

*Summer 2019: Tribute to Valparaiso University Law School (1879-2019)*

### Pursuit of Perfection: The Impact of Valparaiso University Law Review Student Scholarship

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## **PURSUIT OF PERFECTION: THE IMPACT OF VALPARAISO UNIVERSITY LAW REVIEW STUDENT SCHOLARSHIP**

**Steven R. Probst\***

To many people, myself included, pondering the impact of the *Valparaiso University Law Review* is a very personal consideration as the notion of impact seems inseparable from the effect that the law review has had on those who have been part of it. The law review experience shapes and defines its members' second and third years of law school. From the difficult first days of finding a timely and interesting note topic that hasn't been preempted and is deemed acceptable, through cite-checking countless footnotes, to the process of editing as a 3L, the work that accompanies law review membership has a clarifying effect on those who engage in it. It hones you. It makes you more capable—both of the writing, cite-checking, and editing itself—and as a professional who learns to balance heavy workloads and juggle competing priorities.

Notewriting in particular offers law review members an experience like no other in law school. Notewriting provides an opportunity to explore a previously uncharted area of the law, to research it thoroughly, and to understand it completely. It offers the chance to frame this issue for others, to shape and polish a perfectly *Bluebooked* narrative that exemplifies, however briefly, perhaps the clearest, most-supported, best thinking on that issue to be found anywhere. It offers the opportunity to become an expert—to pursue perfection. During the time in which a note is being written, its author could engage in deep discussion with any expert in the country on the note's subject matter. How should the value of that experience gained by each member of the Valparaiso University Law Review be properly measured?

Quantifying the value of student-written work to others is equally difficult. Some might suggest that this could be done through citation counts; by measuring the extent to which the student-author's work has been cited by others—either by courts themselves in written opinions or by later scholars exploring the same or similar issues in other journals. Legal scholars know that this is not a fair appraisal, however, given the somewhat natural reluctance to cite student-written work. Who, though, can deny the thrill, during research, of finding a note on their topic of interest? For everyone knows that law review students are trained to

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write dense footnotes supporting their text that contain every possible resource connected to the issue they examine. Thus in finding a relevant note during research, the scholar will have had some of the research completed.

The recent move toward open access, however, may provide a better measure of the value of law student scholarship. As the Law Review's library liaison, I had the opportunity to help the Review establish a permanent web presence in 2011. Prior to this time, VU's Law Review had initiated at least two different websites that were not updated or continued by later executive boards due to the lack of continuity that plagues all law journals during the handoff from one board to the next. However, the nationwide push occurring in 2009 and 2010 toward open access to legal scholarship provided the opportunity to put all of the Law Review's content online where it would be freely accessible to anyone with internet access, rather than limited to subscribers or those with Westlaw or LexisNexis subscriptions.<sup>1</sup> The result of this effort was ValpoScholar (scholar.valpo.edu), Valparaiso University's institutional repository and the permanent, digital home of every volume of the Review.

One of the amazing results of placing the Law Review's scholarship on the web is the ability to see the interest in the Review that becomes apparent through the site's metrics. Since ValpoScholar's launch in 2011, *Valparaiso University Law Review* articles have been downloaded 1,858,363 times as of this writing. On average, 17,000 downloads of *Law Review* articles are made each month by educational institutions and libraries, commercial organizations, government entities, and private citizens. Downloads have come from 230 countries and every continent on the planet. While visiting ValpoScholar, you can watch downloads take place on a map in real time and fully appreciate the worldwide reach of the Review. In the brief visit I made to the site to obtain the current download count for this introduction, downloads of *Valparaiso University Law Review* articles took place in Mountain View, California; Knoxville, Tennessee; Minneapolis, Minnesota; Colombo, Western Province, Sri Lanka; San Pedro, Laguna, Philippines; and Edinburgh, Scotland.

The leveling effect of the internet gives student-written works more impact as they do not suffer the bias against them that is reflected in

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<sup>1</sup> This move followed a nationwide movement prompted by the *Durham Statement on Open Access to Legal Scholarship*, which called for U.S. law schools to discontinue publishing their law reviews in print and instead publish electronically and commit to keeping the electronic versions available in "stable, open, digital formats." *Durham Statement on Open Access to Legal Scholarship*, BERKMAN KLEIN CTR. FOR INTERNET & SOC'Y AT HARV. UNIV., <https://cyber.harvard.edu/publications/durhamstatement> [https://perma.cc/RQ3C-RQ2H].

citation counts. In fact, due to the timely and controversial topics often selected by Notewriters, student-written works often find vast audiences on the web.

Much of what I've described here is nicely illustrated by the 2009 note that follows, written by Shannon Noder.<sup>2</sup> Ms. Noder's chosen topic was the subject of some controversy among the editorial board that year for being more technical than legal in nature, and she nearly missed having her topic approved. Fortunately for her, and the Review, her topic was ultimately approved as it has become the most-downloaded student-written article ever published in the *Law Review* (31,426 downloads as of this writing). Ms. Noder became the Executive Editor of Student Writing during her 3L year, helping the 2Ls who followed her find their own topics and navigate the notewriting waters. She relates that she enjoyed her experience on law review and felt that it made her a better researcher, writer, critical thinker, and leader. I think she speaks for most all of us that have had this same experience.

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<sup>2</sup> Ms. Noder, a 2010 VUSL graduate, is now a Senior Associate Attorney for Krieg DeVault LLP in Merrillville, Indiana, and spends the majority of her time defending medical malpractice cases, representing clients, and representing creditors in collection, foreclosure, and bankruptcy litigation.