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Four Finger Exercises.docx

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FOUR FINGER EXERCISES*: PRACTICING THE VIOLIN FOR LEGAL WRITERS

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For violinists,¹ it's the Kreutzer exercise number two.² It's a simple piece in C major lasting slightly under a minute if it's played quickly³ and about a minute and three quarters if it's played slowly.⁴ It's not especially difficult to play, although playing it perfectly in tune can be challenging. Compared to other exercises, though, and especially when compared to the exercise's big brother—the étude (especially those by Paganini)—Kreutzer number two is simplicity itself.

And yet violinists the world over are intimately familiar with this simple exercise. There's no empirical evidence to support this, but it's likely that every current or former conservatory student, every professional violinist, and every accomplished amateur, could play this exercise from memory without a second thought. It's difficult to imagine a more ubiquitous piece of music written for the violin.

Why this might be, and why this is of relevance to legal writers who have moved past law school and are in practice or on the bench, is the subject of this article. After a

* The thumb plays a limited role in violin (and viola) playing, and it is the other four fingers that press down the strings and help to produce the sound, except in highly unusual circumstances. So violinists exercise only those four fingers, hence the title.

** Professor of Law and Director, Legal Communication and Research program at Syracuse University College of Law. My thanks to Dean Boise of the Syracuse University College of Law for his support, and to my four violin teachers—David Hume, Mary Williamson, Edmond Jones, and, especially, Roger Raphael—for their wisdom and guidance: I apologize to them for the level of my playing now, because it's definitely not their fault. As always, this is for Julie McKinstry.

¹ Viola players as well. Although there are some differences in the way these two instruments are played, the fundamental techniques explored by the Kreutzer exercises are sufficiently close that viola players use them (transposed down a fifth and using the alto clef rather than the treble) as often as violinists.

² RODOLPHE KREUTZER, 40 ÉTUDES OU CAPRICES POUR LE VIOLON (1796), available at http://ks.petruccimusiclibrary.org/files/imglnks/usimg/9/9d/IMSLP407296-PMLP04613-kreutzer_40_etudes_1805_bsb.pdf. If the url for this edition is accurate, then it was published in 1805. Contemporary violinists might be puzzled by the title, since the exercises are known now as the 42 Studies for Violin (to give them their English title). See, e.g., KREUTZER, 42 STUDIES FOR THE VIOLIN (Ivan Galamian ed., 1963) Two exercises—numbers 13 and 21 in the modern numbering—were added later and might not be by Kreutzer. David Charlton, *Rodolphe Kreutzer*, in 10 NEW GROVE DICTIONARY OF MUSIC AND MUSICIANS 260 (Stanley Sadie ed., 13th ed., 1994). The second exercise in the series, though, certainly was written by Kreutzer, and I'll refer to that exercise here as Kreutzer number two for sake of convenience.

³ See, e.g., Matthew Zerweck, *Kreutzer #2, Fast Performance*, YOUTUBE (July 4, 2015), <https://www.youtube.com/watch?v=dj194Zh4bMc>.

⁴ See, e.g., Matthew Zerweck, *Kreutzer Etude #2, Slower Example, 60 = Quarter*, YOUTUBE (July 4, 2015), <https://www.youtube.com/watch?v=9Fp8t1YWYMg>. These two YouTube examples are offered to show the contrast between fast and slow versions of the study, not as exemplars of perfect playing. In particular, the violinist's habit of leaning into the first note of a phrase—more apparent in the slower version of the study but audible in both examples—would be an affectation disfavored by some teachers.

brief introduction to the composer, Rodolphe Kreutzer, and a discussion of the role Kreutzer number two, and other technical exercises, play in the development and maintenance of violin technique (and if you're not interested in a little music history, please feel free to skip past this), we'll move on to a consideration of how legal writers can use a similar approach to maintain and improve their writing techniques. And the article will propose that spending a brief amount of time each day—significantly less time than violinists spend, as we'll see—can help lawyers become more reflective, intentional, and more technically assured, writers.

1. Rodolphe Kreutzer

Perhaps no one in history is better known for his relationship with one of the most profound pieces of music ever written, in which he played no apparent role, and few, if any, are as well known (to a small group of musicians, at least) for a short piece of music that has virtually no musical merit and which is hardly ever heard in public, as Rodolphe Kreutzer. And yet for someone about whom such remarkable claims can be made, Kreutzer had a relatively uneventful life.

He was born in Versailles in 1766, and studied violin with Anton Stamitz.⁵ He developed quickly as both a violinist and composer, and by 1789 he was considered “a leading virtuoso” and had moved to Paris. As a young man he became known as an opera composer and in later life, one of his operas was praised by Berlioz. Today, though, his operas are unknown and his composing career is remembered only for his *40 Etudes ou Caprices Pour le Violon*, published in 1796 by the Paris Conservatoire, where he was Professor of Violin until 1826.⁶

As with most musicians of note, Kreutzer toured various European countries, and a letter by Beethoven dated October 4, 1804, shows that Beethoven had heard his playing.⁷ Spohr wrote of Kreutzer that “of all the Parisian violinists, they [Kreutzer and his brother] are the most cultivated,” and of Rodolphe, Beethoven said that “I prefer his modesty and natural behaviour to *all the exterior* without *any interior*, which is characteristic of most virtuosos.”⁸

Kreutzer broke his arm while on holiday in 1810, bringing his solo career to an end.⁹ He continued to play in ensembles and to compose and teach, although his compositions began to fall from favor. His health began to decline in 1826, and he died in Geneva in 1831.¹⁰

Impressive though the praise from Beethoven is, it was another mark of approval from the composer that immortalized Kreutzer's name. It's a short, although complicated,

⁵ Charlton, *supra* note 2, at 260.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* Playing well enough for Beethoven to praise you is a noteworthy event, and is the reason for my qualification of Kreutzer's “reasonably” uneventful life.

⁹ *Id.*

¹⁰ *Id.*

tale. In 1803, the year before he heard Kreutzer, Beethoven met another violin virtuoso: George Polgreen Bridgetower.¹¹ Bridgetower was a fascinating man, the son of an African father and European mother who was born in Poland, perhaps in 1779.¹² He made his debut as a soloist at the age of nine in Paris in 1789,¹³ and quickly became a prominent musician in Britain, becoming “the Prince of Wales’s leading violinist at the Brighton Pavilion.”¹⁴

As with Kreutzer, Bridgetower travelled and played throughout Europe, and in 1803 he played in Vienna where he met Beethoven.¹⁵ Beethoven was so impressed by Bridgetower’s playing that he took two movements of a violin sonata he had started work on earlier in the year, added a previously composed movement as the third movement, and performed the three-movement sonata with Bridgetower at a concert on May 24. The piece was so new that there was no time to have the violin part for the second movement copied before the performance, and Bridgetower played it directly from Beethoven’s manuscript. Despite this, the Grove Dictionary entry for Bridgetower notes that the work was “a brilliant success” and that “the audience unanimously call[ed] for an encore of the second movement,” something that must have been a distinctly mixed blessing for the manuscript-reading Bridgetower.¹⁶

Beethoven praised Bridgetower’s playing as both a soloist and a quartet player, and it seems certain that he intended to dedicate the sonata to him.¹⁷ But the two men quarreled—Grove speculates that the dispute was over a woman¹⁸—and Beethoven dedicated the work instead to Rodolphe Kreutzer when it was published in 1805 as his opus 47.¹⁹ Kreutzer apparently knew about none of this, and likely had not even played the sonata—indeed he probably didn’t even know of its existence—before it was published. But so it was that his name became indelibly linked to the “Kreutzer” sonata, arguably the greatest violin sonata composed.²⁰

Kreutzer’s unwitting association with Beethoven carried even wider implications. At the end of the nineteenth century, Leo Tolstoy published a novella called *The Kreutzer Sonata*, in which a character, Pozdnischeff, narrates the shocking tale of his marriage.²¹ A

¹¹ George Grove, *Bridgetower, George*, in 3 NEW GROVE DICTIONARY OF MUSIC AND MUSICIANS, *supra* note 2, at 282.

¹² *Id.* at 281.

¹³ *Id.* There’s no evidence that Kreutzer heard him at this concert, but it would be remarkable if he had not.

¹⁴ *Id.* at 282.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ The Grove entry, written in a different time, actually speculates that the dispute was over a “girl.” *Id.*

¹⁹ Grove, *supra* note 11, at 282.

²⁰ Bridgetower’s name, by contrast, has dropped almost completely from history. He returned to England for a while after his time in Vienna, then lived abroad in Rome and Paris. He died in London in 1860. *Id.* at 281–82.

²¹ LEO TOLSTOY, *The Kreutzer Sonata*, in THE KREUTZER SONATA AND OTHER SHORT STORIES (Dover Publ’ns, Inc. 1993).

violinist, a former friend of Pozdnischeff who reintroduces himself to him, meets Pozdnischeff's wife, an amateur pianist, and together they play the Beethoven sonata. Pozdnischeff, who has a tentative grip on sanity, leaves on a work trip and, returning home early after, finds his wife and the violinist sitting together. Nothing in the text, other than Pozdnischeff's imagination, suggests that anything untoward has happened between the two, but in a jealous rage, and believing that the passionate nature of the performance indicates a physical relationship between the two, Pozdnischeff stabs his wife to death.²² The novella was banned in Russia by the censor, and in 1890 the United States Post Office barred the mailing of newspapers containing its serialization.²³ Commenting on all of this, Theodore Roosevelt called Tolstoy a "sexual moral pervert."²⁴

The novella has been turned into numerous plays and other theatre works, and has been filmed "well over a dozen times."²⁵ It also inspired a famous painting by René François Xavier Prinet.²⁶ Most importantly for musicians, though, the novella inspired Leoš Janáček's first string quartet, written in 1923.²⁷ The quartet makes one heavily disguised reference to the Beethoven sonata,²⁸ but its inspiration is the novella, and its musical narrative is a representation of the emotional state of Pozdnischeff's wife throughout the tale.²⁹

2. The Kreutzer Studies

All told, this is a lot of immortality for a very obscure French violinist. And yet while all accomplished violinists associate Kreutzer's name with both the sonata and the quartet, almost all violinists who have played for more than a couple of years³⁰ associate his name more directly with his 42 Studies.

²² *Id.* Pozdnischeff says that he "was on the point of running out in pursuit of him, when it occurred to me that it would be ridiculous to rush off in my stockings after the lover of my wife, and I did not wish to be ridiculous, but to be terrible." *Id.* at 134.

²³ *The Kreutzer Sonata*, WIKIPEDIA (last modified Mar. 21, 2018, 5:34 AM), https://en.wikipedia.org/wiki/The_Kreutzer_Sonata.

²⁴ *Id.* The ban was reversed by the courts. *Id.* One can only assume that all the fuss, and the dream quote from Theodore Roosevelt, did wonders for the novella's sales when it was finally published.

²⁵ *Id.*

²⁶ *Kreutzer Sonata*, FINEARTAMERICA.COM (uploaded Mar. 19, 2015), <https://fineartamerica.com/featured/kreutzer-sonata-rene-francois-xavier-prinet.html>. An impressive painting it might be, but Prinet's violinist is holding his bow in a way that would be unthinkable for anyone capable of playing the Beethoven sonata. It's also impressive, although hardly believable, that the pianist appears to be gamely attempting to continue to play, despite what must be one of the most uncomfortable kisses in art. And it's worth noting that the kiss exists only in the narrator's imagination: the novella makes clear that the narrator has no physical evidence of the imagined affair.

²⁷ IAN HORSBRUGH, LEOŠ JANÁČEK: THE FIELD THAT PROSPERED 171 (1981).

²⁸ *Id.* at 172-74. It is clear, though, that it was the Tolstoy story, not Beethoven's music that inspired Janáček. Beethoven, he admitted, "left me cold." *Id.* at 174.

²⁹ *Id.* at 172.

³⁰ The exception might be students who came to the violin through the Suzuki method. They likely encountered the Kreutzer studies a little later.

Moving from the Kreutzer sonata to the Kreutzer studies is making the musical trip from the sublime to the ridiculous: the sonata is one of the highpoints in Western culture and the studies are barely music at all. But while some violin studies, like those by Paganini,³¹ make claims to artistic merit, the Kreutzer studies are purely functional, and they perform their limited function brilliantly. Each study explores a distinct element of violin technique and allows the violinist to practice and refine that element without worrying about musical expressivity. And of the 42 studies, none does its job more effectively than the second study.

The key to the study's value to violinists can be seen in the incipits that appear before the study in the first edition of the studies: fifteen versions of the first measure of the exercise, each with different bowings.³² In my copy of the studies, edited by the distinguished violin teacher Ivan Galamian and first published in 1963, the fifteen incipits have increased to sixty-six, with an additional fifteen different ways of playing the exercise.³³ In fact, this study is a complete laboratory for bowing, allowing the violinist a place to work on every conceivable style of bow stroke and configuration.³⁴ The notes themselves are simple and easily remembered, allowing the violinist to concentrate completely on bowings that range from simple to complicated.

A violinist studying to be a professional instrumentalist practices between four and six hours a day.³⁵ Although practice regimens vary, a reasonable schedule would be to spend the first hour practicing scales,³⁶ a second hour working on studies like the Kreutzer

³¹ N. PAGANINI, 24 CAPRICES POUR LE VIOLON, OPUS 1 (1818), *available at* http://ks.imslp.info/files/imglnks/usimg/7/7d/IMSLP363858-PMLP03645-paganini_24_caprices_op1_breitkopf.pdf. Someone has loaded a recording of Itzhak Perlman playing them. See javiergme, *Niccolo Paganini – 24 Caprices Op. 1*, YOUTUBE (Nov. 20, 2012), <https://www.youtube.com/watch?v=x8j1x3pTOyo>. If you don't know the caprices, but do know something about the violin, there is a startling surprise awaiting you.

³² See KREUTZER, *supra*, note 2.

³³ KREUTZER, *supra*, note 2

³⁴ This is not the place for a detailed discussion of the subtle art of bowing. In short, a violin's sound is typically activated by drawing a bow, usually made primarily of pernambuco wood and horsehair, over the violin's four strings. There are many different ways of drawing the bow across the strings, some requiring long and full bowstrokes, some requiring short strokes with the bow bouncing from the string, some requiring one note per bow, some requiring multiple notes. Violinists have to learn and practice all of these permutations and be able to deploy them almost instinctively when the music or a conductor requires them.

³⁵ Itzhak Perlman, who should know, is emphatic that violinists should practice no more than five hours a day, made up of fifty minutes of practice and ten minutes of rest each hour. ITZHAK PERLMAN, *Itzhak on Practicing*, YOUTUBE (June 28, 2010), <https://www.youtube.com/watch?v=h3xEHigWShM>. But the amount of time devoted to practice each day is in addition to lessons, classes, rehearsals for orchestras and chamber groups, homework, and day-to-day activities. Lawyers are not the only ones who work long, hard hours.

³⁶ Non-musicians might imagine that scales are simple, transitional, exercises that beginners work on but that are discarded once an instrumentalist gains some proficiency on the instrument. But it is not so. Scales are the foundation of any solid technique, and musicians—violinists, anyway—practice them throughout their careers. Indeed, the word “scale,” and the simple pattern of notes learned by the beginning student, fails to conjure up the complexity of the scales worked on by advanced players. The entry for the C major scale in Carl Flesch's *Scale System*, the scale Bible for

studies,³⁷ another hour working on a Bach solo sonata or partita or an Ysaÿe³⁸ sonata, and then two hours working on the piece, or pieces, currently set by the student's teacher. Later in life, the violinist might eliminate (or curtail) the amount of time spent working on Bach and might spend less time on the solo repertoire, but would likely spend at least an hour on scales and exercises. Just as with athletes, time spent stretching and concentrating on technical exercises is vital to keeping the body toned and conditioned and ready to perform at peak efficiency.

The same should be true of legal writers, but most take a very different approach. They work on legal writing during the intense first year of law school and, if they are fortunate, during at least one more semester after the first year. After graduation, though, most lawyers don't practice writing technique, but rather write the documents required of them by work. In other words, they perform writing, but don't practice it.³⁹

Given the time demands placed on lawyers, this is hardly surprising. With minimum billable expectations that require them to be productive for large portions of the day, seven days a week, it is completely understandable that lawyers feel they have no time left to devote to writing exercises, even if they had access to such exercises. Just coping with the flood of words they are expected to produce on a daily, weekly, monthly, and yearly schedule likely seems more than enough.

And, yet. Exercises can be helpful, especially for those who had a limited amount of time in school to think critically about their writing, and who have learned post-graduation that writing continues to be a challenging activity. It might be simple enough to produce

violinists, is five pages long, and includes multiple octave scales, arpeggios, chromatic scales, scales in thirds, octaves, and tenths, and scales in single and double harmonics. CARL FLESCHE, SCALE SYSTEM: SCALE EXERCISES IN ALL MAJOR AND MINOR KEYS FOR DAILY STUDY (Max Rostal ed., 1987). For a rare glimpse into the lesson room, with an accomplished violinist playing a scale for a teacher, see, e.g., kamngaty, *Heifetz Masterclass 2 – Violin*, YOUTUBE (Mar. 17, 2011), <https://www.youtube.com/watch?v=d3pLwVhm7xY>. In the first lesson, before she plays anything else, Carol Hodgkins—displaying courage even Mr. Heifetz comments on—plays a G# minor scale for Jascha Heifetz, who taught violin students at the University of Southern California, and the other students in his class. This is not the full sequence of G# minor scales, but it gives you a sense of what violinists at this level can be expected to do at the drop of a hat.

³⁷ It's noteworthy that in both the Heifetz lessons, *id.*, and the companion YouTube clip, kamngaty, *Heifetz Masterclass 1 – Violin*, YOUTUBE (Mar. 17, 2011), <https://www.youtube.com/watch?v=szXaTRE3tL0>, the students come with studies prepared, either a couple of studies by Kreutzer or some by Jakob Dont, an Austrian teacher and pedagogue. *Jakob Dont*, WIKIPEDIA (last modified Sept. 28, 2016, 6:01 AM), https://en.wikipedia.org/wiki/Jakob_Dont. These are students who are on the brink of substantial careers, and their virtuosity—especially while playing in front of Mr. Heifetz—is staggering, but neither he nor they shun the simple Kreutzer exercises.

³⁸ Eugène Ysaÿe was a Belgian violinist and composer. *Eugène Ysaÿe*, WIKIPEDIA (last modified Dec. 9, 2017, 7:41 AM), https://en.wikipedia.org/wiki/Eugène_Ysaÿe. His solo sonatas for violin are, with the unaccompanied Bach sonatas and partitas, the pinnacle of music for the instrument that combine virtuosity with artistry.

³⁹ Some might, if they have the chance, attend continuing-legal-education sessions that concentrate on legal writing. But these are, at best, a few hours each year, and while they are undoubtedly helpful, they cannot substitute for continuous writing exercise.

uncomplicated documents that place few creative or technical demands on the writer, but anyone who seeks to persuade, or attempts to summarize complex information in simple, well-structured, and easily read portions knows that writing is hard no matter how much writing training one has had and is harder still for those whose training is limited. And time spent working on writing now might be a time-saver in the future, when a more refined technique produces “better” writing (however “better” is defined) faster than before.

These exercises are intended to help the legal writer explore ways to improve the writer’s technique. They are offered in the spirit of Kreutzer’s famous studies, if not with the same sureness of touch and certainty of outcome: Kreutzer was, after all, a master of his art and his exercises have never been out of the violinist’s studio since they were first published in the late eighteenth century. But if they act as a spur to legal writers to spend just a few minutes a day⁴⁰ practicing, not performing, their writing, then they will have accomplished all that I hope for them.

⁴⁰ My suggestion is that legal writers spend a maximum of fifteen minutes a day on these exercises, or similar ones. Certainly nothing remotely like the hour or more violinists work on their exercises.

3. Suggestions

These are suggestions, not rules. There are no rules. This is your practice time and you should structure it, and the exercises you work on, as you see fit. These are just suggestions for ways in which you might proceed.

In truth, when it comes to writing, and especially *your* writing, be highly suspicious of anyone who says there are rules you have to follow. As it turns out, almost none of the writing “rules” you were likely taught in middle school, high school, college, or law school are, in fact, rules. They’re likely conventions, suggestions, or practices that have been codified down the years and are taught as rules to make their transmission simpler for the transmitter. Statements like “never begin a sentence with a conjunction,” “never finish a sentence with a preposition,” or “never ask a rhetorical question in a piece of formal writing” are not rules of the English language. Rather, they’re suggestions—and sometimes not particularly good ones—about what people thought was good writing. It’s difficult to break even quasi-rules: our training tells us to do everything we’ve been taught about English and there’s always the concern that our readers might not know that the rules aren’t rules. But sometimes the demands of flow and word order require a walk on the grammatical wild side, and starting a sentence with “but” really isn’t that egregious, is it?

A. *Non-Legal Writing*

None of these exercises describes writing a legal document or a document in which the law plays any role. This might seem odd: we’re all lawyers, after all, and writing about the law is what we do every day. But that’s why I’d like you to step away from the law when you work on these exercises. The idea is to give you an opportunity to concentrate on writing for a few minutes, not on being a legal writer. It’s up to you, of course, but I’d suggest stepping completely away from the law when you work on these exercises, and try to concentrate just on your writing. I think—hope—that you’ll find your legal writing improves when you take a short, focused, break from it every so often.

B. *Typography*

Although you shouldn’t make typographical changes in your document while you write, in order to focus just on writing technique, once the documents are written and you’re reviewing them later, try reading the document in different typefaces: Times New Roman, Century Schoolbook, Goudy Old Style, Calibri, and so on.⁴¹ Read the document on your computer screen and also printed out. What differences do you note? Is a document easier to read in one font and less easy in another? If you find the reading experience to be different, do the differences surprise you? Might you consider changing the font and size you use to present your work to others?⁴²

⁴¹ There is a body of research on typography and legal writing. See, e.g., MATTHEW BUTTERICK, *TYPOGRAPHY FOR LAWYERS: ESSENTIAL TOOLS FOR POLISHED & PERSUASIVE DOCUMENTS* (2d ed., 2015); Derek H. Kiernan-Johnson, *Telling Through Type: Typography and Narrative in Legal Briefs*, 7 JALWD 87 (2010); Ruth Anne Robbins, *Painting with Print: Incorporating Concepts of Typographic and Layout Design into the Text of Legal Writing Documents*, 2 JALWD 108 (2004).

⁴² Of course, to the extent a particular typeface or size is mandated by a court, lawyers have no choice but to follow the rules for documents filed in that court. But exercises like these—studio

C. *Practice for Short Periods*

You should work on an exercise for only a short amount of time: no fewer than ten minutes but no more than twenty. Fifteen minutes is the perfect amount of time. In a lawyer's crowded schedule, it's difficult to find any time to do anything other than work, but you might find fifteen minutes, ideally at the start of the day before everything else is crowding your mind, for work on a writing exercise. If you view it as a stretching regimen before you begin the activity of the day, it might even save you some time by getting the writing muscles limber and ready for the day's activities.

D. *Try to Exercise Daily*

Just as with any training regimen, writing exercises are most effective when you work on them regularly and often: once a day is the best plan. That said, life intrudes and sometimes it's not possible to maintain a schedule that incorporates fifteen minutes a day for writing exercises. That's not a problem, as long as working on the exercises doesn't become sporadic and occasional. As with all types of training, infrequent activity will not produce positive results.

E. *Change Your Writing Medium*

You shouldn't do this all the time, but occasionally consider changing your writing medium: if you write for work typing at a keyboard, consider writing with a pen and paper, and vice versa. You might feel uncomfortable at first, but stick with it for a few sessions and reflect on whether the change in medium has affected the way you write. Is your writing more fluent? Less? Do you connect more readily with your vocabulary or do you find the words come harder? Do you edit your work as you write more often using one medium or the other? Do you notice any differences in your style of writing when using an unfamiliar medium? If not, then you are probably a fluent writer and the medium makes no difference to that fluency. It can happen, though, that one medium—for whatever reason—is more conducive to a creative activity like writing. If that's pen and paper for you, and you feel that time pressure won't allow you to handwrite your drafts, consider starting your work in pen and transferring over to the computer once things are well underway. The loss of time will likely be minimal and the increase in quality of work might be worth the investment of time.

practice instead of performance writing—are not bound by such restrictions and you can use them to reveal several possibly unsuspected possibilities in your documents.

F. *Change Your Writing Conditions*

As with the writing medium, consider making a change to your usual writing conditions. If you write with music playing in the background, for example, consider writing in silence, or vice versa. If you always write in one place in a room, is it possible for you to move somewhere else for fifteen minutes? Being conscious about your writing regimen, rather than reflexive, can be instructive, and at worst it does no harm. As always, when you make a change about anything to do with how, what, where, or when you write, reflect afterwards on the results of that change, consider whether those changes improved the quality of your writing and, if they did, think about how you might make those changes when you write professionally. The goal of this entire exercise, after all, is to make you a better legal writer.

G. *Identify Your Writing Routine*

I've danced around this with the two previous suggestions, so let's just say it explicitly: most writers have a writing routine and you should identify yours. If you don't have a conscious routine, you probably have a subconscious one, so reflect on what it is you do when you write, especially when you write most effectively, and think about how to recreate those conditions whenever you're about to write.

Some novelists have complex routines. Kent Haruf literally pulls a stocking cap down over his eyes and types the first draft of his work completely blind, so as not to be distracted by anything from the outside world.⁴³ Mary Gordon writes with a black enamel, gold trimmed, Waterman pen, using Waterman's black ink.⁴⁴ The notebook she uses depends on the type of writing she is doing.⁴⁵ There are countless other examples: it can be a mildly diverting parlor game, if you know enough people who think the same way, to identify the writing routine and have the guests guess the writer's identity.

The point of the writing routine, of course, is to provide a trigger to creativity, a signal to the writer's brain that it has now moved into writing mode and is expected to produce words that fit, one after the other, into well-crafted sentences and paragraphs. Equally obvious is that the legal writer has no opportunity to engage in any of this. But legal writers can have triggers also, and identifying them can be helpful in making writing a conscious activity rather than a subconscious result of outside necessity: the memorandum to support a summary judgment motion has to be written today in order to go to the client for review before filing in a few days, a client's will has to be drafted and finalized by the end of the week, and so on. When their calendars demand that a document be written, lawyers—typically—sit at their desks and write it. But what if you write better standing (something you might discover when you explore changes to your writing medium)? Or what if a notepad and a pen, while sitting in a soft and comfortable chair, make you more productive and creative than sitting hunched over a keyboard at your desk?

⁴³ Kent Haruf, *To See Your Story Clearly, Start by Pulling the Wool over Your Own Eyes*, in *WRITERS ON WRITING: COLLECTED ESSAYS FROM THE NEW YORK TIMES* 87 (2001).

⁴⁴ Mary Gordon, *Putting Pen to Paper, but Not Just Any Pen or Just Any Paper*, *WRITERS ON WRITING: COLLECTED ESSAYS FROM THE NEW YORK TIMES*, at 79.

⁴⁵ *Id.* at 80–81.

You might have very little leeway on developing a writing routine in the middle of a busy law practice, but identifying what things you do regularly that trigger the writer in you to produce written work might be helpful information. At best, it might prompt you to buy (or better still, get your employer to buy you) a standing desk. And at worst, thinking about your writing routine will make you feel more like a writer, which you certainly are.

H. *Save Your Work, But Don't Show It to Anyone. At First.*

When you work on these exercises your time will be limited, and you will likely spend the complete amount of time you've allocated to the activity writing rather than reviewing. So once you're done, put the completed exercise (or unfinished exercise, if you plan to work on it again later) in a physical or electronic file with an innocuous name and move on with your day. At some point soon after you're done, though—say Friday, after four days spent writing for fifteen minutes—spend the session reviewing your work rather than writing another exercise. Reflect on what went well and what went less well, and consider what lessons you learned from working on this exercise. At first, those might not amount to much more than a general sense that you're happy, or not happy, with your writing skills. If you persevere, though, you might start to see trends in your writing that encourage or discourage you, and you might recognize those trends in your professional work as well. If you find things you like, consider how to reinforce and enhance them, and if you find things you don't like, consider how to recognize and eliminate them. Improvement in writing skill is incremental at best, and, like violinists, writers work on their techniques throughout their professional lives.

Over time, you might consider joining with some other lawyers who want to work on their writing as well. Forming a writers' circle can be hazardous: we're rarely more vulnerable than we are when we're submitting something we've written for public review. But if all members of the group handle the review appropriately, there are few better ways to get an honest, helpful, review of our work. Hierarchy is a problem in such a group, of course. It is impossible for an associate at a law firm to critique the writing of a partner at the same firm without fearing some form of retribution, no matter how accurate or well-meaning that critique might be. There are ways to preserve the anonymity of both the writer and the reviewer, of course, but it might be safer and more productive for all if lawyers work with other lawyers who are outside of their professional control. Needless to say, no work generated for professional purposes should ever be shared outside the confines of an office, lest questions of confidentiality and work product arise, another reason to practice on subjects unrelated to the law.

I. *Be Honest, But Be Kind*

Regardless of whether you're reviewing your own work or that of someone else, you have two guiding principles: be honest about the work and its good and bad points, and be kind to the writer, whether yourself or someone else. Professional writers are well known for the savagery of their critiques, and for them that might be an effective form of learning. For lawyers, though, the honesty of the critique is enough and if the criticism is negative and destructive, rather than positive and helpful, the value of the exercise is gone.

That is just as true when the criticism is directed internally, about our own work. It is all too easy to become distressed with the flaws one perceives in one's own writing and to allow that self-criticism to develop into a form of inertia, making it almost impossible for us to put any words on paper. That is not the purpose of these exercises, and you should guard against the possibility of that tendency. If you find yourself feeling negative about your review of these exercises rather than positive, stop immediately and don't engage in the review of your work for a while. And even at the best of times, avoid psychological triggers of negative criticism like using red pen to mark up your work.⁴⁶

J. *Make Up Your Own Exercises*

The most helpful exercise for your writing is one that is designed to work on the writing weaknesses you perceive in your own work. So since you're the one reviewing your work, it's reasonable to assume that you're the one best situated to identify those weaknesses and to suggest ways to work on them. That means that the best exercises to improve your writing are the ones you develop.

The danger, of course, is that you're too kind to yourself and you give yourself exercises that play to your strengths, not your weaknesses. Try to avoid that and to be honest with yourself about where your weaknesses lie—narrative flow, reader engagement, manipulation of voice, overuse of adverbs or some other part of speech, and so on—and work on exercises designed to cure you of that problem. You might find it easier to adapt some of the following exercises for that purpose, but it's likely that an exercise you design yourself will have more meaning for you and you'll work more effectively on that exercise than on one of mine.

⁴⁶ Actually, it would be good if you could get away from using red to markup anyone's work, even the lowest associate or law clerk who submits to you. The red pen is a familiar symbol of the editor who makes negative changes in work, and is unhelpful as a learning aid. And because you want that associate or law clerk to improve, and to not turn in work that is as flawed in the future, using a more neutral color like blue or green will likely make it easier for those whose work you review to learn from your comments.

K. *Don't Worry About Performance*

This is implicit in most of the other suggestions, but it should be explicit. Performance, as far as these exercises are concerned, is irrelevant. No violinist except one who consciously intends to bore an audience to tears will ever program a Kreutzer exercise: they're almost completely devoid of musical merit and were never intended to be heard outside of the practice or lesson room. They're exercises that help develop technique and that, in turn, makes the sonatas and concertos the violinist *will* program sound better and more secure to the audience.

The same principle applies to these exercises. They're intended to be unseen by anyone other than yourself and anyone else you designate as a reader for the specific purpose of identifying and improving weaknesses in your writing. If you revise what you write enough, and if it has enough skill and relevance to fill a particular need, you might choose to expand your readership of a particular exercise, but by that point it has become something different. When you work on these exercises, the point of them is to be exercises, not art.

4. Exercises

Here are ten proposed exercises that you can do to help you fine-tune your writing technique. As you go through them, you'll see that in addition to the exercise itself, and in the tradition of Kreutzer number two, I've included some alternative ways of writing most of these exercises so you can work on them in a number of different ways to explore different facets of your writing. I've also included some suggestions for things you might want to reflect on after you've finished the exercise. These are just my suggestions, written without knowing you or your writing style. You should discard my thoughts and substitute your own ideas for them in order to get a better idea of where you think your writing is strong and where it's weak.

A. *Freewrite*

Freewrite for four minutes without any deliberation or planning. Stop for a minute, then write for another four minutes. For this second part of the exercise, either begin again without any planning or forethought, or consider a topic about which you would like to write and then write about that.

Freewriting is one of the most straightforward and effective exercises to stretch out writing muscles and prepare you for a day's writing. The only guiding principle of freewriting is that once you start, you shouldn't stop—for even a second—until the exercise time is up. So if you write at a keyboard, your fingers should never stop typing letters, and if you handwrite, your pen should never leave the page. Don't stop to correct, re-read to make sure a passage makes sense, or worry about grammatical niceties. In fact, one of the things to do when you go back and look at freewriting exercises again is to reflect on how technically accurate your writing is when it's unconscious. Do you find that it's more accurate than it is when you write more deliberately? Or less accurate? Or about the same? How coherent is your freewriting? What changes do you notice? Do you use more personal pronouns, passive voice, adverbs, or other grammatical or punctuation elements more, less,

or about the same? Think back on the day you worked on this exercise. Was your writing more fluent, less fluent, or did you notice no difference in your writing fluency?

B. *Biography*

Take an event from your life: it doesn't matter if it's a recent event or something from long ago. As you write about it, use every technique at your disposal—word choice, word placement, punctuation, length of sentence, and so on—to take your reader through this event as slowly as possible. Next day, write about the same event, and include all the details you included in the previous exercise, but this time use your writing technique to move the reader through the event as quickly as possible: don't eliminate important facts, but use your writing skills to move the reader along.

This exercise is designed to cause you to reflect on the various elements of writing technique at your disposal and how you can deploy them to control the reader during the reading of what you write. The content isn't as important as the way you write about the event in your life, and if you don't want to write about your life, pick another topic that you know well enough that you don't have to stop and think about the details but rather can focus on the writing technique.

As legal writers, we're often told that we should keep our sentences short and to make everything as tight and terse as possible. And that's often, and even usually, good advice. But it's not always true that short everything is best, and in any case, we should have enough vocabulary and technique at our disposal that we can slow a reader down or speed a reader up whenever we decide: the reader is under our control if we can assert that control effectively enough. So we need to practice. In this exercise, you should take the chance to explore your vocabulary, finding synonyms that slow down a sentence and speed it up. And we should have enough command over punctuation that we can shorten or lengthen a sentence at will, and we should have the sensitivity to know when a shorter sentence is preferable to a long one, and vice versa. As you review what you wrote for this exercise, reflect on whether your technique draws attention to itself (Are you using words that are correct, but would not be appropriate for a legal document? Do your attempts to lengthen or shorten your narrative change your voice so significantly that they convey a different person than you would prefer?) or whether it retreats into the background.

C. *Something You Know*

Write a description of something you know how to do well. That might be hitting a tennis ball or golf ball or baseball, making an omelet, stripping and making a bed, playing the violin, and so on. Try to go through every step in the process, from the preparation necessary to perform the action to everything you need to do, in order, as you perform the action.

As you reflect on this exercise later, did you do a good job of getting everything in order? Did you leave something out? Go through the action in your mind and compare it to what you wrote. How did you do? Can you identify any rituals, or habitual behaviors, you take every time you perform this action (bouncing the tennis ball before service, a pre-shot routine you engage in for golf, getting the ingredients out of the fridge in a particular

order before making the omelet, and so on)? Next day, try describing the same activity, only backwards: start with the ace and work backwards to bouncing the tennis ball, and so on. This is a good way to test how securely you have all the steps in an action organized in your mind. It's a technique that works well when organizing the facts section of a complex brief.

D. Synopsis

Write a synopsis of a book or movie you know well. Try not to use any language from the work you're summarizing. If you try this exercise and it feels too easy for you, try it again another day but this time omit any mention of any character, location, or detail that would allow someone reading your synopsis to identify the work you chose (if you need names or locations, substitute your own for those in the original).

As you reflect on this exercise, consider how easy it was for you to recall the details of the work you chose and how successful you were in generating a synopsis. As you think about it now, did you take account of every significant plot point or did you omit something that now strikes you as important? If so, why do you think you omitted it? If you didn't omit anything, what was it about the work that you chose, do you think, that made its narrative so compelling that you remembered it so well? How successful is your narrative? If you attempted the revised version of this exercise, how successful do you think you were? Would someone who knows the work you chose recognize it from your synopsis? Consider your word choice. Did it capture the mood and tone of the work you chose or have you so obscured the original that you've changed the nature of the original? Of the two synopses you wrote, what are the differences between the two? Is one longer than the other? What differences do you see in word choice or sentence construction? Which is better? Why?

E. Write a Poem

Write a poem.⁴⁷ Any form you chose is fine, although the simple limerick is often a good starting point. If you follow the convention of limericks being bawdy, probably best to keep your work to yourself. Here are a few very rough meter and rhyme scheme options:

Limerick four lines: a (nine syllables), a, b (five or six syllables), b, a⁴⁸

⁴⁷ If you're thinking of working on this exercise, it might be helpful to find a book on poetry form and construction to read through before you start. My personal favorite, and the one I'll refer to here, is STEPHEN FRY, *THE ODE LESS TRAVELLED: UNLOCKING THE POET WITHIN* (Gotham Books 2007). It's a practical but light-hearted guide to writing poetry that has effective examples of the principal poetic forms. One caution though: if you are not a fan of vulgar language or content, do not read the examples Fry offers for the limerick. They go far beyond the standard definition of "bawdy."

⁴⁸ Limericks have the reputation as being bawdy in content and vocabulary, but they don't have to be. An example: A law school's curricular dance card/is packed full with doctrine that's so hard/but for real brain biting/just try legal writing/thereafter no law course will seem hard. Limericks have never been confused for high art.

Clerihew	two non-metrical couplets, with the first line of the first couplet containing only a proper name ⁴⁹
Blank Verse	unrhymed iambic pentameter ⁵⁰
Haiku	three lines of five, seven, and five syllables ⁵¹

Poems can be daunting. They carry all sorts of associations of high art, dense and impenetrable language, and the general confusion associated with high school. You should free yourself from all of those concerns. What you're looking to do here is to write a technical exercise, not to liberate some soulful inner yearning. The four poetic forms I've suggested—and there are many, many more to explore if you enjoy this exercise—have tight requirements of length and rhyme, and the key to achieving the purpose of this exercise is to meet those technical requirements with language that makes sense: you can't just pick a word because it rhymes, it has to be a word that connects logically to the other words in the poem. Because of that, this exercise might take longer than the time you've set aside to do these exercises. That's fine. Set it aside when your time is up and come back to it tomorrow, or when you next plan to work on these exercises.

There's actually a benefit to doing that. Gauge how quickly and easily you come back into the exercise, and consider how much your brain has been thinking about this exercise subconsciously since you stopped. It's often the case that it's better to stop a piece of writing a few words, sentences, or even paragraphs before you have to, because it makes re-entry into the document easier: you know what you were going to write, so you can write those words with little effort, and that can prime the pump sufficiently that continuing into new material is easier than it otherwise would have been.

⁴⁹ FRY, *supra* note 47, at 263. An odd form, named for Edmund Clerihew Bentley. The idea of the Clerihew is that it summarizes some characteristic or detail of a person. A famous one: "Christopher Wren/Said 'I am going to dine with some men,/' If anyone calls/Say I am designing St. Paul's." *Id.* at 264. As Fry notes, metrical clumsiness is to be desired in a clerihew, and "it is considered extremely bad form for a clerihew to scan." *Id.* This makes it a perfect form for an exercise like this. The person described in the clerihew need not be famous, making co-workers good subjects (as long as you show your work to no one, although remember that clerihews need not be critical). An example from my time in practice: Charles Goodell/was as smart as hell/as a lawyer, he never would fall/when his clients stood tall. The genesis of this was a vigorous debate between myself and a name partner in the firm where I worked. He wanted to use the image of our client standing tall and taking responsibility for its actions. I liked the idea, but thought the image was too redolent of Gary Cooper and John Wayne, and wouldn't be effective with contemporary juries. Mr. Goodell was absolutely correct, and I was absolutely wrong.

⁵⁰ An iamb is a metrical foot, or unit, containing an unaccented syllable followed by an accented syllable. FRY, *supra* note 47, at 10–11. A metrical unit of five iambs in a line is iambic pentameter. *Id.* at 11. Working on iambic pentameter allows you to release your inner Shakespeare, but the form doesn't require genius in order to function. A short example of blank verse, proving that art is not the goal here: A life in law rewards the soul and mind/we work to help our clients meet their goals. Remember that blank verse is unrhymed.

⁵¹ *Id.* at 274. As Fry notes, there's more to the haiku than the syllable count. In the classical form, a season of the year should be, if not mentioned, than at least alluded to, and there should be "[a] reverence for life and the natural world." *Id.* An example from life in Syracuse: Precipitation./Cold, white blanket shows signs of/fresh snowblower tracks.

As you write, consider the ease or difficulty you're having following the technical requirements of the poetic form you've chosen. Are you surprised by how easy or difficult this is? Are you using a dictionary (regular or rhyming) or thesaurus to help you? Don't feel bad if you are using one: many professionals use these tools to help them. If you're not using a dictionary or thesaurus, why not? If you are using one, how helpful do you find it? Once you've finished one exercise, put it away for a few weeks and then review it. Can you improve what you've written? What changes would improve it, and why? If you feel it can't be improved, try changing a few words anyway and consider why you believe the changes don't improve the exercise. Try another poem exercise and see if this one comes easier. If it does, why do you think that might be? If it is not easier, why do you think that is? Can you identify any emotional or physical responses you're feeling to writing this exercise? If so, what are they? Why do you think you're experiencing these responses? If you feel no different, consider whether this is usually your state when you write during your professional life or whether something is different when you work on this exercise.

F. *Art*

Write about your favorite piece of music or painting, describing what it is about the work of art that engages you and how that engagement affects you. In your description, avoid adverbs or adjectives.

The challenge here, of course, is to write objectively about something that is inherently subjective and emotional in nature. As you review what you've written, do you find your language disengaged or distant? What is it about your writing that makes you react this way? If you do not have this reaction, what about your writing allowed you to avoid that danger? Were the restriction on adverbs and adjectives to be lifted, how would that affect your writing? Draft a version of your exercise with no restrictions and compare the two versions. Which do you find more effective? Why? In either version, do you believe you have captured the emotional connection you feel with the work of art? As you review your language, how much technical language are you using? Is this more technical language than you would expect, or is your writing what you would expect? Try writing about music or painting with which you are less familiar or that you actively dislike. Does your approach to language change?

G. *Relationship*

Write about your first long-term romantic (not physical: this isn't that kind of writing exercise) relationship. Avoid sentimentality, and write as objectively as possible. Next day, write about the same relationship but from your romantic partner's perspective. The day after, write about your relationship from your parent's perspective. Next, write about the relationship from the perspective of your partner's parents. And for the last day of this set of exercises, write about your relationship from the perspective of your best friend.

The point here is to find a way to use language to convey intense emotions that is not itself emotional, and to enhance the control you have over voice and tone while not sacrificing the ability to involve your reader in the narrative. The Rashomon-like

approach⁵² aids in helping you locate your narrative in different perspectives, which helps you to practice an empathetic approach to writing and allows you to find the strongest narrative pull through the story. Another way of approaching this exercise would be to write about the relationship from various time perspectives: the first time you and your partner met, the last time you met, starting at the end of the relationship (assuming it ended) and working back through time to the beginning, and how the relationship seems to you now—presumably some years after it’s over. This allows you to experience writing a narrative in other-than-chronological order, a useful technique to have at your disposal if you want to describe a particular event from a different perspective from that of your opponent in litigation.

As you review your work on this exercise, in all the various forms it took, reflect on which approach seems strongest to you and why. The natural reaction would be to consider the perspective you know best to be the strongest one, so try to overcome that natural instinct and give as objective a review of the exercises as possible. Can you imagine writing a legal document from the perspective of someone other than your client? Would it be helpful to imagine, as you are writing your version of events, how someone else might write about them? Can you predict possible weaknesses in your approach if you put yourself in the other party’s shoes and think of the events from that party’s perspective?

H. *Not “To Be”*

Write a description of an event that occurred in the past year without using any of the “to be” verb forms: be, being, been, am, is, is not, are, are not, was, was not, were not, I am, you are, we are, they are, he is, she is, it is, there is, here is, where is, how is, what is, who is, and that is.

This style of writing, known as E-Prime⁵³—short for English Prime—can seem austere and surprisingly difficult to accomplish, but it is a valuable technique to have at your disposal. For one thing, one almost cannot write in the passive voice this way, and E-Prime also promotes a clean, clear style of prose that is particularly appropriate in legal writing. This style also encourages shorter sentences with greater connectivity between the sentences to make a stronger narrative thread that runs throughout a document.

As you review your work on this exercise, consider whether your fifteen minutes spent in this style were completely successful. Were you able to eliminate all forms of the “to be” verb, except perhaps for quotes, or did a few examples of the verb creep in? Do you notice the absence of the verb forms? Is your writing noticeably different? If so, what has changed? Do you prefer this style of your writing or would you prefer not to worry about losing “to be” verbs? Can you see a place for this approach to writing in your day-to-day

⁵² Rashomon is a 1950 movie, directed by Akira Kurosawa and starring, among others, Toshiro Mifune, in which the various characters recount “subjective, alternative, self-serving, and contradictory versions of the same incident.” RASHOMON, WIKIPEDIA (last modified Feb. 16, 2018, 3:36 PM), <https://en.wikipedia.org/wiki/Rashomon>.

⁵³ E-Prime, WIKIPEDIA (last modified Mar. 1, 2018, 10:19 PM), <https://en.wikipedia.org/wiki/E-Prime>. For a description of the application of E-Prime principles to legal writing, see, e.g., Christopher G. Wren, *E-Prime, Briefly: A Lawyer Writes in E-Prime*, MICH. BAR. J., July 2007, at 52, available at <https://www.michbar.org/file/barjournal/article/documents/pdf4article1187.pdf>.

writing or do you think writing this way would be more trouble than valuable? Look at the writing of others you have to read during the course of your day. Would their writing be improved by elimination of “to be” verbs? If your writing and arguments will be compared to theirs, would you gain an advantage over them by adopting this style?

I. Voice

Write a letter to a person from history whom you greatly admire.⁵⁴ In your letter, explain what it is about them that you admire and why it was that you selected this person. Next day, write a letter to a person from history who you detest, and in your letter explain what it is about them you so dislike and why it was that you selected this person.

This exercise, of course, is designed to make you more alert to the tone you use in your writing and how you can manipulate that tone. Writers need to have the capacity to sound happy, sad, angry, untroubled, agitated, neutral, and so on without themselves feeling those emotions at the time they write. Indeed, you can be agitated but have your writing appear calm, happy and relaxed but have your writing appear cold and angry, under great stress but have your writing appear carefree: technique liberates your writing from your actual emotional state. So as you review your responses to this exercise, reflect on the tone of your writing and how it differs from one letter to the other. What technical resources did you call upon to write the letter to the person you liked and how, if at all, did they differ from the resources you used to write the negative letter? Do you sound unduly laudatory in the first letter and unreasonably angry in the second letter? Can you write either letter in an entirely objective style? If so, how does your objective writing differ from your subjective writing? Look at the length of your sentences in the two letters, the lengths of the words you use, and your word placement. Can you see differences between the two letters in terms of these technical details or are they both comparable? Is one letter more effective than the other? If so, what is about that letter that makes it more effective? If both letters are similarly effective, can you make one letter more powerful than the other—either the positive or the negative letter? What changes did you make?

J. Rewriting

Take a passage from a book you admire. Write that passage word-for-word, punctuation mark for punctuation mark, into a document. Analyze what the writer did to create the effect you admired. Next day, rewrite the passage in your own words,⁵⁵ but

⁵⁴ You could write a letter to a living person whom you greatly admire as well, but the temptation to actually send it might be great and that would change the way you approach the exercise. Better to stick to someone who can never, no matter the circumstances, read the words you’re writing.

⁵⁵ “In your own words” is, of course, shorthand for a long-winded discussion about selecting words of your choosing, as opposed to those someone else chose for you, to express an idea or narrative. It is impossible to use this phrase without thinking of the comic genius of George Carlin, who has spoiled this phrase for all time. PAULTRIAL, *George Carlin–In Your Own Words*, YOUTUBE (Feb. 18, 2011), <https://www.youtube.com/watch?v=BoJI1p7cHhc>. As a bonus, it’s one of the few Carlin clips that is watchable in front of your parents and your children. Of course, it’s only twenty-nine seconds long. I use it here in full knowledge of the fun George Carlin would have with anyone for writing about it and I apologize to his memory.

maintaining all the principal narrative twists and turns. Compare the two passages. Try this for several days with different passages from different types of book.

It seems like a cheat, but one of the simplest ways to learn how a writer you admire writes is to copy that writer's writing. Not the writer, but the actual writing. As long as you don't attempt to pass someone else's work off as your own, you're not committing plagiarism. And once you've written the word-for-word passage, and analyzed it for how it creates the effects you like, attempting to reproduce the effects using your own writing style, and then comparing the two passages, gives you an insight into the way writers put vocabulary, grammar, structure, and punctuation together to create a successful passage, whether it be fiction or nonfiction.

As you reflect on both the original passage and your paraphrase of it, look closely at how the original creates its effects and how you've attempted to reproduce them. Why is the original better than yours? Is the original better than yours? Have you learned something about the writer's style that has allowed you to surpass it? If not, why not? Try writing something original, but in the same style as the passage you selected. Can you adapt the techniques you have observed the original writer using to your own work? What techniques work well and what are less effective in your writing? If you work on refining those techniques, does your work improve?

Conclusion

Violinists understand that scales, studies, and exercises are all means to the final end of playing the music they love as well as possible. But they are valuable ways of refining and enhancing their technique, and they can work on them in the privacy of the practice room without worrying about letting anyone else hear what they do. They practice slowly⁵⁶ and carefully before they start to work on the real music they have to practice that day, and they work on the exercises daily. Over the years, the exercises become intimately familiar, but they retain their value right the way through an instrumentalist's career.

Legal writers would be well-advised to adapt a similar approach to their writing. Rather than simply write every day, if they could find a short segment of time to work on technique—without worrying about performance, or how a court or partner or opponent will react to the writing—their writing would slowly but steadily improve as they gained control over their writing technique. The confidence that comes from being able to change one's voice at will, or from knowing that one can guide a reader through a passage slowly or quickly, using the techniques available to all writers, or from being able to switch perspectives to tell a story from the perspective most appropriate for the result one is seeking, is priceless, and being able to write that well is a marketable skill.

It's also not a skill that comes easily or quickly. The very fortunate few will graduate from law school fully formed as writers, but most will require many years of careful work before they reach a point of full technical fluency. But only careful work will help a writer get to that point: simple repetition of performative writing is not enough.

These exercises are an attempt to suggest one possible approach for the legal writer who wants to improve. Many things are missing. I could, for example, have asked you to write a passage and insure that no sexist language or implications intrude. There's no place for sexism in contemporary legal writing, and all legal writers should be sufficiently conscious of their writing that they can eliminate any trace of sexist thought from everything they write. I could also have suggested that you begin a passage of writing half-way through the narrative, filling in whatever is necessary as you go through the rest of the passage. That can be an effective way of getting the reader to engage quickly in the document when used occasionally.⁵⁷

⁵⁶ See, e.g., Itzhak Perlman's advice, itzhak perlman, *supra* note 35.

⁵⁷ I used a form of this technique at the start of this article, where the first sentence—"For violinists, it's the Kreutzer Exercise number two"—implies a lot more knowledge than I really expected you to have. I hoped you would be sufficiently engaged to stick with me while I filled in the details of who Kreutzer was, what his exercises were for, and why violin technique would be useful for a legal reader to know about. If you're still with me, I have reason to hope I was successful, although it certainly might not have been the writing that got you here.

In truth, this article only scratches the surface of writing techniques available to legal writers, and that's all it was ever intended to do. Its real purpose was to stimulate you to think closely about writing—yours and that of others—and to think about how you might take a small portion of your day to improve your writing technique. If you exercise the four fingers, or however many you use, to type as carefully as violinists practice their four finger exercises, you might not make it to Carnegie Hall, but your writing is almost certain to improve.