Research Council (“NRC”) of the National Academy of Sciences sought to explore the issue of learning, examining traditional theories and contemporary developments in the learning sciences. The resulting reports provide a substantial amount of background material, include extensive lists of references to research sources,<sup>5</sup> and they are applicable generally to education and useful to law school education specifically as well.<sup>6</sup> The first NRC report explains the complexity and importance of the dynamic subject matter of learning and its study:

Today, the world is in the midst of an extraordinary outpouring of scientific work on the mind and brain, on the processes of thinking and learning, on the neural processes that occur during thought and learning, and on the development of competence. The revolution in the study of the mind that has occurred in the last three or four decades has important implications for education. As we illustrate, a new theory of learning is coming into focus that leads to very different approaches to the design of curriculum, teaching, and assessment than those often found in schools today. Equally important, the growth of interdisciplinary inquiries and new kinds of scientific collaborations have begun to make the path from basic research to educational practice somewhat more visible, if not yet easy to travel. . . . What is perhaps currently most striking is the variety of research approaches and techniques that have been developed and ways in which evidence from many different branches of science are beginning to converge. The story we can now tell about learning is far richer than ever before, and it promises to evolve dramatically in the next generation.<sup>7</sup>

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5. The first publication was NAT’L RESEARCH COUNCIL ET AL., *HOW PEOPLE LEARN: BRAIN, MIND, EXPERIENCE, AND SCHOOL* (Committee on Developments in the Science of Learning et al. eds., 2d ed. 2000) [hereinafter NRC, *BRAIN, MIND, EXPERIENCE, AND SCHOOL*]; following as an effort to apply some of the findings in the initial report was NAT’L RESEARCH COUNCIL ET AL., *HOW PEOPLE LEARN: BRIDGING RESEARCH AND PRACTICE* (Suzanne Donovan et al. eds., 2000) [hereinafter NRC, *BRIDGING RESEARCH AND PRACTICE*]. Royer called the work, despite having some “quibbles,” a “wonderful book” that should be “widely read” by educators and others. Royer, *supra* note 4, at 572.

6. John O. Sonsteng et al., *A Legal Education Renaissance: A Practical Approach for the Twenty-First Century*, 34 WM. MITCHELL L. REV. 303, 392 (2007) (“The [NRC] report focused on elementary and secondary schools, but its findings are applicable to the legal education setting as well.”).

7. NRC, *BRAIN, MIND, EXPERIENCE, AND SCHOOL*, *supra* note 5, at 3. *See also* NRC, *BRIDGING RESEARCH AND PRACTICE*, *supra* note 5, at 1 (“The quest to understand human learning has, in the past four decades, undergone dramatic change. Once a matter for philosophical argument, the workings of the mind and the brain are now subject to powerful research tools. From that research, a science of learning is emerging.”).

Learning is a fascinating subject, and the existing and emerging studies on it have provided the forum for interesting discussion and sometimes heated debate.

Interest in learning theories has seen substantial growth in recent decades, although it has a rich history in a variety of disciplines.<sup>8</sup> Several textbooks on learning and teaching help explain the various theories involved.<sup>9</sup> There are also a number of books that serve as useful bibliographies and compilations of representative samplings of the literature.<sup>10</sup> A review of these materials further reveals the diversity of topics and depth of study covered by this field.

To demonstrate the wide span and depth of the literature in these categories, consider a recent search conducted in the Education Resources Information Center ("ERIC") database<sup>11</sup>—a rather voluminous "bibliographic and full-text database of education research and information" established in 1966 and sponsored by U.S. Department of Education's

8. For some of the earliest work attempting to bridge learning science and education, *see, e.g.*, YEARBOOK COMM. ET AL., THEORIES OF LEARNING AND INSTRUCTION: THE SIXTY-THIRD YEARBOOK OF THE NATIONAL SOCIETY FOR THE STUDY OF EDUCATION, PART I (Ernest R. Hilgard ed., 1964). Hilgard's work was extensive, including a collaborative endeavor with Gordon H. Bower. *See* GORDON H. BOWER & ERNEST R. HILGARD, THEORIES OF LEARNING (5th ed. 1981). Thomas characterizes the Bower & Hilgard text as "providing the most authoritative and comprehensive discussion of the history and evolution of theories about learning." Alice M. Thomas, *Laying the Foundation for Better Student Learning in the Twenty-First Century: Incorporating An Integrated Theory of Legal Education Into Doctrinal Pedagogy*, 6 WIDENER L. SYMP. J. app. at 130 (2000).

9. Within the articles I reviewed across disciplines, the following introductory books or textbooks were among the most cited: MARCY P. DRISCOLL, PSYCHOLOGY OF LEARNING FOR INSTRUCTION (2d ed. 2000); PETER JARVIS ET AL., THE THEORY & PRACTICE OF LEARNING (2d ed. 2003); MARGARET E. GREDLER, LEARNING AND INSTRUCTION: THEORY INTO PRACTICE (5th ed. 2004); B.R. HERGENHAIN, AN INTRODUCTION TO THEORIES OF LEARNING 87 (1976); RICHARD E. MAYER, LEARNING AND INSTRUCTION (2d ed. 2008); DALE H. SCHUNK, LEARNING THEORIES: AN EDUCATIONAL PERSPECTIVE (5th ed. 2008). Each of these books surveys the relevant and varied theories and scholars in the field.

10. *See, e.g.*, DAVID MOSELY ET AL., FRAMEWORKS FOR THINKING: A HANDBOOK FOR TEACHING AND LEARNING 8 (2005) (aiming to "summarize and evaluate a number of systematic approaches to describing thinking and its relation to learning and teaching which have been developed in the last fifty years or so"); HANDBOOK OF RESEARCH ON LEARNING AND INSTRUCTION (Patricia A. Alexander & Richard E. Mayer eds., 2010); INT'L HANDBOOK OF RESEARCH ON TEACHERS AND TEACHING (Lawrence J. Saha & A. Guy Dworkin eds., 2009); HANDBOOK OF RESEARCH ON TEACHING (Virginia Richardson ed., 4th ed. 2001). Two Cambridge University Press publications have a wealth of compiled information on the study of learning and the study of thinking and reasoning. *See* THE CAMBRIDGE HANDBOOK OF THE LEARNING SCIENCES (R. Keith Sawyer ed., 2006); THE CAMBRIDGE HANDBOOK OF THINKING AND REASONING (Keith J. Holyoak & Robert G. Morrison eds., 2005).

11. *See* ERIC: Education Resources Information Center, <http://www.eric.ed.gov/> (last visited Jan. 24, 2011) (calling itself the "World's largest digital library on education") [hereinafter ERIC].

Institute of Education Sciences.<sup>12</sup> That search retrieved 18,199 articles coded for “learning processes,” 121,085 articles coded for “teaching methods,” and 10,447 articles coded for “learning theories,” for example.<sup>13</sup>

Research in the literature on learning and teaching specifically within legal scholarship is equally daunting. As one would suspect, most of the citations in articles in law journals on learning and teaching are from the general field of education, psychology, or other disciplines.<sup>14</sup> Especially in the past several decades, however, a growing body of law-specific learning and teaching literature has emerged.<sup>15</sup> That growth busies the picture even further.

Professor Alice Thomas, in one of the oft-cited legal articles on learning, explains the difficulties of grasping the learning and teaching literature.<sup>16</sup> Thomas explains her first steps when searching to find an integrated theory of legal education as follows:

Instinctively, I sought out the experts on learning—educational psychologists. Not surprisingly, I found a rich and deep reserve of scholarly material on learning and teaching. I also found numerous theories, points of view, dogmas and disagreements among the experts about how people learn. I was immediately struck with the reality that I could not fulfill my objective by simply consulting the experts, because there was no consistent body of expert advice or opinion. I was overwhelmed by the breadth and diversity of theory from which I could choose. I was further struck by that fact that no single theory seemed

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12. See *About the ERIC Program*, [http://www.eric.ed.gov/ERICWebPortal/resources/html/about/about\\_eric.html](http://www.eric.ed.gov/ERICWebPortal/resources/html/about/about_eric.html) (last visited Jan. 24, 2011); *ERIC*, *supra* note 11. See also *About the ERIC Collection*, [http://www.eric.ed.gov/ERICWebPortal/resources/html/collection/about\\_collection.html](http://www.eric.ed.gov/ERICWebPortal/resources/html/collection/about_collection.html) (last visited Jan. 24, 2011) (“ERIC provides unlimited access to more than 1.3 million bibliographic records of journal articles and other education-related materials, with hundreds of new records added multiple times per week.”).

13. See *ERIC Basic Search*, <http://eric.ed.gov/ERICWebPortal/search/basic.jsp> (type “learning processes”; then follow “Search”; then click the browser’s “back” button; then type “teaching methods”; then follow “Search”; then click the browser’s “back” button; then type “learning theories”) (last visited Jan. 24, 2011).

14. Consider the following summary of the interdisciplinary research from law professor Kate Bloch:

Although they do not all speak with one voice, researchers in education, cognitive and experimental psychology, and neuroscience, among other fields, offer fundamental insights that legal academics can use to improve teaching and learning in our classrooms. Over the past several decades, empirical researchers have conducted a substantial and growing number of studies on how people learn. The research is wide ranging and includes studies of a variety of instructional approaches, from traditional lectures to multimedia presentations. The results from many of these studies are germane to our task as legal academics.

Kate E. Bloch, *Cognition and “Star Trek™”: Learning and Legal Education*, 42 J. MARSHALL L. REV. 959, 960-62 (2009).

15. See *infra* note 17 and accompanying text.

16. Thomas, *supra* note 8, at 74.

complete enough. Each subset of theories seemed to offer something useful about how to maximize learning for my students. And still others seemed in conflict.<sup>17</sup>

Thomas and others have bravely attempted to traverse this jungle and clear a path, but this survey will not. Instead, it merely provides some signposts for those that decide to take that trip.

Before I begin to survey those signposts, however, I must pause to note one of the major reasons that this area of study—learning and instruction—is so exciting but also sometimes dangerous for the non-expert (like myself). There are serious risks when entering into the fray of the complicated and controversial theories and disciplines involved in the learning literature. Tinkering in areas outside one's expertise—playing the armchair psychologist, for example—is fraught with danger.

Consider, for example, the debate on learning styles—dealing with, in part, type-indicators and personality traits presenting theories for teaching individualized and tailored to identifiable traits among certain students. There is a rather substantial amount of literature in this broadly defined subcategory of legal education literature.<sup>18</sup> But it has also been the subject

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17. *Id.*

18. See, e.g., MARTHA M. PETERS & DON PETERS, JURISTYPES: LEARNING LAW THROUGH SELF-UNDERSTANDING (2007) [hereinafter JURISTYPES]; Robin A. Boyle & Rita Dunn, *Teaching Law Students Through Individual Learning Styles*, 62 ALB. L. REV. 213 (1998); Liz Ryan Cole, *Training the Mentor: Improving the Ability of Legal Experts to Teach Students and New Lawyers*, 19 N.M. L. REV. 163, 166-68 (1989); M.H. Sam Jacobson, *Learning Styles and Lawyering: Using Learning Theory to Organize Thinking and Writing*, 2 J. ASS'N LEGAL WRITING DIRECTORS 27 (2004); M.H. Sam Jacobson, *How Law Students Absorb Information: Determining Modality in Learning Style*, 8 LEGAL WRITING: J. LEGAL WRITING INST. 175 (2002); M.H. Sam Jacobson, *A Primer on Learning Styles: Reaching Every Student*, 25 SEATTLE U. L. REV. 139 (2001); M. H. Sam Jacobson, *Using the Myers-Briggs Type Indicator to Assess Learning Style: Type or Stereotype?*, 33 WILLAMETTE L. REV. 261 (1997); Raymond B. Marcin, *Psychological Type Theory in the Legal Profession*, 24 U. TOL. L. REV. 103 (1992); Paul VanR. Miller, *Personality Differences and Student Survival in Law School*, 19 J. LEGAL EDUC. 460 (1967); Don Peters, *Forever Jung: Psychological Type Theory, the Myers-Briggs Type Indicator and Learning Negotiation*, 42 DRAKE L. REV. 1 (1993); Don Peters & Martha M. Peters, *Maybe That's Why I Do That: Psychological Type Theory, the Myers-Briggs Type Indicator, and Learning Legal Interviewing*, 35 N.Y.L. SCH. L. REV. 169 (1990); Vernellia R. Randall, *The Myers-Briggs Type Indicator, First Year Law Students and Performance*, 26 CUMB. L. REV. 63 (1995-1996); Mary Barnard Ray, *How Individual Differences Affect Organization and How Teachers Can Respond to These Differences*, 5 LEGAL WRITING: J. LEGAL WRITING INST. 125 (1999); Cynthia V. Ward, *A Response to Professor Vernellia R. Randall's The Myers-Briggs Type Indicator, First Year Law Students and Performance*, 26 CUMB. L. REV. 111 (1995); Jayne Elizabeth Zanglein & Katherine Austin Stalcup, *Te(a)chnology: Web-based Instruction in Legal Skills Courses*, 49 J. LEGAL EDUC. 480, 481-82, 503 (1999) (providing background information on different learning styles theories).

of rather virulent debate.<sup>19</sup> This survey takes no position on learning style theories and takes no sides on the validity or utility of psychological type-based learning or teaching. But it should be noted that the technical and scientific nature of some of the material means that it should be approached with an understanding of the limitations of a researcher's own expertise. That is not to say that science and psychology cannot teach us much about the educative enterprise. It can often provide supportive material. And non-experts may often find support for their approaches or guidance in it without providing scientific opinions of their own, especially as the analysis often has broad educative application and justification, even independent from any scientific justification or reliance.<sup>20</sup>

After a more detailed description of the literature on learning and instructing law, the reader should gain a greater appreciation for its presence in all matters related to legal education. Some of the general, non-exhaustive information on the law-specific literature on learning follows.

The Institute for Law Teaching and Learning (co-sponsored by the Gonzaga University School of Law and the Washburn University School of Law)<sup>21</sup> is a significant base for research on learning and teaching as those subjects directly affect the law school environment, and it is led by two of the most widely published and cited scholars in this specialized field—Gerald Hess and Matthew Hunter Schwartz. Together with Professor Sophie Sparrow, Hess and Schwartz in 2009 published *Teaching Law by Design: Engaging Students from the Syllabus to the Final Exam*.<sup>22</sup> In this area, Hess has additionally published two books co-authored with Professor Steven Friedland.<sup>23</sup> Friedland's article on "how we teach" is required

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19. For example, law professor and psychologist Richard Redding has given much of this literature a scathing rebuke. Richard Redding, *Book Review: Juris Types, Learning Law Through Self-Understanding*, 58 J. LEGAL EDUC. 312, 324 (2008) (reviewing JURISTYPES, *supra* note 17, and related literature and concluding that "law schools would be wise not to adopt its approach of using Psychological Type Theory and the Myers-Briggs Type Indicator test—pseudoscientific variants of the newspaper horoscope—to improve teaching and learning").

20. *Id.* at 323 (calling the guidance in type actually "useful to anyone, regardless of their psychological type").

21. See *Institute for Law Teaching and Learning*, [www.lawteaching.org](http://www.lawteaching.org) (last visited Jan. 24, 2011).

22. MICHAEL HUNTER SCHWARTZ, SOPHIE SPARROW & GERALD F. HESS, *TEACHING LAW BY DESIGN: ENGAGING STUDENTS FROM THE SYLLABUS TO THE FINAL EXAM* (2009); SOPHIE SPARROW, GERRY HESS & MICHAEL HUNTER SCHWARTZ, *TEACHING LAW BY DESIGN FOR ADJUNCTS* (2010). These authors also have a forthcoming related book: MICHAEL HUNTER SCHWARTZ, GERRY HESS & SOPHIE SPARROW, *WHAT THE BEST LAW TEACHERS DO* (forthcoming 2012).

23. *TEACHING THE LAW SCHOOL CURRICULUM* (Steven Friedland & Gerald F. Hess eds., 2004); GERALD F. HESS & STEVEN FRIEDLAND, *TECHNIQUES FOR TEACHING LAW* (1999). See

reading—recognized as a leading work and among the most cited law journal articles within the learning and teaching field.<sup>24</sup> Hess has three articles that are primarily focused on providing summaries of the sources of materials available on learning and teaching,<sup>25</sup> along with several other published articles which analyze the basic issues related to improving teaching and learning through an examination of the varying theories posited in the literature.<sup>26</sup> Schwartz has also authored books<sup>27</sup> and journal articles that are also instructive on the teaching and learning issues affecting law school professors.<sup>28</sup> Certainly, reference to the works of these leaders in the learning and teaching discipline for law schools is an obvious first start for research in the field. In addition to the books already cited—by Hess, Schwartz, Sparrow, and Friedland—a few other books are dedicated to the exploration of general teaching and learning theories in law schools and help to navigate the crowded waters of literature.<sup>29</sup>

A few bibliographies of legal journal articles on learning and teaching are available, but their coverage is understandably limited. Two published bibliographies by Professors Arturo López Torres and Karen Harwood demonstrate the breadth of issues covered in legal journals. These two excellent bibliographies focus on teaching methods, however, rather than teaching and learning broadly defined; and the authors explicitly acknowledge the limitation that “[m]any fine articles were omitted because

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also GERRY HESS, STEVEN FRIEDLAND, SOPHIE SPARROW & MICHAEL HUNTER SCHWARTZ, *TECHNIQUES FOR TEACHING LAW II* (forthcoming 2011).

24. Steven I. Friedland, *How We Teach: A Survey of Teaching Techniques in American Law Schools*, 20 SEATTLE U. L. REV. 1 (1997).

25. Gerald F. Hess, *Monographs on Teaching and Learning for Legal Educators*, 35 GONZ. L. REV. 63 (2000); Gerald F. Hess, *The Legal Educator's Guide to Periodicals on Teaching and Learning*, 67 UMKC L. REV. 367 (1998); Gerald F. Hess, *Learning to Think Like a Teacher: Reflective Journals for Legal Educators*, 38 GONZ. L. REV. 129 (2003).

26. Gerald F. Hess, *Improving Teaching and Learning in Law School: Faculty Development Research, Principles, and Programs*, 12 WIDENER L. REV. 443 (2006); Gerald F. Hess & Sophie M. Sparrow, *What Helps Law Professors Develop as Teachers?—An Empirical Study*, 14 WIDENER L. REV. 149 (2008); Gerald F. Hess, *Student Involvement in Improving Law Teaching and Learning*, 67 UMKC L. REV. 343 (1998); Gerald F. Hess, *Seven Principles for Good Practice in Legal Education: History and Overview*, 49 J. LEGAL EDUC. 367 (1999).

27. See, e.g., MICHAEL HUNTER SCHWARTZ, *EXPERT LEARNING FOR LAW STUDENTS* (2005).

28. Michael Hunter Schwartz, *Teaching Law Students To Be Self-Regulated Learners*, 2003 MICH. ST. D.C.L. L. REV. 447 (2003); Michael Hunter Schwartz, *Teaching Law By Design: How Learning Theory and Instructional Design Can Inform and Reform Law Teaching*, 38 SAN DIEGO L. REV. 347 (2001).

29. See, e.g., MARLENE LEBRUN & RICHARD JOHNSTONE, *THE QUIET (R)EVOLUTION: IMPROVING STUDENT LEARNING IN LAW* (Janine Flew ed., 1994); GREGORY S. MUNRO, *OUTCOMES ASSESSMENT FOR LAW SCHOOLS* (2000); WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* (2007).

they were more theoretical than practical, and hence outside the scope of our inquiry.”<sup>30</sup> In contrast, many of the articles listed herein lean toward broader and more theoretical approaches. A bibliography on learning and teaching literature compiled by Professor Paula Young is also a useful resource that is available through the Institute for Law and Teaching website.<sup>31</sup> Additionally, Professor Barbara Glesner Fines at UMKC School of Law has a useful website with links related to “Teaching and Learning Law: Resources for Legal Education.”<sup>32</sup> A few other bibliographies have been published that relate to specialized issues in the areas of learning and teaching.<sup>33</sup> None of these sources lays claim to be fully comprehensive for the subjects of learning and teaching, and it seems such a project would be a remarkable and massive undertaking. This survey does not attempt to accomplish such a feat either, but does provide a base of material that provides some supplemental assistance to the researcher on the subjects of teaching and learning in law schools. Many of the sources listed in this survey are not listed in available bibliographies.

As previously stated, I have not attempted to survey substantially the general literature in education, psychology, or other fields. I have, however, attempted to scan for most of the literature from law journals on the subject of learning, along with teaching as it related to the learning enterprise. Certainly scholarship on learning generated across multiple disciplines is applicable to the law school setting, and interdisciplinary research is evident in the citations in law journal articles on these subjects to non-legal publications. Thus, a review of scholarship in law journals alone is undoubtedly underinclusive of the available material of interest to legal educators. Nonetheless, a review of *just* law journal articles itself indicates the breadth of the discussion on the issue as targeted to the law

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30. Arturo López Torres & Mary Kay Lundwall, *Moving Beyond Langdell II: An Annotated Bibliography of Current Methods for Law Teaching*, 35 GONZ. L. REV. 1, 3 (spec. ed. 2000); Arturo López Torres & Karen E. Harwood, *Moving Beyond Langdell: An Annotated Bibliography of Current Methods for Law Teaching*, 29 GONZ. L. REV. 1, 2 (spec. ed. 1994).

31. See Paula M. Young, *Bibliography of Books and Articles on Active Learning and other Techniques for Teaching Law*, LAWTEACHING.ORG, <http://lawteaching.org/resources/index.php> (under bibliographies click on the Paula Young article) (updated through July 2008) (last visited Jan. 24, 2011).

32. See Barbara Glesner Fines, *Teaching and Learning Law Resources for Legal Education*, LAW.UMKC.EDU, <http://www.law.umkc.edu/faculty/profiles/glesnerfines/bgf-edu.htm> (last visited on Jan. 24, 2011).

33. See, e.g., Pearl Goldman, *Legal Education and Technology: An Annotated Bibliography*, 93 LAW LIBR. J. 423 (2001); Arturo López Torres & W. Clinton Sterling, *Will Law Schools Go the Distance? An Annotated Bibliography on Distance Education in Law*, 91 LAW LIBR. J. 655 (1999); Arturo López Torres, *MacCrate Goes to Law School: An Annotated Bibliography of Methods for Teaching Lawyering Skills in the Classroom*, 77 NEB. L. REV. 132 (1998).

school environment. Using an admittedly unscientific methodology, I have attempted to provide citations to a representative selection of those articles that touch on some substantial matter regarding the broad discourse on learning and teaching.

A search (January 1, 2011), designed to catch relevant articles (although understanding it would not catch all relevant articles), in the Westlaw Journals and Law Reviews ("Westlaw JLR") database for the phrases "how people learn" or "how we learn" or "how students learn," combined, retrieved 353 articles. I then proceeded to scan through all of these articles to isolate those that seemed to have the most broad-based discussion of learning and teaching generally as they apply to law schools. After isolating approximately seventy-five articles, I then read all of the footnotes within each of those articles and supplemented the lists included herein with articles not captured in the original search, and generated characterizations of these lists based on cross-citation between authors. I do not claim to have fully digested every one of these articles, but I have reviewed them sufficiently enough to conclude that they deserve to be included as among the more informative in the field and within the categories herein designated.

The first compiled list groups eleven articles (to which the thirty already listed above should be added) that, within the search of law journals, have the broadest and most generalist discussion of the learning and teaching subject matter.<sup>34</sup> These forty-plus articles are also among the most cited within and between each other in the learning and teaching conversation occurring in law journals.

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34. In addition to the sixteen articles on learning styles and the fourteen works by Bloch, Friedland, Harwood, Hess, Lopez, Schwartz, Sonsteng, Sparrow, and Thomas previously cited, the following law journal articles fit this category of broadest coverage and most cross-citation: David W. Champagne, *Improving Your Teaching: How Do Students Learn?*, 83 LAW LIBR. J. 85 (1991); James Eagar, *The Right Tool for the Job: The Effective Use of Pedagogical Methods in Legal Education*, 32 GONZ. L. REV. 389 (1997); Jay Feinman & Marc Feldman, *Pedagogy and Politics*, 73 GEO. L. J. 875 (1985); Jay M. Feinman & Marc Feldman, *Achieving Excellence: Mastery Learning in Legal Education*, 35 J. LEGAL EDUC. 528 (1985); Deborah J. Merritt, *Legal Education in the Age of Cognitive Science and Advanced Classroom Technology*, 14 B.U. J. SCI. & TECH. L. 39 (2008); Anthony S. Niedwiecki, *Lawyers and Learning: A Metacognitive Approach to Legal Education*, 13 WIDENER L. REV. 33 (2006); Ruta K. Stropus, *Mend It, Bend It, and Extend It: The Fate of Traditional Law School Methodology in the 21<sup>st</sup> Century*, 27 LOY. U. CHI. L. J. 449 (1996); Paul T. Wangerin, *Learning Strategies for Law Students*, 52 ALB. L. REV. 471 (1988); Paul T. Wangerin, *Teaching and Learning in Law School: An "Alternative" Bookshelf for Law School Teachers*, 29 GONZ. L. REV. 49 (1994); Paul T. Wangerin, *Objective, Multiplistic, and Relative Truth in Developmental Psychology and Legal Education*, 62 TUL. L. REV. 1237 (1988); Clifford S. Zimmerman, "Thinking Beyond My Own Interpretation:" *Reflections on Collaborative and Cooperative Learning Theory in the Law School Curriculum*, 31 ARIZ. ST. L. J. 957 (1999).

The second grouping includes eighteen law journal articles found that have a lesser degree of broad and general discussion on learning and teaching in law school and fewer cross-citations.<sup>35</sup>

The third grouping is a selection of sixteen articles with some degree of broad and general discussion of the variety of theories involved in teaching and learning as they relate to law schools. However, this group has a lesser focus on the general literature and a more concentrated focus on specific topics.<sup>36</sup>

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35. See, e.g., Brook K. Baker, *Beyond MacCrate: The Role of Context, Experience, Theory, and Reflection in Ecological Learning*, 36 ARIZ. L. REV. 287 (1994); Paul Bateman, *Toward Diversity in Teaching Methods in Law Schools: Five Suggestions from the Back Row*, 17 QUINNIPIAC L. REV. 397 (1997); John Batt, *Law, Science, and Narrative: Reflections on Brain Science, Electronic Media, Story, and Law Learning*, 40 J. LEGAL EDUC. 19 (1990); Gary L. Blasi, *What Lawyers Know: Lawyering Expertise, Cognitive Science, and the Functions of Theory*, 45 J. LEGAL EDUC. 313 (1995); Bloch, *supra* note 14; Robin A. Boyle, *Employing Active-Learning Techniques and Metacognition in Law School: Shifting Energy from Professor to Student*, 81 U. DET. MERCY L. REV. 1 (2003); James Jay Brown, *Forging an Analytical Mind: The Law School Classroom Experience*, 29 STETSON L. REV. 1135 (2000); Paul D. Callister, *Time to Blossom: An Inquiry Into Bloom's Taxonomy as a Hierarchy and Means for Teaching Legal Research Skills*, 102 LAW LIBR. J. 191 (2010); Lila A. Coleburn & Julia C. Spring, *Socrates Unbound: Developmental Perspectives on the Law School Experience*, 24 LAW & PSYCHOL. REV. 5 (2000); Jason M. Dolin, *Opportunity Lost: How Law School Disappoints Law Students, The Public, and the Legal Profession*, 44 CAL. W. L. REV. 219 (2007); Bryant G. Garth & Joanne Martin, *Law Schools and the Construction of Competence*, 43 J. LEGAL EDUC. 469 (1993); Jack A. Hiller & Bernhard Grossfeld, *Comparative Legal Semiotics and the Divided Brain: Are We Producing Half-Brained Lawyers?*, 50 AM. J. COMP. L. 175 (2002); Alan M. Lerner, *Using Our Brains: What Cognitive Science and Social Psychology Teach Us About Teaching Law Students to Make Ethical, Professionally Responsible Choices*, 23 QUINNIPIAC L. REV. 643 (2004); Paula Lustbader, *Construction Sites, Building Types, and Bridging Gaps: A Cognitive Theory of the Learning Progression of Law Students*, 33 WILLAMETTE L. REV. 315, 321 (1997); Julie Macfarlane & Pat Boyle, *Instructional Design and Student Learning in Professional Legal Education*, 4 LEGAL EDUC. REV. 63 (1993); John B. Mitchell, *Current Theories on Expert and Novice Thinking: A Full Faculty Considers the Implications for Legal Education*, 39 J. LEG. EDUC. 275 (1989); Andrew J. Pirie, *Objectives in Legal Education: The Case for Systematic Instructional Design*, 37 J. LEGAL EDUC. 576 (1987); John W. Wade, *Some Observations on the Present State of Law Teaching and the Student Response*, 35 MERCER L. REV. 753 (1984).

36. See, e.g., Derrick Bell & Erin Edmonds, *Students as Teachers, Teachers as Learners*, 91 MICH. L. REV. 2025 (1993); J.B. Biggs, *Teaching for Better Learning*, 2 LEGAL EDUC. REV. 133 (1991); Paul L. Caron, *Back to the Future: Teaching Law Through Stories*, 71 U. CIN. L. REV. 405 (2003); Ronald Chester & Scott E. Alumbaugh, *Functionalizing First-Year Legal Education: Toward a New Pedagogical Jurisprudence*, 25 U.C. DAVIS L. REV. 21 (1991); June Cicero, *Piercing the Socratic Veil: Adding an Active Learning Alternative in Legal Education*, 15 WM. MITCHELL L. REV. 1011 (1989); Daniel A. Farber & Suzanna Sherry, *Telling Stories Out of School: An Essay on Legal Narratives*, 45 STAN. L. REV. 807 (1993); Kristin B. Gerdy, *Teacher, Coach, Cheerleader, and Judge: Promoting Learning through Learner-Centered Assessment*, 94 LAW LIBR. J. 59, 66 (2002); Steven Hartwell & Sherry L. Hartwell, *Teaching Law: Some Things Socrates Did Not Try*, 40 J. LEGAL EDUC. 509 (1990); Cynthia Ann Kelly, *Education for Lawyer Competency: A Proposal for Curricular Reform*, 18 NEW ENG. L. REV. 607 (1983); Tonya Kowalski, *True North: Navigating the Transfer of Learning in Legal Education*, 34 SEATTLE U. L.

Of course, the number of articles on learning in legal education is certainly larger than what has been included here. Aside from articles not included in the loose categories created above, articles on many other specific topics touching on learning and teaching were discovered but were too numerous and discrete to include properly in the lists here. For example, there is a substantial amount of literature dedicated to discussing what are commonly known as the "MacCrate Report," the "Carnegie Report," and the "Best Practices" study.<sup>37</sup> The topics in those influential reports touch on many learning and teaching issues but articles dedicated to those studies are not listed here. Similarly, much of the "clinical" education (loosely termed) literature has not been included here. Many of these articles focus on the subcategories of what students should learn—professionalism and ethics training; debating skills classes, and doctrinal versus practical approaches; or addressing technology-assisted learning—and have not been captured by the lists provided here either. Another large subcategory involves the debate on the case method and whether and how students can or should learn to "think like a lawyer." Those subtopics touch on the wide-ranging "learning" debate as well, but are generally not included in this subsection. The "thinking like a lawyer" literature, however, will be addressed in some detail later.<sup>38</sup>

Also not captured in these lists but evident from my review of the literature are topics loosely grouped into areas such as the psychological effects of law school (alienation, stress, anxiety and the like); the general law school learning environment; non-traditional learners; special education or learning disabilities concerns; race, gender, ethnicity, culture or orientations as impacting learning; alternative grading systems; alternative testing systems; technology-assisted learning; and learning strategies for

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REV. 51 (2010); Vernellia R. Randall, *Increasing Retention and Improving Performance: Practical Advice on Using Cooperative Learning in Law Schools*, 16 T.M. COOLEY L. REV. 201 (1999); Robert S. Redmount, *Law Learning, Teacher-Student Relations, and the Legal Profession*, 59 WASH. U. L. Q. 853 (1981); Michael L. Richmond, *Teaching Law to Passive Learners: The Contemporary Dilemma of Legal Education*, 26 CUMB. L. REV. 943 (1996); Cathaleen A. Roach, *A River Runs Through It: Tapping Into The Informational Stream to Move Students From Isolation to Autonomy*, 36 ARIZ. L. REV. 667, 682 (1994); Robert P. Schuwerk, *The Law Professor as Fiduciary: What Duties Do We Owe to Our Students*, 45 S. TEX. L. REV. 753 (2004); John Sonsteng et al., *Learning by Doing: Preparing Law Students for the Practice of Law*, 21 WM. MITCHELL L. REV. 111 (1995); Jamison Wilcox, *Borrowing Experience: Using Reflective Lawyer Narratives in Teaching*, 50 J. LEGAL EDUC. 213 (2000).

37. AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992) ("MacCrate Report"); ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION (2007) ("Best Practices"); SULLIVAN ET AL., *supra* note 29 ("Carnegie Report").

38. *See infra* Part II.B.

students. It seems like the list of specialty subtopics could be increased ad infinitum.

Despite the omission of some of these more specialized articles, I believe that any researcher looking to understand the learning debate within legal academia can get most of what they need to initiate their project from a review of the articles and texts cited here, recognizing of course that there is a vast universe of non-legal literature that lies beyond the literature applying it to law.

My purpose in this subsection has been twofold. The first was to survey the available literature on learning and teaching and provide some valuable guidance for research in those fields on the legal education discipline. The second purpose was to demonstrate the overwhelming mass and diversity of available research in these fields. The remaining sections identify topics and sources in some additional discrete and related areas of literature that are independently valuable to the legal education discussion.

## II. SELECTED LEGAL EDUCATION RELATED TOPICS: LITERATURE ON LEGAL RESEARCH & WRITING, THINKING LIKE A LAWYER, AND THE LAW SCHOOL EXPERIENCE

Certainly, much has been, and continues to be, written on the matter of legal education beyond the broad subject of learning—for students, teachers, and other consumers of such expertise, knowledge, and opinion. This material ranges from the academic to the practical and from the interdisciplinary to the subject-specific. It comes in different forms and from different perspectives. It is a standing subject of discussion at legal conferences across the world, including, of course, as a matter of regular study at conferences of the American Association of Law Schools (“AALS”) and other organizations. Books and periodicals across multiple disciplines cover educational issues relevant to law school, and some journals such as the *Journal of Legal Education* are devoted entirely to the subject. Some of these issues and phenomena were discussed in the previous subsection on learning and teaching literature. The following categories loosely group three remaining types of literature on subjects related to legal education that are generally related to the learning literature.

### A. Legal Research and Writing Literature

Legal writing itself has carved out its place as a critical component in the law school curriculum,<sup>39</sup> and consequently the uniqueness of the legal writing subject and courses devoted to it has been the focus of much academic literature as well. A search in Westlaw's JLR database for articles with "legal writing" in the title retrieves more than 330 articles, and such a search is obviously under-inclusive for finding articles devoted to the subject. Despite these limitations, and with unavoidable under-inclusion, from examining the articles retrieved within that search and other independent research, a good starting bibliography was compiled.<sup>40</sup>

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39. Mary S. Lawrence, *The Legal Writing Institute—The Beginning: Extraordinary Vision, Extraordinary Accomplishment*, 11 LEGAL WRITING: J. LEGAL WRITING INST. 213 (2005) (discussing the struggles and then rise and respect for legal writing professionals over the past few decades); Robin S. Wellford-Slocum, *The Law School Faculty-Student Conference: Towards a Transformative Learning Experience*, 45 S. TEX. L. REV. 255, 256 (2004) ("A fundamental purpose of legal education is to teach students to "think like lawyers . . . two of the most important such experiences are those offered by legal writing courses and one-on-one exchanges with faculty.") Please note that there are a substantial number of articles on the curricular or faculty politics regarding legal research and writing programs and security of position issues regarding legal writing professors that are not covered in this subsection.

40. A good bibliography would include (but hardly be limited to) the following: Aïda M. Alaka, *The Grammar Wars Come to Law School*, 59 J. LEGAL EDUC. 343 (2010); Mary Beth Beazley, *Better Writing, Better Thinking: Using Legal Writing Pedagogy in the "Casebook" Classroom (Without Grading Papers)*, 10 LEGAL WRITING: J. LEGAL WRITING INST. 23 (2004); Joel R. Cornwell, *Legal Writing as a Kind of Philosophy*, 48 MERCER L. REV. 1091 (1997); Douglas M. Coulson, *Legal Writing and Disciplinary Knowledge-Building: A Comparative Study*, 6 J. ASS'N. LEGAL WRITING DIRECTORS 160 (2009); Debra Moss Curtis & Judith R. Karp, *"In a Case, In a Book, They Will Not Take a Second Look!" Critical Reading in the Legal Writing Classroom*, 41 WILLAMETTE L. REV. 293 (2005); Jo Anne Durako et al., *From Product to Process: Evolution of a Legal Writing Program*, 58 U. PITT. L. REV. 719 (1997); Anne M. Enquist, *Unlocking the Secrets of Highly Successful Legal Writing Students*, 82 ST. JOHN'S L. REV. 609 (2008); Jeffrey D. Jackson, *Socrates and Langdell in Legal Writing: Is the Socratic Method a Proper Tool for Legal Writing Courses?*, 43 CAL. W. L. REV. 267 (2007); Mary Kate Kearney & Mary Beth Beazley, *Teaching Students How to "Think Like Lawyers": Integrating Socratic Method with the Writing Process*, 64 TEMP. L. REV. 885 (1991); Soma R. Kedia, *Redirecting the Scope of First-Year Writing Courses: Toward a New Paradigm of Teaching Legal Writing*, 87 U. DET. MERCY L. REV. 147 (2010); Philip C. Kissam, *Thinking (By Writing) About Legal Writing*, 40 VAND. L. REV. 135 (1987); Lawrence, *supra* note 39; John A. Lynch, Jr., *Teaching Legal Writing After a Thirty-Year Respite: No Country for Old Men?*, 38 CAP. U. L. REV. 1 (2009); Pamela Lysaght & Cristina D. Lockwood, *Writing-Across-the-Law-School Curriculum: Theoretical Justifications, Curricular Implications*, 2 J. ASS'N LEGAL WRITING DIRECTORS 73 (2004); Roy M. Mersky, *Legal Research versus Legal Writing within the Law School Curriculum*, 99 LAW LIBR. J. 395 (2007); Philip N. Meyer, *"Fingers Pointing at the Moon": New Perspectives on Teaching Legal Writing and Analysis*, 25 CONN. L. REV. 777 (1993); Carol M. Parker, *Writing Throughout Curriculum: Why Law Schools Need It and How to Achieve It*, 76 NEB. L. REV. 561 (1997); Terrill Pollman, *Building a Tower of Babel or Building a Discipline? Talking About Legal Writing*, 85 MARQ. L. REV. 887 (2002); J. Christopher Rideout & Jill J. Ramsfield, *Legal Writing: A Revised View*, 69 WASH. L. REV. 35 (1994); Wayne Schiess,

Some bibliographies of legal writing books and articles materials have been previously compiled and also serve as useful sources of reference.<sup>41</sup> “There is virtually no debate about the importance of proficient written communication within the practice of law.”<sup>42</sup> Certainly, legal writing experiences are a fundamental part of the legal education process.<sup>43</sup> The subject of teaching legal writing is an area of interest to law school students and teachers, receives attention from the bench and bar,<sup>44</sup> and is of increasing concern in accreditation of law schools by the American Bar Association (“ABA”).<sup>45</sup> Its growing role in the law school curriculum cannot be questioned. Organizations<sup>46</sup> and blogs<sup>47</sup> have formed to focus

*Legal Writing is Not What It Should Be*, 37 S.U.L. REV. 1 (2009); Nancy Schultz, *How Do Lawyers Really Think*, 42 J. LEGAL EDUC. 57 (1992); Christopher Simoni, *The Pedagogy of Legal Writing*, 2 SCRIBES J. LEGAL WRITING 156 (1991); Slocum, *supra* note 39; Michael R. Smith, *The Next Frontier, Exploring the Substance of Legal Writing*, 2 J. ASS’N LEGAL WRITING DIRECTORS 1 (2004).

41. See, e.g., George D. Gopen & Karey D. Smout, *Legal Writing: A Bibliography*, 1 LEGAL WRITING: J. LEGAL WRITING INST. 93 (1991); Michael R. Smith, *Rhetoric Theory and Legal Writing: An Annotated Bibliography*, 3 J. ASS’N LEGAL WRITING DIRECTORS 129 (2006); Carrie W. Tietcher, *Legal Writing Beyond Memos and Briefs: An Annotated Bibliography*, 5 J. ASS’N LEGAL WRITING DIRECTORS 133 (2008). Not all of the listings in those compilations are separately listed in this Article, and many of the separately listed citations in this Article are not included in those compilations.

42. Erika Abner & Shelley Kierstead, *A Preliminary Exploration of the Elements of Expert Performance in Legal Writing*, 16 LEGAL WRITING: J. LEGAL WRITING INST. 363 (2010).

43. Wellford-Slocum, *supra* note 39, at 256 (“Legal writing experiences . . . develop law students’ abilities not only to communicate legal analysis and argument, but also to engage in effective and sound legal reasoning itself.”).

44. See, e.g., Susan McClellan & Constance Krontz, *Improving Legal Writing Courses: Perspectives from the Bar and Bench*, 8 LEGAL WRITING: J. LEGAL WRITING INST. 201 (2002); Philip N. Meyer, *When Worlds Collide: Exploring Intersections Between Legal Writing and Clinical Pedagogy, Scholarship, and Practice*, 4 J. ASS’N LEGAL WRITING DIRECTORS 1 (2007); Richard A. Posner, *Legal Writing Today*, 8 SCRIBES J. LEGAL WRITING 35 (2002) (critiquing legal writing by lawyers and judges). A search of “TI(“legal writing”)” in Westlaw’s JLR database retrieves dozens of articles in bar journals written by practicing lawyers and judges, rather than just professors, on the importance of learning legal writing skills in law school.

45. Wellford-Slocum, *supra* note 39, at 256 & n.3 (describing the ABA’s strengthening of its accreditation standards regarding “legal writing in the law school curriculum” as a signal of the ABA’s value and commitment to its curricular importance).

46. E.g., THE ASSOCIATION OF AMERICAN LAW SCHOOLS (“AALS”) SECTION ON LEGAL WRITING, REASONING, AND RESEARCH, <http://faculty.law.lsu.edu/aals/>; THE LEGAL WRITING INSTITUTE, <http://www.lwionline.org/>; THE ASSOCIATION OF LEGAL WRITING DIRECTORS, <http://www.alwd.org/>; THE AMERICAN SOCIETY OF LEGAL WRITERS (SCRIBES), <http://www.scribes.org/>. The American Bar Association (“ABA”) Section on Legal Education and Admission to the Bar also addresses relevant issues. A.B.A., <http://www.abanet.org/legaled/committees/committees.html>.

In part, that ABA Section formulates and publishes the accreditation standards for law schools related to the legal writing program (particularly Standards 302(a)(2) & (a)(3)). See 2010-2011 STANDARDS FOR APPROVAL OF LAW SCHOOLS, Standard 302(a)(2), (a)(3) (2010).

almost exclusively on the subject—regularly providing information, resources, and hosting conferences and seminars dedicated to legal research and writing.<sup>48</sup> Some specialized journals are devoted to the subject of legal writing, like the *Journal of the Association of Legal Writing Directors*, *Legal Writing: The Journal of the Legal Writing Institute*, and the *Scribes Journal of Legal Writing*. Because these journals are relatively young, scanning all the articles therein published is not an insurmountable task for the researcher, as each has an individual searchable database in Westlaw and Lexis. Articles on the subject also appear frequently in the *Journal of Legal Education* and the *Clinical Law Review*, and general law journals and bar journals, of course, include the subject of legal writing in their mix of articles.

Again, the available material regarding the legal writing subject exhibits a range of approaches and includes general texts on the mechanics and methods of legal writing,<sup>49</sup> and other works on more specific subjects

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or

See 2010-2011 ABA STANDARDS FOR APPROVAL OF LAW SCHOOLS, Standard 302(a)(2), (a)(3) (2010). The section also publishes a reference book for designing, directing, and teaching legal writing programs. ABA SOURCEBOOK ON LEGAL WRITING PROGRAMS (Eric B. Easton ed., 2d ed. 2006).

47. E.g., LEGAL WRITING PROF BLOG, <http://lawprofessors.typepad.com/legalwriting/>.

48. Recent symposia are of particular note, where a number of articles related to legal writing from various authors appear: See Symposium, *The Legal Writing Institute: Celebrating 25 Years of Teaching and Scholarship*, 61 MERCER L. REV. 705 (2010); Symposium, *The Legal Writing Institute: Celebrating 25 Years of Teaching and Scholarship*, 16 LEGAL WRITING: J. LEGAL WRITING INST. 411 (2010).

49. Some noteworthy texts adopted in legal research and writing curricula include: JOHN C. DERNBACH ET AL., A PRACTICAL GUIDE TO LEGAL WRITING AND LEGAL METHOD (3d ed. 2007); LINDA H. EDWARDS, LEGAL WRITING AND ANALYSIS (2d ed. 2007); RICHARD K. NEUMANN & SHEILA SIMON, LEGAL WRITING (2008); LAUREL CURRIE OATES & ANNE ENQUIST, THE LEGAL WRITING HANDBOOK: ANALYSIS RESEARCH & WRITING (3d ed. 2002); NANCY SCHULTZ & LOUIS J. SIRICO, JR., LEGAL WRITING AND OTHER LAWYERING SKILLS (4th ed. 2004); HELENE S. SHAPO ET AL., WRITING AND ANALYSIS IN THE LAW (5th ed. 2008); ROBIN WELLFORD SLOCUM, LEGAL REASONING, WRITING AND PERSUASIVE ARGUMENT (2d ed. 2006); MICHAEL R. SMITH, ADVANCED LEGAL WRITING, THEORIES AND STRATEGIES IN PERSUASIVE WRITING (2d ed. 2002). See also, e.g., NORMAN BRAND & JOHN O. WHITE, LEGAL WRITING: THE STRATEGY OF PERSUASION (3d ed. 1994); BRADLEY G. CLARY & PAMELA LYSAGHT, SUCCESSFUL LEGAL ANALYSIS AND WRITING: THE FUNDAMENTALS (2d ed. 2006); LINDA H. EDWARDS, LEGAL WRITING: PROCESS, ANALYSIS, AND ORGANIZATION (4th ed. 2006); RICHARD K. NEUMANN, JR., LEGAL REASONING AND LEGAL WRITING: STRUCTURE, STRATEGY, AND STYLE (6th ed. 2009); LOUIS J. SIRICO, JR. & NANCY SCHULTZ, PERSUASIVE WRITING FOR LAWYERS AND THE LEGAL PROFESSION (2d ed. 2001). Several law school libraries have bibliographies on legal research and writing. One helpful site is "Research and Writing Aids: A Selected Annotated Bibliography" at Cornell Law School. See *Research and Writing Aids*, CORNELL LAW LIBRARY, <http://library.lawschool.cornell.edu/WhatWeDo/HelpStudents/Research-and-Writing-Aids.cfm> (last visited Jan. 24, 2011).

like writing seminar papers or journal articles, comments, and case notes.<sup>50</sup> Again, this compilation does not attempt to enter into the fray of the debate within the educational community on the varying approaches to and techniques for teaching legal research and writing methods.

Law school instructors should acknowledge that students need to learn to write effectively, whatever that may be and however that may be accomplished. Teachers will be enriched if they familiarize themselves with the vast amount of literature available to help in that task.

### B. “Thinking Like a Lawyer” Literature

Certainly, much has been written on the (in)famous<sup>51</sup> and reverberating “thinking like a lawyer” clang that pervades the popular perception of the uniqueness of law school pedagogy.<sup>52</sup> As Sanford Levinson noted, “It is probable that everyone who has gone to law school has been told—often by the Dean in a welcoming address—that the purpose of the enterprise of legal education is to learn to ‘think like a lawyer.’”<sup>53</sup> Yet, there seems to be

50. A good bibliography would include, for example, the following: EUGENE VOLOKH, *ACADEMIC LEGAL WRITING: LAW REVIEW ARTICLES, STUDENT NOTES, SEMINAR PAPERS, AND GETTING ON LAW REVIEW* (2d ed. 2004); ELIZABETH FAJANS, *SCHOLARLY WRITING FOR LAW STUDENTS: SEMINAR PAPERS, LAW REVIEW NOTES AND LAW REVIEW COMPETITION PAPERS* (2004); Elizabeth Fajans & Mary R. Falk, *Comments Worth Making: Supervising Scholarly Writing in Law School*, 46 J. LEGAL EDUC. 342 (1996); Jacqueline D. Lipton, “PhD. Lite”: *A New Approach to Teaching Scholarly Legal Writing*, 2009 CARDOZO L. REV. DE NOVO 20 (2009); Ruthann Robson, *Law Students as Legal Scholars: An Essay/Review of Scholarly Writing for Law Students and Academic Legal Writing*, 7 N.Y. CITY L. REV. 195 (2004).

51. Consider the well-known scene from *The Paper Chase* that frightens most incoming law students, where Professor Kingsfield sternly rails the first year law students that “You come in here with a skull full of mush and you leave thinking like a lawyer.” *THE PAPER CHASE* (20<sup>th</sup> Century Fox 1973), based on the novel by JOHN J. OSBORN, JR., *THE PAPER CHASE* (1970).

52. “It is a safe bet that . . . every text on legal reasoning in common law countries emphasizes in one way or the other the salience of thinking like a lawyer which is ideally acquired when one is a first year student, and is subsequently polished and perfected throughout the rest of law school and beyond.” Irene Baghoomians, *Thinking Like a Lawyer: A New Introduction to Legal Reasoning by Frederick Schauer, Harvard University Press, Cambridge (Ma), 2009, ISBN 0-674-03270-5*, 31 SYDNEY L. REV. 499, 499 (2009) (book review). See also, *THE CANON OF AMERICAN LEGAL THOUGHT 1-2* (David Kennedy & William W. Fisher, III eds. 2006) (“It is a commonplace in American legal education that law school aims not to teach ‘the law’ but to teach how to ‘think like a lawyer.’ Throughout the first year, students struggle to make sense of this bromide. . . . It turns out that ‘thinking like a lawyer’ has a history.”).

53. Sanford Levinson, *Taking Law Seriously: Reflections on “Thinking Like a Lawyer”*, 30 STAN. L. REV. 1071, 1071 (1978) (continuing to state that “[i]t is equally probable that this notion is not subjected to serious analysis and elaboration”).

little agreement on what "thinking like a lawyer" means, or if it means anything at all.<sup>54</sup>

The discourse on the truth or importance of the "thinking like a lawyer" subject ranges from simplistic chanting, to complex discussions, to discordant dialogues.<sup>55</sup> This literature comes in a variety of packages (books, articles, websites, movies, tapes, seminars, first-year classrooms, and simple millings in hallowed hallways).<sup>56</sup> Part of the debate involves whether the thinking like a lawyer concept actually hamstring a more balanced form of legal education,<sup>57</sup> or hinders more holistic teaching

54. "Despite the popularity of the phrase, legal scholars have not agreed on a detailed conception of what 'thinking like a lawyer' means." Larry O. Natt Gantt, II, *Deconstructing Thinking Like a Lawyer: Analyzing the Cognitive Components of the Analytical Mind*, 29 CAMPBELL L. REV. 413 (2007). See also *id.* at nn.1-6.

55. For an excellent survey of the literature on the debates within academic scholarship surrounding the "thinking like a lawyer" concept and law school teaching methods, see Kurt M. Saunders & Linda Levine, *Learning to Think Like a Lawyer*, 29 U.S.F. L. REV. 121 (1994). The footnotes in that article, particularly numbers 1-33, are rich with bibliographic material (through its publication in 1994). See *id.* at nn.1-33. Saunders and Levine position the familiarity of the concept and debate well: "What does it mean to think like a lawyer? Most legal educators are only too familiar with the concept and related criticism." *Id.* at 121.

56. See generally, e.g., FRIEDRICK SCHAUER, THINKING LIKE A LAWYER: A NEW INTRODUCTION TO LEGAL REASONING (2009); PATRICK M. MCFADDEN, A STUDENT'S GUIDE TO LEGAL ANALYSIS: THINK LIKE A LAWYER (2001); ELIZABETH MERTZ, THE LANGUAGE OF LAW SCHOOL: LEARNING TO "THINK LIKE A LAWYER" (2007); KENNETH J. VANDELDELDE, THINKING LIKE A LAWYER: AN INTRODUCTION TO LEGAL REASONING (1996); Ruggero J. Aldisert et al., *Logic for Law Students: How to Think Like a Lawyer*, 69 U. PITT. L. REV. 1 (2007) ("What is thinking like a lawyer? It means employing logic to construct arguments."); John O. Mudd, *Thinking Critically About "Thinking Like a Lawyer"*, 33 J. LEGAL EDUC. 704, 705 (1983) (arguing legal thinking and logic not substantially different than other professions); Saunders & Levine, *supra* note 55, at 122 (discussing learning theory and education models as applied to law schools and presenting detailed findings of a research case study on student responses to processes of learning to think like a lawyer, and lamenting that the "notion of thinking like a lawyer implies that there is a unique manner in which lawyers think, and that law schools teach students how to think in this manner"); James Boyd White, *Doctrine in a Vacuum: Reflections on What a Law School Ought (and Ought Not) To Be*, 25 J. LEGAL EDUC. 155, 161 (1986) (suggesting legal thinking is distinct); Michael C. Dorf, *How to "Think Like a Lawyer": Advice to New and Prospective Law Students*, FINDLAW WRIT, Aug. 22, 2001, <http://writ.news.findlaw.com/dorf/20010822.html>.

57. See generally, e.g., SULLIVAN ET AL., *supra* note 29 (discussing neglect of teaching ethics and social consequences of lawyering); Schultz, *supra* note 40, at 57, 72 (calling for "offering in legal education a complexity that matches the complexity of the legal world in which our students will function," including through a higher level of integration of skills training into the curriculum, and for a "new dialogue and reflection about what it means to 'think like a lawyer'"); Karen H. Rothenberg, *Recalibrating the Moral Compass: Expanding "Thinking Like a Lawyer" Into "Thinking Like a Leader"*, 40 U. TOL. L. REV. 411, 412 (2009) (arguing for reforming law school training to preparation for leadership, but explaining that "[t]raditionally, especially during the first year of law school, students are taught in the classroom to logically and legally argue every point from every side and clearly see the bottom line"); Bethany Rubin Henderson, *Asking the Lost Question: What is the Purpose of Law School?*, 53 J. LEGAL EDUC. 48 (2003) (providing

approaches.<sup>58</sup> This research overview does not attempt to evaluate these varied opinions,<sup>59</sup> endorse any particular view on the subject, nor discern the relative truth or importance of the “thinking like a lawyer” mantra for the process of educating legal minds. But, whatever thinking “like a lawyer” means or whatever process of learning techniques help achieve it in law school—theoretical versus practical or clinical, visual versus verbal, lecture versus Socratic method, problems versus cases versus narratives, and other like disputes—it is certainly a dominant part of the legal education literature and therefore worth a compilation of sources here.

### C. Law School Environment, Experience and Success Literature

Understanding the law school environment and the uniqueness of its experience is also substantially important to understanding the enterprise of legal learning. Thus, a brief look at the available literature on that subtopic may be useful to the researcher. Or, at least, because it has not generally been compiled before, this compilation may serve a variety of researchers and other consuming audiences (such as students).

Undergraduate and law school library shelves are filled with “how to,”<sup>60</sup> preparation,<sup>61</sup> studying skill,<sup>62</sup> survival guides,<sup>63</sup> and other materials

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a student’s analysis of law school educational failings); John W. Wade, *Legal Education and the Demands for Stability and Change Through Law*, 17 VAND. L. REV. 155, 158 (1963) (discussing the law professor’s role in changing the thinking like a lawyer approach).

58. See generally, e.g., Filippa Marullo Anzalone, *It All Begins With You: Improving Law School Learning Through Professional Self-Awareness and Critical Reflection*, 24 HAMLINE L. REV. 324 (2001) (discussing, inter alia, reflective practice in law school pedagogy, the role of law professors, faculty self-discovery, and sharing techniques among legal educators); Gerald F. Hess, *Learning to Think Like a Teacher: Reflective Journals for Legal Educators*, 38 GONZ. L. REV. 129 (2003) (discussing Dewey’s work on reflective teaching and applying new work in the area by Schön and Brookfield, among others).

59. See Eric Mills Holmes, *Education for Competent Lawyering—The Case Method in a Functional Context*, 76 COLUM. L. REV. 535, 535-36 (1976) (“Since most law teachers perceive that legal education is failing in some critical way to do its job, there is no shortage of solutions proffered for this malaise.”).

60. A good bibliography would include the following: J. ROBERT ARNETT II. ET AL., *FROM HERE TO ATTORNEY: THE ULTIMATE GUIDE TO EXCELLING IN LAW SCHOOL AND LAUNCHING YOUR LEGAL CAREER* (1993); JEFFREY DEEVER, *THE COMPLETE LAW SCHOOL COMPANION: HOW TO EXCEL AT AMERICA’S MOST DEMANDING POST-GRADUATE CURRICULUM* (rev. ed. 1992); STEVEN R. SEDBERRY, *THE LAW SCHOOL LABYRINTH: A GUIDE TO MAKING THE MOST OF YOUR LEGAL EDUCATION* (2009).

61. JOHN D. CALAMARI & JOSEPH M. PERILLO, *HOW TO THRIVE IN LAW SCHOOL* (1984); SHANA CONNELL NOYES & HENRY S. NOYES, *ACING YOUR FIRST YEAR OF LAW SCHOOL: THE TEN STEPS TO SUCCESS YOU WON’T LEARN IN CLASS* (1999); SCOTT TUROW, *ONE L: THE TURBULENT TRUE STORY OF A FIRST YEAR AT HARVARD LAW SCHOOL* (1978).

for the law school experience,<sup>64</sup> seducing alike both prospective students before entering the abyss that is law school<sup>65</sup> and current students looking to

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62. STEVEN J. FRANK, *LEARNING THE LAW: SUCCESS IN LAW SCHOOL AND BEYOND* (1992); TRACEY E. GEORGE & SUZANNA SHERRY, *WHAT EVERY LAW STUDENT REALLY NEEDS TO KNOW: AN INTRODUCTION TO THE STUDY OF LAW* (2009); *THE LAW SCHOOL EXPERIENCE: LAW, LEGAL REASONING, AND LAWYERING* (Lisa Griffin & Bennett L. Gershman eds., 2000); PHILLIP H. KENNY, *STUDYING LAW* (2d ed. 1991); KENNETH LASSON & SHELDON MARGULIES, *LEARNING LAW: THE MASTERY OF LEGAL LOGIC* (1993); LEWIS H. LARUE, *A STUDENT'S GUIDE TO THE STUDY OF LAW: AN INTRODUCTION* (1987); KARL N. LLEWELLYN, *THE BRAMBLE BUSH: ON OUR LAW AND ITS STUDY* (7th ed. 1981); JAMES E. MOLITERNO & FREDRIC I. LEDERER, *AN INTRODUCTION TO LAW, LAW STUDY, AND THE LAWYER'S ROLE* (2d ed. 2004); GLANVILLE WILLIAMS, *LEARNING THE LAW: A BOOK FOR THE GUIDANCE OF THE LAW STUDENT* (11th ed. 1982).

63. NANCY B. RAPOPORT & JEFF VAN NEIL, *LAW SCHOOL SURVIVAL MANUAL: FROM LSAT TO BAR EXAM* (2010); R. STEPHANIE GOOD, *LAW SCHOOL 101: HOW TO SUCCEED IN YOUR FIRST YEAR OF LAW SCHOOL AND BEYOND* (2d ed. 2009); GREG GOTTESMAN, SHANNON GOTTESMAN & FRIENDS, *LAW SCHOOL SURVIVAL: A CRASH COURSE FOR STUDENTS BY STUDENTS* (1998); REBECCA GREENE, *LAW SCHOOL FOR DUMMIES* (2003); *THE JD JUNGLE LAW SCHOOL SURVIVAL GUIDE* (2003); MARION T.D. LEWIS, *THE LAW SCHOOL RULES: 115 SURVIVAL STRATEGIES TO MAKE THE CHALLENGES OF LAW SCHOOL SEEM LIKE "SMALL STUFF"* (1999); James D. Gordon III, *How Not to Succeed in Law School*, 100 YALE L.J. 1679 (1991); KENNEY F. HEGLAND, *INTRODUCTION TO THE STUDY AND PRACTICE OF LAW IN A NUTSHELL* (5th ed. 2008); RUTH ANN MCKINNEY, *READING LIKE A LAWYER: TIME-SAVING STRATEGIES FOR READING LAW LIKE AN EXPERT* (2005); ROBERT H. MILLER, *LAW SCHOOL CONFIDENTIAL: A COMPLETE GUIDE TO THE LAW SCHOOL EXPERIENCE: BY STUDENTS FOR STUDENTS* (rev. ed. 2004); CAROLYN J. NYGREN, *STARTING OFF RIGHT IN LAW SCHOOL* (1997); ANDREW J. MCCLURG, *1L OF A RIDE: A WELL TRAVELED PROFESSOR'S ROADMAP TO SUCCESS IN THE FIRST YEAR OF LAW SCHOOL* (2009); GARY MUNNEKE, *HOW TO SUCCEED IN LAW SCHOOL* (2d ed. 1994); HERBERT N. RAMY, *SUCCEEDING IN LAW SCHOOL* (2006); HELENE SHAPO & MARSHALL SHAPO, *LAW SCHOOL WITHOUT FEAR: STRATEGIES FOR SUCCESS* (2d ed. 2002); MICHAEL HUNTER SCHWARTZ, *EXPERT LEARNING FOR LAW STUDENTS* (2d ed. 2008); BRIAN SIEGEL, *HOW TO SUCCEED IN LAW SCHOOL* (1975).

64. *MAXIMIZING THE LAW SCHOOL EXPERIENCE: A COLLECTION OF ESSAYS* (Michael I. Swygert & Robert Batey eds., 1983); Symposium, *Maximizing the Law School Experience*, 12 STETSON L. REV. 551 (1983); Symposium, *Maximizing the Law School Experience II*, 29 STETSON L. REV. 1009 (2000); Julie Hilden, *Advice to First-Year Law Students*, FINDLAW.COM (Aug. 16, 2005), <http://writ.news.findlaw.com/hilden/20050816.html>; Vikram David Amar, *Advice for the Law School Class of '09: Ten Key Principles That Will Help You Succeed*, FINDLAW.COM (Aug. 17, 2006), <http://writ.news.findlaw.com/amar/20060817.html>.

65. HARRY CASTLEMAN & CHRISTOPHER NIEWOEHNER, *GOING TO LAW SCHOOL?: EVERYTHING YOU NEED TO KNOW TO CHOOSE AND PURSUE A DEGREE IN LAW* (1997); ATTICUS FALCON, *PLANET LAW SCHOOL II: WHAT YOU NEED TO KNOW (BEFORE YOU GO), BUT DIDN'T KNOW TO ASK . . . AND NO ONE ELSE WILL TELL YOU* (2d ed. 2003); *LOOKING AT LAW SCHOOL: A STUDENT'S GUIDE FROM THE SOCIETY OF AMERICAN LAW TEACHERS* (Stephen Gillers ed., 4th ed. 1997); JEREMY B. HORWITZ, *LAW SCHOOL INSIDER: THE COMPREHENSIVE 21ST CENTURY GUIDE TO SUCCESS IN ADMISSIONS, CLASSES, LAW REVIEW, BAR EXAMS AND JOB SEARCHES, FOR PROSPECTIVE STUDENTS AND THEIR LOVED ONES* (2002); DAVID HRICK, *LAW SCHOOL BASICS: A PREVIEW OF LAW SCHOOL AND LEGAL REASONING* (1999); RON COLEMAN, *THE PRINCETON REVIEW PRE-LAW COMPANION: THE ULTIMATE GUIDE TO PREPARING FOR LAW SCHOOL* (1996); RUTA STROPUS & CHARLOTTE D. TAYLOR, *BRIDGING THE GAP BETWEEN*

learn new strokes as they are tossed into the law school's curved pool and forced to sink or swim. There is also no dearth of material purporting to teach law school exam writing techniques—books,<sup>66</sup> articles,<sup>67</sup> podcasts,<sup>68</sup> and other media. Similarly, some work focuses on teaching exam writing in the legal writing curriculum.<sup>69</sup> Unsurprisingly, there is also a strong market for pre-law and “getting into law school” fertilizers for the budding

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COLLEGE AND LAW SCHOOL: STRATEGIES FOR SUCCESS (2001); Symposium, *Advice for Prospective Law Students*, 80 U. DET. MERCY L. REV. 457 (2003).

66. CHARLES R. CALLEROS, *LAW SCHOOL EXAMS: PREPARING AND WRITING TO WIN* (2007); SUZANNE DARROW-KLEINHAUS, *MASTERING THE LAW SCHOOL EXAM: A PRACTICAL BLUEPRINT FOR PREPARING AND TAKING LAW SCHOOL EXAMS* (2007); JOHN DELANEY, *HOW TO DO YOUR BEST ON LAW SCHOOL EXAMS* (4th ed. 2006); RICHARD MICHAEL FISCHL & JEREMY PAUL, *GETTING TO MAYBE: HOW TO EXCEL ON LAW SCHOOL EXAMS* (1999); CHARLES H. WHITEBREAD, *EIGHT SECRETS OF TOP EXAM PERFORMANCE IN LAW SCHOOL* (1995); JOHN C. DERNBACH, *A PRACTICAL GUIDE TO WRITING LAW SCHOOL ESSAY EXAMS* (2001); LAZAR EMANUEL, *STRATEGIES & TACTICS FOR FIRST YEAR LAW: MAXIMIZE YOUR GRADES* (1995); JOHN C. DERNBACH, *WRITING ESSAY EXAMS TO SUCCEED (NOT JUST TO SURVIVE)* (2007); STEVE FOSTER, *HOW TO WRITE BETTER LAW ESSAYS: TOOLS AND TECHNIQUES FOR SUCCESS ON EXAMS AND ASSIGNMENTS* (2d ed. 2009).

67. Jerry J. Phillips, *Thirteen Rules for Taking Law Exams*, 72 TENN. L. REV. 797 (2005); Patrick Wiseman, “*When You Come to a Fork in the Road, Take It,*” and *Other Sage Advice for First-Time Law School Exam Takers*, 22 GA. ST. U. L. REV. 653 (2006); John H. Langbien, *Writing Law Examinations*, WESTLAW.COM, <http://lawschool.westlaw.com/shared/marketinfo/display.asp?code=so&id=6&subpage=3> (last visited Jan. 21, 2011); Carol Nygren, *Using Professors’ Old Exams to Prepare*, FINDLAW.COM (1998), [http://stu.findlaw.com/student/using\\_professors\\_exams.html](http://stu.findlaw.com/student/using_professors_exams.html); Carol Nygren, *Confronting Your Final Exam—Tort*, FINDLAW.COM (1998), [http://stu.findlaw.com/student/final\\_exams.html](http://stu.findlaw.com/student/final_exams.html); William R. Andersen, *Writing Better Law School Exams: The Importance of Structure*, CALLORG, <http://www.cali.org/lesson/543> (last visited Jan. 21, 2011).

68. See, e.g., *Exam Preparation: Conversations with Professors About Preparing For and Taking Exams*, CALI RADIO (Oct. 28, 2005), [http://cali\\_radio.classcaster.org/blog/podcast/2005/10/28/exam\\_preparation\\_conversations\\_with\\_law\\_professors\\_about\\_preparing\\_for\\_and\\_taking\\_exams](http://cali_radio.classcaster.org/blog/podcast/2005/10/28/exam_preparation_conversations_with_law_professors_about_preparing_for_and_taking_exams); Jennifer Martin, *Top 10 Tips for Successfully Writing a Law School Essay*, CALI RADIO (Oct. 3, 2006), [http://cali\\_radio.classcaster.org/blog/general/2006/10/03/top\\_10\\_tips\\_for\\_successfully\\_writing\\_a\\_law\\_school\\_essay](http://cali_radio.classcaster.org/blog/general/2006/10/03/top_10_tips_for_successfully_writing_a_law_school_essay).

69. See, e.g., Adam G. Todd, *Exam Writing as Legal Writing: Teaching and Critiquing Law School Examination Discourse*, 76 TEMP. L. REV. 69 (2003).

law student.<sup>70</sup> The perspective from the law student's position on law school and legal learning is also the focus of a wide variety of literature.<sup>71</sup>

## CONCLUSION

Legal education and the subject of learning as it relates to it are intriguing and stimulating topics and the literature is filled with a rich and diverse exploration into those fields. The teacher seeking to improve his or her task should acquaint him or herself with the wisdom within this literature. The scholar whose research is directly aimed to expand on or discuss the subject of learning by necessity must engage with it. The librarian seeking to assist students and professors must be aware of this literature. And really, all those with endeavors that even indirectly relate to the legal educative enterprise cannot help but be affected by it. This overview and bibliographical survey should serve as one tool for each person finding themselves in one of those positions.

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70. A good bibliography would include the following: CHRISTEN CIVILETTO CAREY & KRISTEN DAVID ADAMS, *THE PRACTICE OF LAW SCHOOL: GETTING IN AND MAKING THE MOST OF YOUR LEGAL EDUCATION* (2003); JOYCE PUTNAM CURLL, *THE BEST LAW SCHOOLS' ADMISSIONS SECRETS: THE ESSENTIAL GUIDE FROM HARVARD'S FORMER ADMISSIONS DEAN* (2008); SUSAN ESTRICH, *HOW TO GET INTO LAW SCHOOL* (2004); ANNA IVEY, *THE IVEY GUIDE TO LAW SCHOOL ADMISSIONS: STRAIGHT ADVICE ON ESSAYS, RESUMES, INTERVIEWS, AND MORE* (2005); ANN K. LEVINE, *THE LAW SCHOOL ADMISSION GAME: PLAY LIKE AN EXPERT* (2009); RICHARD MONTAUK, *HOW TO GET INTO THE TOP LAW SCHOOLS* (rev. ed. 2004).

71. See, e.g., Sally Ginsburg Waters, *A Selected Bibliography*, 29 STETSON L. REV. 1323 (2000) (listing books and articles focused "almost exclusively on legal education from the law student's perspective").