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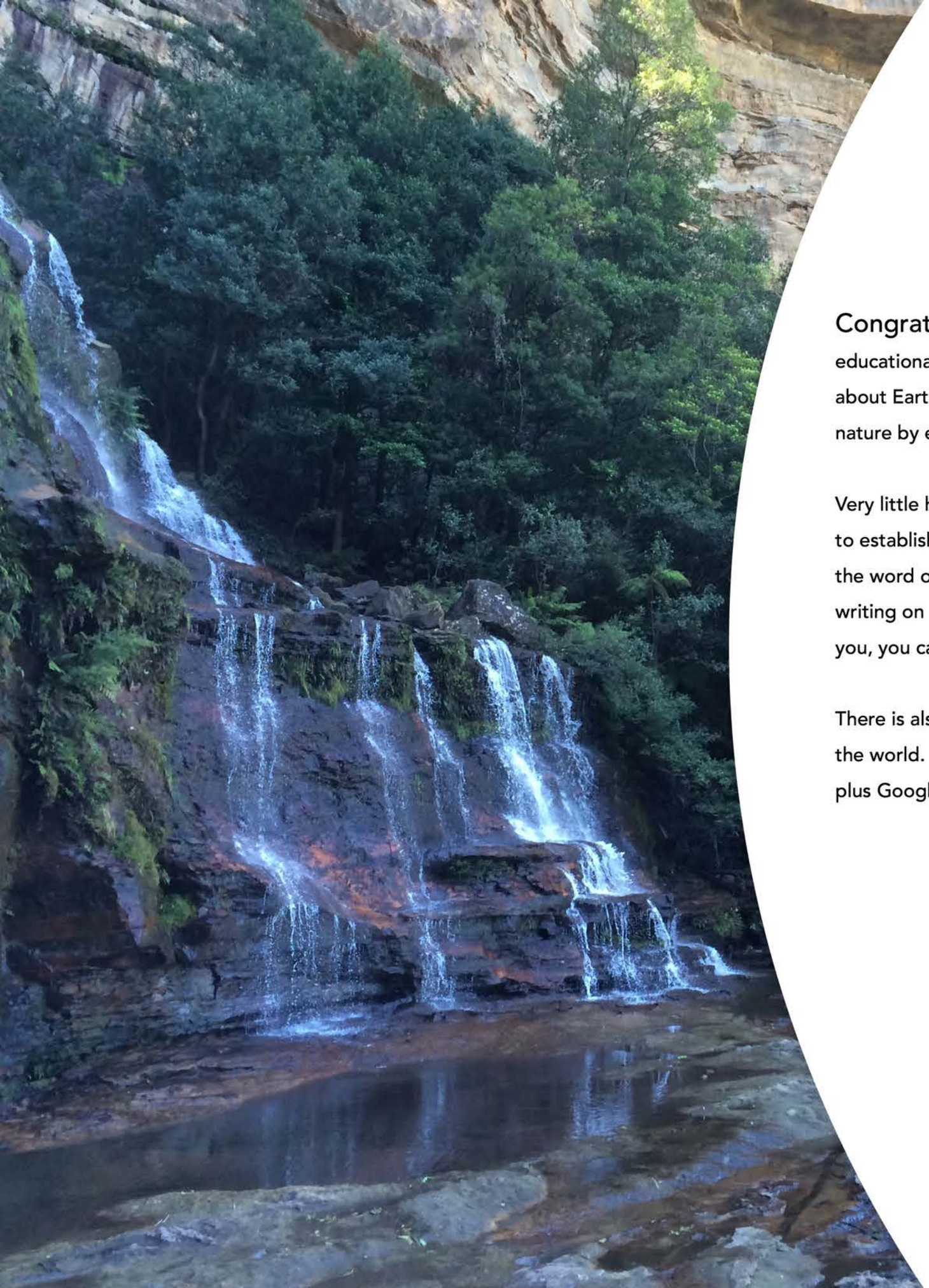
LAW CENTER

Earth Law Center Law Review Article Writing:
A Guide for Rising 2Ls

By Timothy W. Collines, Esq.



Congratulations, you are about to embark on an exercise that not only helps your educational development and builds your reputation, but in writing a law review article about Earth Law – you willjoin a global movement to rectify the damage wrought on nature by evolving environmental laws to allow nature to have standing in the courts.

Very little has been written about Earth Law in law review articles, so the opportunity to establish yourself as an influential voice in a growing body of law also helps get the word out to fellow lawyers and judges in training. You can develop an expertise in writing on a topic you have a green passion for. If a particular species of crab engages you, you can write about it even if the law hasn't touched on crabs for 50 years.

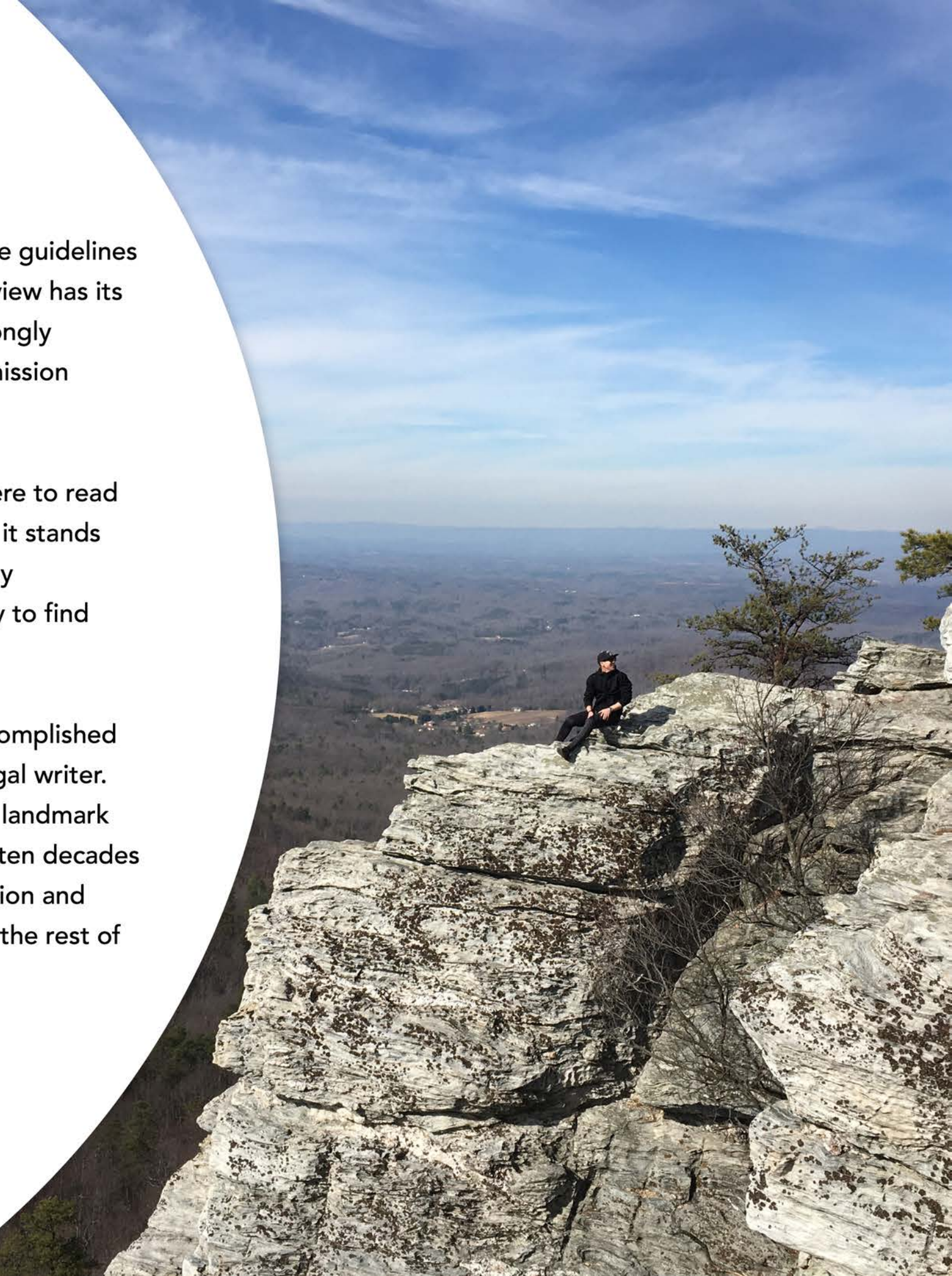
There is also no need to limit yourself to the U.S. Earth Laws are being created around the world. Many local environmental groups speak English as the de facto lingua franca, plus Google Translate can always help for materials not in English.

PREPARATION

Before beginning work on your article, please read the guidelines of the law review you intend to submit to. Each law review has its own unique set of requirements. Earth Law Center strongly recommends the writer to read each law review's submission guide for length, style and format.

Unconscious imitation is par for the course—if you were to read nothing but the fiction of F. Scott Fitzgerald for a year, it stands to reason that your writing style would be influenced by Fitzgerald's. This article gives you a unique opportunity to find your own voice and use it, even when in doubt.

At this stage in your law studies you have already accomplished a great deal. Now is the time to find your voice as a legal writer. Try not to be too influenced by the writing style of the landmark cases you read in your first year. These were often written decades ago by lawyers who were at the height of their profession and could afford to deviate from the strict format to which the rest of us are subject.



CHOOSING A Subject For Your Law Journal Article

Of course, any submission must be impeccably researched. The preceding cases or statutes must belearned practically verbatim so that the writer may argue with confidence. The writer is presenting as an expert on the topic. It naturally follows that the writer must prepare to be challenged on this claimed expertise. The writer's topic must be timely. Answer the questions:

WHY
does it need to be published now?

WHAT
are the forces that demand this idea or solution?

HOW
does it relate to and build on recent events and what impact could it have for readers today?

Research thoroughly to make sure your topic has not already been addressed. If the topic has been addressed, your conclusion must differ from any previously published article. It is not uncommon for two (or more) articles on the same subject matter but with different conclusions to be accepted.

An editorial board is not looking for a "right" answer; courts are not predictable and dispositions are diverse and often unexpected. Focus more on provoking thought and future applications of the new precedent.

The Best Ways to Find Topics to Write About Are:

Follow existing judicial proceedings, particularly cases that are under appeal

Predict how controversial decisions will affect future case law,

Identify existing contradictions, particularly in administrative law decisions—adding jurisdictional conflicts will provide more subject matter (or perhaps can be a central topic unto themselves)

Pay attention to your instincts. If an issue stands out, do the research and find out why. Answer your own questions and take nothing for granted.

Be imaginative and think "outside the box." As an example of a potential substantive issue I noted in a blog article that if rivers are given standing to appear in court as plaintiffs they may also be brought before a court as defendants.

While this is hard to imagine there is a lot of potentially noteworthy hypothetical material here: can a river act with requisite criminal intent? How would civil damages be calculated, and who would pay them? How much of the current body of common law is applicable, and if a line should be drawn, where? I don't know these answers, but the questions are interesting and could be article worthy.

Follow the law the way journalists follow the news. Stay updated on current legal developments, follow law news. Journalists are often compared to bloodhounds, follow that idea or trail with the same dedication.

If you are too busy due to approaching finals, at the very least keep a list of items to research later. All of the brainstorming and research has value, it broadens your understanding of the profession as well as Earth Law – and by virtue of having your attention on it, writing opportunities can come up as a result.

WHICH Type of Law Journal Article Will You Write?

There are two common articles: a comment and a note.[1][2] A comment will typically run 3,500 words, and will generally address an issue that is currently the subject of litigation or other proceeding with an uncertain outcome. A note is typically 15,000 words, and will address the implications of a recent judicial decision or new legislation.

Below is Earth Law Center's template for Law Review submissions:

TITLE OF YOUR ARTICLE

Your name[1]*

Introduction [ctrl-alt-1]

I. First-Level Heading [ctrl-alt-1]

A. Second-Level Heading [ctrl-alt-2]

1. Third-level heading [ctrl-alt-3]

Normal text [ctrl-alt-0].[2]

Block quote [ctrl-alt-shift-Q].

a. Fourth-level heading [ctrl-alt-4]

i. Fifth-level heading [ctrl-alt-5]

Conclusion

* * *

*Authors Note

Footnote text [ctrl-alt-F, though it should come up this automatically].

Block quote in footnotes [ctrl-alt-shift-R

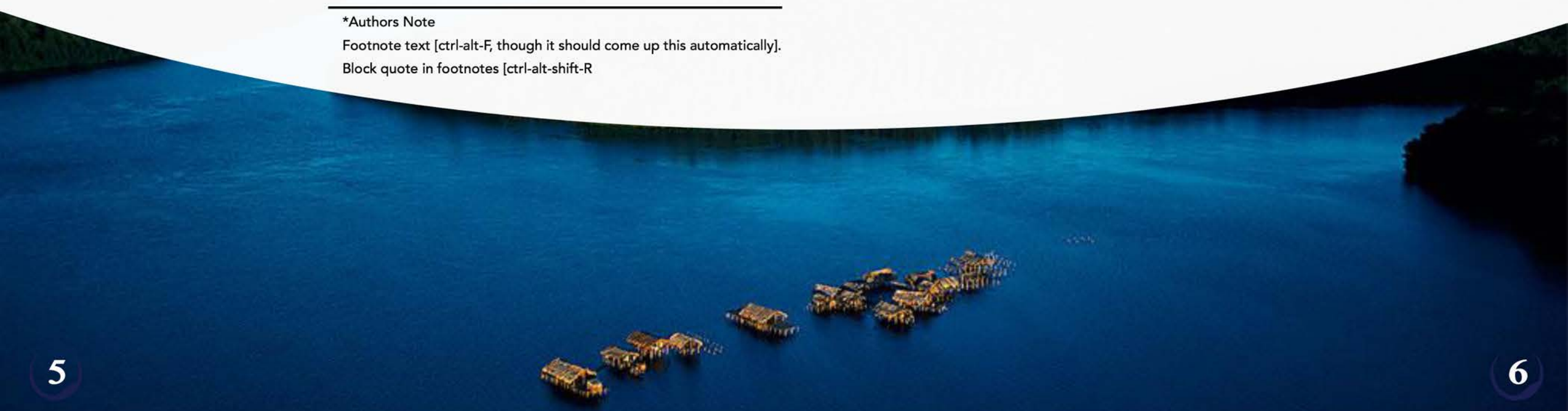
USING The Template

To use this template, you can do one of three things:

- Use the page layout, the headers and footers, and the styles in this document as a guide, and modify your document accordingly.
- Write your paper on top of this file from the outset.
- If you've already written the paper,
  - (a) open the document containing the paper;
  - (b) make sure that it doesn't have any section breaks (page breaks are fine);
  - (c) select all of it (ctrl-A);
  - (d) deselect the very last paragraph break (shift-left-arrow);
  - (e) copy the text onto the clipboard (ctrl-C);
  - (f) open this document;
  - (g) insert the clipped text into the document;
  - (h) delete all these instructions, so you're only left with your text.

Warning: Doing this in Word is notoriously glitchy, and I can't promise you that it will work perfectly. If it doesn't work perectly, then return to plan 1. I make no warranties, including but not limited to the warranties of merchantability, fitness for a particular purpose, beauty, consistency, or cleanliness.

Note the way the odd page header differs from the even; note also that there's no header on the first page. That's a pretty normal layout for published works.



WRITING With A Professional Voice

Bad writing may lead to rejection of an article with excellent content. So this guide also includes writing advice that everyone who writes for Earth Law Center needs to follow.

Desktop Reference Materials—these should occupy permanent spots on the desk of any law student or lawyer.

- *The Chicago Manual of Style*
- *Webster's Collegiate Dictionary*
- *The Elements of Style*
- *The Bluebook, a Uniform System of Citation*
- *Black's Law Dictionary*
- *Roget's Thesaurus*

Obviously the newer the editions, the better—for example the Blue Book section of the Chicago Manual 17th Edition covers citing to electronic sources, a new addition. Incidentally, electronic sources should only be cited to if there is no original publication that appeared in print.

Use these sources in "reverse" whenever possible; look up terms of art and use their definitions to write in accessible language. In theory any published article should be readily understood by a layperson. Sometimes the use of term of art is unavoidable, but keep them to a minimum, and include a paraphrased definition where appropriate.

EDITING and Proofreading

WAIT TO EDIT. Fact: your first edition will be horrible, and you will wonder who snuck in and made these changes to your flawless document. Do not be discouraged. Depending on your deadline simply write the first draft without editing at all. Put it away for a minimum of twenty-four hours, but a week is better if you can.

The Editing Process

Round 1:

Read your arguments.

Do you contradict yourself?

Are there gaps where you know something but have not explained it to the reader?

Does what you say support your conclusion?

Round 2:

Are there any unnecessary words that do not communicate meaning?

Is your tone formal enough?

Read your article with a literal mind. Are there any ambiguities?

English is notan ambiguous language.

Round 3:

Check spelling.

Check grammar.

The vast majority of Law Reviews will request that the author adheres to the Chicago Style, except for legal citations where the Blue Book is king. While not dispositive, the only other specified style will likely be the Associated Press Style. And both defer to The Elements of Style.

Your proofreader is there as a quality checker. Again, as with the editing process, take a day or two before proofreading.

CONCLUSION

So you have reached the end of the guide. Your completed law review article will serve not only as a great secondary source for legal research, it will also expand your knowledge of a new and growing body of law – Earth Law, including rights of nature.

Good writing, like so many other things, requires regular practice. A law review article about Earth Law provides you that opportunity. Writing a scholarly piece—where you identify a problem and offer a solution that builds upon a basis of knowledge in multiple subject areas—comes very close to how you will approach a problem and communicate your analysis in writing when you enter practice, and does so in a way that differs from the compartmentalized writing tasks you get assigned in school.

And what better cause to lend your time and expertise to than one that seeks sustainable legal protections for our rapidly degrading environment?

Thank you for reading through our guide and we hope it has been useful and engaging for you.

Resources

Listings of law review articles

- Bloomberg Law
  Bloomberg Law is available to all HLS students, faculty, and staff. Register with your HLS email address. Law reviews are included in Bloomberg Law's selection of secondary sources.
- HeinOnline Law Journal Library
  Database of full text, PDF law review articles; use advanced search to search by topic or search specific titles. HeinOnline is the most comprehensive law review articles database, as coverage begins with the first issue of each journal.
- LexisNexis U.S. Law Reviews and Journals, Combined
  Combined full text database of United States Law Reviews and Bar Journals. Coverage begins in 1982; regular updates as received from publishers. Lexis also contains databases for Canadian law reviews articles and law review articles by jurisdiction and topic.
- Westlaw Journals & Law Reviews
  Journals and Law Reviews contains full text documents from law reviews and CLE materials from U.S. and Canadian based publications. Coverage varies by publication with most going back to the 1980s or 1990s.

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[1] In appellate courts a bench memorandum is a summation of both arguments, a verification that the appellants are applying the law correctly, and generally a recommendation to the judge on how to decide the case

Afterword

This article addresses a topic vital to Earth Law Center's educational goals: to assist and encourage law school interns and externs to promote the development of new areas of law, both at home and abroad.

I have included a brief anecdote that illustrates one of the central ideas described below, namely that law is a literate vocation. Lawyers do not have the luxury of using poor or ambiguous grammar, structure, style or logic, both for the sakes of our professional reputations and our moral and ethical commitments to our clients. In retrospect the experience described below was humorous and there were no consequences of note.

The lesson remains though, and it is a sad truth that legal writing, indeed writing in general, is suffering in today's emoji-laden text language.

Over a decade ago I had the good fortune to serve as a Judicial Intern to the Honorable Peter W. Hall of the United States Court of Appeals for the Second Circuit. As an undergraduate English Major, former editorial intern to an internationally acclaimed publishing house, current law student and an intern in one of the highest courts in the land I believed was ready to draft judicial opinions from the first time I set foot in chambers.

My introductory assignment was to re-write an old bench memorandum.[1] Judge Hall called me into his chambers at the end of the day and returned my draft. It was redlined to near illegibility. He did allow my articles to stay in—not scholarly articles, but the words "a" and "the." He was correct of course. My conclusion contradicted my introduction, my carefully crafted prose was essentially a series of run-on sentences, and my statement that the lower court's decision was correct was my own opinion, with no basis in fact or law. I also "over-comma'ed", something I still struggle with today. It was mutually agreed that I needed to start over from square one, beginning with the dreaded middle school text, Strunk and White's The Elements of Style. Happily that summer ended well. In addition to living at the top of Mount Killington and enjoying every minute of my time split between New York and Vermont I reached my goal of drafting opinions during what amounted to a three and a half month legal writing workshop.

The sheer intelligence and legal acumen I witnessed during our tri-partite panels in New York (which included Justice Sotomayor in one week long sitting) was staggering. This recounting is not included by accident of course, nor is it an attempt to establish credentials. I witnessed some of the best legal minds in the country, and realized that while they were flirting with the pinnacle of achievement the truest indicator of wisdom was their desire to keep learning.

Reading forward you will learn about the basic structure and requirements of Law Review articles: much of it should be obvious, or may seem overly basic. My advice is to read on—the basics are your friend, and there is a reason they have survived. I have included a list of recommended reading by noted authors across the writing discipline. While it is rare to see William Zinsser, Steven King, Ernest Hemingway and Justice Scalia on the same list they are all considered masters of their craft and their insights into the writing process are remarkably similar, given that they never collaborated or even met one another, to my knowledge.

This is not homework, of course. If you have the time and interest in bettering yourself as a writer take all suggestions seriously, check your ego at the door and do not give editorial boards reasons to summarily reject your submissions. It is natural, and even typical, for students to begin to stretch your legal wings at this point in your careers. Remember though, just as with professional sports or other competitive disciplines, there is always someone awake before you, staying up later than you and outworking you.

Constant focus on the law will make you a better attorney even if you cannot see your progress on a day-to-day basis.

One skill that is imperative to the sound practice of law but rarely named or targeted is the ability to subliminally pluck the key ideas from vast amounts of dicta; if you don't believe me wait until the end of your third year and compare the highlighted material from your first year texts to the highlighted material in your third year texts.

Good luck, and remember that the smartest person in the room is often the most quiet, and is more than likely not you. True or not, believe this, hang onto it and above all use it for motivation. You knew where you were headed at the outset.

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