



CSU  
College of Law Library

Cleveland State University  
**EngagedScholarship@CSU**

---

Law Faculty Articles and Essays

Faculty Scholarship

---

Fall 2014

## In the Mind's Eye: Visual Lessons for Law Students

Brian A. Glassman

*Cleveland-Marshall College of Law, Cleveland State University, [b.glassman@csuohio.edu](mailto:b.glassman@csuohio.edu)*

Follow this and additional works at: [https://engagedscholarship.csuohio.edu/fac\\_articles](https://engagedscholarship.csuohio.edu/fac_articles)



Part of the [Legal Education Commons](#), and the [Legal Writing and Research Commons](#)

**How does access to this work benefit you? Let us know!**

---

### Original Citation

Brian Glassman, In the Mind's Eye: Visual Lessons for Law Students, 23 Perspectives: Teaching Legal Research and Writing 25 (2014).

This Article is brought to you for free and open access by the Faculty Scholarship at EngagedScholarship@CSU. It has been accepted for inclusion in Law Faculty Articles and Essays by an authorized administrator of EngagedScholarship@CSU. For more information, please contact [research.services@law.csuohio.edu](mailto:research.services@law.csuohio.edu).

Cite as: Brian Glassman, *In the Mind's Eye: Visual Lessons for Law Students*, 23 Perspectives: Teaching Legal Res. & Writing 25 (2014).

# In the Mind's Eye: Visual Lessons for Law Students

By Brian Glassman

*Brian Glassman is Legal Writing Professor of Law at Cleveland-Marshall College of Law in Cleveland, Ohio.*

## Introduction

How do law students best learn? Do law professors adapt their teaching styles to accommodate their students' learning styles? If not, why and how should they do so? What is a "visual learning preference," and what techniques can be used to teach students who have such a preference? Using my background as a student of visual art, I came to ask myself these questions; I now endeavor to answer them.<sup>1</sup>

This article shows how to use works of art to demonstrate essential components of effective legal writing. My particular interest in using visual lessons for teaching law stems from my own study of studio art and art history.<sup>2</sup> As an art student over the decades, I've received a substantial amount of art instruction, in the course of which I learned that teachers of visual art use a variety of techniques for imparting knowledge to students about the many "tools" essential to every artist's toolbox: color, line, form, perspective, etc. Given the similarity of certain tools that both artists and

writers employ, I realized that many of the lessons I had learned could be transferred to legal writing, to illustrate important principles in that discipline. From that starting point, I created 15 visual lessons, represented in famous works of art, to aid in teaching legal analysis and advocacy in general and legal writing in particular. My hope is that these lessons will benefit not just visual learners, but all students.

Part I of this article discusses the learning theory underpinning the use of visual lessons. Part II describes the lessons themselves. Part III explains the benefits—both direct and indirect—that result from using visual lessons to teach law, and summarizes my students' response to the use of these lessons in first-year legal writing. The Conclusion suggests ways in which this technique might be extended and adapted to teach not only legal writing but also other law school courses.

## I. Learning Theory Supporting the Use of Visual Lessons

The field of education has produced a number of different theories, and much debate, over how students learn. One of the most widely followed theories identifies four types of learners: visual, aural, read/write, and kinesthetic (VARK).

According to the developer of this theory:

- A **visual** learning "preference includes the depiction of information in charts, graphs, flow charts, and all the symbolic arrows, circles, hierarchies, and other devices that teachers use to represent what might have been presented in words. Layout, whitespace, headings, patterns, designs, and color are important in establishing meaning."<sup>3</sup>

<sup>1</sup> I presented on this topic at the Rocky Mountain Legal Writing Conference in March 2012, and again at a Legal Writing Institute One-Day Workshop in December 2012; my thanks to my friends and colleagues, Profs. Karin Mika and Claire Robinson May, who helped me prepare for those presentations. I would also like to acknowledge the assistance of Profs. Terri LeClerc, Laurel Oates, and Suzanne Rowe, who edited drafts of this article. Finally, a special thanks to Amy Burchfield, Cleveland-Marshall Law Librarian, and Alison Evans, my Research Assistant, who worked tirelessly to clear the rights to the images contained in this article.

<sup>2</sup> Connecticut College: art history, printmaking, graphic design, and ceramics. Penland School of Crafts: ceramics, printmaking, and glass. Pilchuck Glass School: glass. Cleveland Institute of Art: glass, papermaking, drawing, and foundation design. Cleveland State University: painting, drawing, container design, and sculpture.

<sup>3</sup> Neil Fleming, *Teaching and Learning Styles: VARK Strategies* 1 (2011).

“[T]eachers of visual art use a variety of techniques for imparting knowledge to students about the many ‘tools’ essential to every artist’s toolbox ...”

“Given how much information humans take in visually, using visual lessons in the classroom could produce significant positive learning outcomes ...”

- An **aural** learning preference concerns “information that is spoken or heard. Those with support for this modality report that they learn best from discussion, oral feedback, email, phone chat, discussion boards, oral presentations, classes, tutorials, and talking with others.”<sup>4</sup>
- A **read/write** learning preference addresses “information displayed as words either read or written. ... These learners place importance on the precision in language and are keen to use quotes, lists, texts, books and manuals.”<sup>5</sup>
- A **kinesthetic** learning preference “refers to the ‘perceptual preference related to the use of experience and practice (simulated or real)’... [T]he key is that the student is connected to reality, ‘either through experience, example, practice, or simulation.’”<sup>6</sup>

These learning styles do not represent an “either/or” choice: individuals learn in all four ways. But depending on the individual, one or more of the modes of learning may predominate over the others. And all individuals should develop their ability to learn through all of these modes, because information generally is delivered through sight, sound, and experience.<sup>7</sup>

One of the questions about learning theory concerns the “meshing hypothesis”: matching the “right” teaching style to a student’s predominant learning style produces a better learning experience.<sup>8</sup> Although debate among educators continues on this question, the literature appears devoid of assertions that imparting information in all four ways can somehow be harmful to students. This leads to the question: if delivering information to students in all four ways might help, why not do it? That a teacher prefers to teach in just one way, or that an educational system has over time come

to favor teaching in just one way, are insufficient justifications for failing to teach in all four.<sup>9</sup>

This article focuses on information (or “lessons”) that can be imparted to law students through visual teaching methods. As suggested above, such methods generally include “working with graphic images, mind mapping, graphic organizers, visualizing, drawing, and exploring the world of color and art.”<sup>10</sup> Given how much information humans take in visually, using visual lessons in the classroom could produce significant positive learning outcomes: “[t]he eyes contain nearly 70 percent of the body’s sensory receptors and send millions of signals every second along the optic nerves to the visual processing centers of the brain. ... Although each of us has the ability to process kinesthetic and auditory information, we take in more information visually than through any of the other senses.”<sup>11</sup> As one author notes, “Visual thinking ... is a part of every subject because it is a basic way of obtaining, processing, and representing information.”<sup>12</sup>

Students benefit from visual learning experiences in a number of ways. The first is information retention and reinforcement. According to one author, “the research evidence is clear: Individuals can be taught to search their minds for images and be guided through the process to select appropriate images that ... enhance learning and increase retention.”<sup>13</sup> One law review article reinforces the point that “[v]isuals help all students retain information, not just those who are visual learners.”<sup>14</sup>

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* (emphasis in original).

<sup>7</sup> Linda VerLee Williams, *Teaching for the Two-Sided Mind* 32, 86 (1983).

<sup>8</sup> William Bradford, *Reaching the Visual Learner: Teaching Property Through Art*, *The Law Teacher* 12 (Fall 2004).

<sup>9</sup> One author even suggests that professors teaching outside of their personal comfort zones might be particularly helpful to students: “[A] highly verbal teacher who is excited about rediscovering his [or her] visual capabilities can provide a powerful model for students to explore and expand their own visual thinking.” Williams, *supra* note 8, at 86.

<sup>10</sup> Gayle H. Gregory & Carolyn Chapman, *Differentiated Instructional Strategies* 33, 42 (2007).

<sup>11</sup> Patricia Wolfe, *Brain Matters* 152 (2001).

<sup>12</sup> Williams, *supra* note 8, at 85.

<sup>13</sup> David Sousa, *How the Brain Learns* 228 (2d ed. 2001).

<sup>14</sup> [M.H. Sam Jacobson, A Primer on Learning Styles: Reaching Every Student](#), 25 *Seattle U. L. Rev.* 139 n.54 (2001).

But the benefits extend beyond the mere retention of information. Visual lessons “serve to increase understanding;”<sup>15</sup> they teach students “how to discover information for themselves.”<sup>16</sup> More specifically, “Essential mental skills such as classifying, generalizing, and abstracting can all be developed with visual materials as well as with verbal ones.”<sup>17</sup> According to another law review article, “[P]roviding a visual aid is like providing a helpful metaphor or analogy to help explain an idea.”<sup>18</sup>

This article explores the possibilities of “open-ended” visual images, to be distinguished from handouts. As to the latter, “[t]he problem ... is that they are complete, self-contained documents from the moment they are distributed. There is no layering or building of elements, such as by using the Socratic method to explore all of the contours of the response and then to confirm those answers in an interactive way. ... [S]tudents th[ink] these professorial handouts [are] the ending point of class rather than the beginning catalysts for academic exploration.”<sup>19</sup>

Unfortunately, professors in many disciplines fail to use visual lessons as part of their teaching methods. One author explains that “[a]lthough teachers spend much time talking (and sometimes have their students talk) about the learning objective, little time is given to developing visual cues.”<sup>20</sup> Traditional law school instruction, the Socratic method, relies primarily, if not entirely, on lessons

that are “verbal/linguistic: reading, writing, speaking, and listening.”<sup>21</sup> As a result, most law professors fail “to teach to the entire class.”<sup>22</sup> This failure may have dramatic consequences, because there is evidence that “visual learners,” comprising a significant<sup>23</sup> and growing<sup>24</sup> percentage of the student population, “may be disproportionately represented in the bottom of the class.”<sup>25</sup> One law professor successfully used paintings created by his wife—a professional artist—to help teach key principles in his property class. Another concluded that “perhaps more law professors should teach in a manner that simulates the way law students receive information in society, at home, and in their pre-law studies—through the combination of visual and verbal communication.”<sup>26</sup>

### III. Fifteen Visual Lessons for Teaching Legal Writing Skills

#### Lesson 1: Structure

In a work of visual art or piece of writing, structure aids clarity, understanding, and appreciation.

To illustrate this lesson, consider the following work of art:



*Raft of the Medusa*, Theodore Gericault (1818-19)

<sup>15</sup> Wolfe, *supra* note 12, at 153.

<sup>16</sup> Williams, *supra* note 8, at 87; A recent study examined educational outcomes for students living in an area with few cultural institutions. When a major art museum opened in that area, researchers tested students who visited the museum on a field trip against a control group—students not selected for the trip. Students in the former group didn't simply “develop[] a taste for art museums and cultural institutions”; they also “demonstrated stronger critical thinking skills.” Brian Kisida et al., “Art Makes You Smart,” N.Y. Times, November 24, 2013.

<sup>17</sup> Williams, *supra* note 8, at 91.

<sup>18</sup> Fred Galves, *Will Video Kill the Radio Star? Visual Learning and the Use of Display Technology in the Law School Classroom*, 2001 U. Ill. J.L. Tech. & Pol'y 195, 219 (Fall 2004).

<sup>19</sup> *Id.* at 227.

<sup>20</sup> Sousa, *supra* note 14, at 228.

<sup>21</sup> Gregory & Chapman, *supra* note 11 at 33.

<sup>22</sup> Bradford, *supra* note 9, at 13.

<sup>23</sup> *Id.*; Jacobson, *supra* note 15, at 151.

<sup>24</sup> Jacobson, *supra* note 15, at 151.

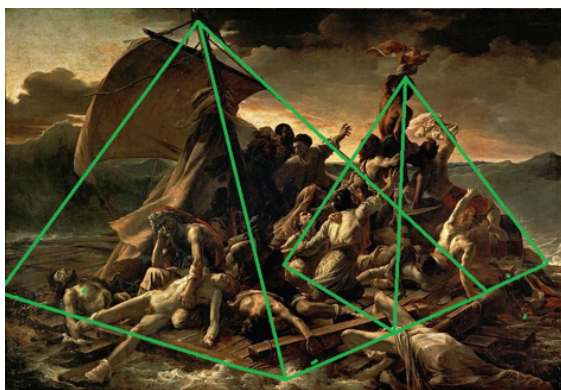
<sup>25</sup> *Id.* at 152.

<sup>26</sup> Galves, *supra* note 20, at 198; The same author notes that “[a]ttorneys use display technology at trial to clearly and simply explain their case theories ...” *Id.* at 206. This fact compels the question: if lawyers use such “teaching” techniques in the courtroom, shouldn't law professors also be using them in the classroom?

“In a work of visual art or piece of writing, structure aids clarity, understanding, and appreciation.”

“In a work of visual art or piece of writing, accuracy aids clarity, understanding, and appreciation.”

As demonstrated by the next image, the artist has used a series of diagonals, triangles, and/or pyramids to direct the viewer's eye to the upper-right-hand corner of the painting. There, one of the shipwrecked sailors is waving a cloth in the hope of signaling a rescue ship.



In a work of visual art, there is more than one kind of structure. Rather than relying on diagonals, triangles, and/or pyramids, the painting that can be viewed by clicking on the following link<sup>27</sup> creates structural tension by its deliberate combination and placement of horizontal and vertical grid lines, colors, shapes (rectangles/squares), and sizes:

[Composition C \(no. III\) with Red, Yellow, and Blue, Piet Mondrian \(1935\)](#)

In a piece of legal writing, there is also more than one kind of structure.<sup>28</sup> In a memorandum of law, the structure of the Discussion section will be suggested/dictated by the type and number of facts, issues, and legal authorities to be addressed.

### Lesson 2: Essence

In a work of visual art, the artist strives to capture and convey the essence of the subject.

<sup>27</sup> Images in the public domain, or those for which permission to reproduce them was obtained, appear in this article. The remaining images can be accessed by clicking on the links provided.

<sup>28</sup> Convincing first-year law students of this is essential, so that they don't take too literally, and then "copy," the structure of samples provided by their professors.

A work by Alexander Calder illustrates this lesson:

[Goldfish Bowl, Alexander Calder \(1929\)](#)

This wire sculpture is essentially a gesture drawing—typically, drawing a series of poses taken by a model in quick succession—in which the artist attempts to capture the “life” or essence of the subject, rather than to render every last detail. This visual art lesson has a writing corollary:

In a piece of writing, the author strives to capture and convey the essence of the topic.

For example, when providing a case summary, a writer should describe the legal principle derived from the case, rather than every factual and legal detail. Although factual and legal details matter, if a writer fails to convey the essence of what a lawsuit is about—that is, the theory of the case—his or her brief will likely fail to persuade.<sup>29</sup>

### Lesson 3: Accuracy

In a work of visual art or piece of writing, accuracy aids clarity, understanding, and appreciation.

Consider these two paintings, created more than 100 years apart. The earlier work seems to anticipate a painting style known as Photorealism or Super Realism,<sup>30</sup> of which the later work is a prime example:

<sup>29</sup> A recent newspaper article draws the same parallel between gesture drawings and writing: “These flash sketches make sense. Because really, before we put a word or a mark on the page, both writers and artists must first step back and see. ... [T]he pleading shouts of Life Drawing 101 instructors offer a simple, effective practice. How can we get over looking for every finger and toe, of aiming for lifeless “accuracy,” and get out of our own way? *What is the essence of what you see?*” Rachel Howard, *Gesture Writing*, N.Y. Times, May 26, 2013.

<sup>30</sup> As one art history scholar explains, “In the late 1960s, the popularity of photography, its relationship to Pop Art, and the belief that it permits an objective record of reality led to the development of Super Realism. ... [The] oil paintings [of Richard Estes] resemble color photographs, although they are on a larger scale and are more crisply defined than a photograph of similar size would be.” Laurie Schneider Adams, *Art Across Time* 954, 955 (3d ed. 2007).



*Flowers and Fruit*, Henri Fantin-Latour (1866)



*Helene's Florist*, Richard Estes (1971)

© Richard Estes, courtesy Toledo Museum of Art, Toledo, Ohio

Both works are rendered with extraordinary accuracy, allowing the viewer to more fully appreciate the subject matter. Similarly, in a memorandum of law, accuracy is essential to a proper understanding of the facts, issues, applicable law, and reasoning. A brief that contains inaccuracies will not only fail to persuade, but also undermine the advocate's credibility.

#### Lesson 4: Simplicity

In a work of visual art or piece of writing, simplicity aids clarity, understanding, and appreciation.

Through a series of hundreds of paintings and prints, Josef Albers explored the components of color—hue (the color itself), value (light-to-dark), and chroma (intensity of the color)—and their relationship to one another. The following painting is an example from that series:

[\*Homage to the Square: Soft Spoken\*, Josef Albers \(1969\)](#)

Any treatment of subject matter, perspective, etc. would have distracted the viewer from the topic Albers sought to explore: color. Similarly, extraneous information distracts the reader of a legal memorandum or brief from the principle of law to be communicated or the issue to be decided. “Simplicity” shares features with “Essence,” above, and “Economy,” below.

#### Lesson 5: Context

In a work of visual art or piece of writing, background (information) provides context.

Stories, whether visual or written, are better understood when told in context. Consider what context the background of this painting provides:

[\*Chop Suey\*, Edward Hopper \(1929\)](#)

The background indicates that the painting's subjects are diners in a Chinese restaurant. The heavy coat hung on a hook suggests that it is winter. If that is so, then the light coming through the windows tells us that the diners are meeting for lunch, not dinner.

A piece of legal writing should also contain sufficient background information. Even when dates, times, and locations are not outcome-determinative, enough background facts of this type should be provided to create a context for the (legal) story being told.

“In a work of visual art or piece of writing, background (information) provides context.”

### Lesson 6: Intention

In a work of visual art or piece of writing, every element should serve the composition's purpose.<sup>31</sup>

Consider the elements contained in the painting below:



*The Astronomer, Johannes Vermeer (1668)*

The elements include a celestial globe, books, a scientific device, and a painting. In this work, Vermeer's purpose was to celebrate the age of scientific discovery. Both the name of the globe maker, and the date of the globe's creation, are known to persons familiar with this period. The scientific device is an astrolabe, an instrument that assists the astronomer in making celestial calculations. According to one scholar, "[t]he painting on the wall behind is *The Finding of Moses* which symbolizes the new seventeenth century discoveries, many of which were made by [Antony] van Leeuwenhoek,"<sup>32</sup> the Delft scientist who was possibly the subject of this portrait.

<sup>31</sup> A work of visual art might serve any number of purposes, including: Tell a story; evoke a mood; "record" an historical event; stir an emotion; or pose a philosophical question (such as: What is art?).

<sup>32</sup> Sandra Forty, *Vermeer* 78 (2009).

In a legal memorandum or brief, all of the pieces of information that are essential to the document's purpose—and only those pieces—should be included. In that sense, this lesson has much in common with both "Essence" and "Simplicity," above. Every fact and legal authority included should serve to educate and/or persuade the reader, should help him or her to fully understand the theory of the case.

### Lesson 7: Economy

In a work of visual art or piece of writing, less is often more.

In this drawing, Pablo Picasso could not possibly have done anything less yet still conveyed the desired image:

#### *Femme, Pablo Picasso (1931)*

With just four lines—no shading, contrast, color, etc.—Picasso communicated to the viewer this portion of a female figure. Put another way, he used only those tools necessary to complete the task.

In a similar way, good legal writing communicates what is necessary, but no more. To go beyond what is essential is to risk distracting the reader, or offering information or arguments damaging to one's own case.<sup>33</sup>

### Lesson 8: Craftsmanship

In a work of visual art or piece of writing, good craftsmanship helps communicate the artist's or writer's message.

Take a close look at the following work. What do you see?

<sup>33</sup> Just as I have found parallels between visual and writing lessons, it is not surprising that others have found parallels between music and writing. One recent newspaper article begins, "If Miles Davis's midcentury trumpet solos can be described by a single phrase, it might be 'doing more with less.'" Aaron Gilbreath, "Writing with Miles Davis," N.Y. Times, October 7, 2012. The author continues: "He was melodic and economical and his approach can teach prose writers a lot about the power of concision, suggestion and space." I treat "Suggestion" and space ("Proportion") in lessons 12 and 15, below.

“In a work of visual art or piece of writing, less is often more.”



*Ghost Clock*, Wendell Castle (1985)

Renwick Collection of the Smithsonian American Art Museum, Museum purchase through the Smithsonian Institution Collections Acquisition Program. © 1985 Wendell Castle

You likely determined that you were looking at a grandfather clock, covered by a sheet. In fact, this is a work of sculpture, made entirely of wood. The piece belongs to a category of art known as *trompe l'oeil* (“deceive the eye”). In this instance, the artist’s “message” or purpose was to deceive the viewer. That deception is successful because the craftsmanship is outstanding.

Good craftsmanship is an essential element of successful legal writing. Grammatical errors, misspellings, incorrect word usage and other flaws distract the reader and detract from the document’s message. As explained in “Accuracy” and “Simplicity” above, poor craftsmanship will draw attention away from the purpose of the document—to educate and/or persuade—and also undermine the writer’s credibility.

### Lesson 9: Interest<sup>34</sup>

Whether in a work of visual art or piece of (persuasive) writing, tell an interesting story.

The painting below captures this principle:



*Death of Marat*, Jacques-Louis David (1793)

Jean-Paul Marat (1743–93), radical journalist, was one of the leaders of a faction ascendant in French politics during the Reign of Terror (1793–94), a period within the French Revolution of 1789–99. Charlotte Corday was a political enemy of Marat who blamed him for the mob violence of the September Massacre (1792). She gained entrance to Marat’s rooms with a note promising details of a counter-revolutionary ring. She found Marat, who suffered from a skin condition that caused him to work from his bath, an easy target. Corday stabbed Marat to death. She did not attempt to flee, and was tried and guillotined—four days later. She testified at her trial: “I killed one man to save 100,000.”<sup>35</sup> After explaining this to my students, I tell them, “Now THAT’S an interesting story.”

<sup>34</sup> During the fall semester of my first-year legal writing course, the focus is objective writing. Lessons 1–8 speak to that topic. Lessons 9–15 are specially designed for persuasive writing, the focus of my course during the spring semester.

<sup>35</sup> See the Wikipedia entry on Jacques-Louis David’s *Death of Marat*.

“Whether in a work of visual art or piece of (persuasive) writing, tell an interesting story.”

“In a work of visual art, perspective affects how the audience views the scene (settings, subjects, actions).”

A writer’s ability to persuade an adjudicator is dependent on his or her ability to keep the adjudicator’s attention. That a (legal) story must be told accurately<sup>36</sup> does not mean that it cannot be told in an interesting and compelling way. Thus, beginning a Statement of Facts and Proceedings in a brief solely with background facts, rather than with information central to the party’s cause of action or defense, is likely to “lose” the reader before the writer has even succeeded in gaining his or her attention.

#### Lesson 10: Perspective

In a work of visual art, perspective affects how the audience views the scene (settings, subjects, actions).

A work by Edgar Degas illustrates this point:



*Rehearsal of a Ballet on Stage, Edgar Degas (1874)*

Artists must decide whether the audience will view the scene: from the left or the right; from above or below; from in front or behind; in the third or first person (observer or participant, respectively). After showing this image to my students, I ask whether Degas was trying to give the viewer an “objective” description of the ballet. If not, from what perspective did he describe the scene? Here, the viewer is not center aisle, ten rows back in the audience. Rather, he or she is offstage, observing a casual moment during a rehearsal, not a performance.

The writing corollary is: In a piece of (persuasive) writing, perspective affects how the audience interprets the law and facts.

Like the artist, the writer must decide whether the (legal) story will be described: from the viewpoint of the plaintiff or defendant; from the viewpoint of the accused or victim; in the third or first person. Thus, a defendant/manufacturer in a products liability suit, attempting to escape liability based on the plaintiff/consumer’s inability to meet a threshold, definitional requirement, should avoid all “first person” descriptions of the consumer’s use of the product and his or her resulting injuries.

#### Lesson 11: Emphasis

In a work of visual art, subjects can be emphasized by: placing them in foreground/making them larger; rendering them more distinctly, without atmospheric softening; and using colors stronger in intensity (value, chroma).

Four paintings illustrate these three techniques:



*Terrace at the Seaside, Sainte Adresse, Claude Monet (1866)*



*A Bar at the Folies-Bergere, Edouard Manet (1881-82)*

<sup>36</sup> See Lesson 3 above.



*Bathers at Asnieres*, Georges Seurat (1883-84, 1887)



*Fire in the Evening*, Paul Klee (1929)

The painting by Claude Monet is an example of the first technique: The garden setting in the foreground is much larger than the boats depicted in the background. That painting, along with the next two—by Edouard Manet and Georges Seurat—illustrate the second technique: atmospheric softening. Whether describing boats, persons, or a cityscape, all three artists have rendered persons/objects in the foreground more distinctly, and persons/objects in the background less so. The final painting in this group, by Paul Klee, uses the qualities of color to draw the viewer to the orange square. Other colors around it, weaker in intensity, direct the viewer's attention first to the center of the canvas.

The three techniques described above have writing parallels:

In a piece of writing, subjects can be emphasized by: placing them at the beginning of a sentence, paragraph, or document (positions of emphasis); describing them in greater detail (airtime); and using words stronger in intensity (action verbs, concrete subjects).

One of my first-year legal writing assignments concerns the issue of work made for hire under the federal Visual Artists Rights Act (VARA), between a business and an artist hired to perform multiple duties, including the creation of a large bronze sculpture. The business later modifies the sculpture, possibly giving rise to a cause of action based on the VARA right of “integrity.” I ask my students whether, in the Statement of Facts and Proceedings in the Motion for Summary Judgment brief of the defendant/business, the large sculpture should be emphasized. The answer, of course is no: that topic should be de-emphasized, using all of the techniques offered above. And where the terms of the contractual relationship strongly suggest work-made-for-hire status, those terms should be emphasized, using the same three techniques.

#### Lesson 12: Suggestion<sup>37</sup>

In a work of visual art, two colors can be placed next to each other to “suggest” a third.

Perhaps the most famous example of the painting style known as Pointillism or Neo-Impression is the work below:

<sup>37</sup> My thanks to Mary Beth Beazley at The Ohio State University Moritz College of Law for her assistance in formulating this lesson. Although I had been thinking about it in a less defined way, she gave it more concrete form during the Q&A portion of my presentation at the Rocky Mountain Legal Writing Conference in March 2012.

“In a work of visual art, two colors can be placed next to each other to ‘suggest’ a third.”

“In a piece of (persuasive) writing, negative authority can be distinguished by contrasting the facts of those cases with the facts of the case at bar.”



*A Sunday Afternoon on the Island of La Grande Jatte*,  
Georges Seurat (1884-86)

According to one scholar, “Impressionism, for the most part, had involved no organized, scientific effort to achieve an optical impact through the placement of primary colors in close conjunction on the canvas and their fusion on the retina of the eye as glowing, vibrating patterns of mixed color. . . . Seurat, building on impressionism and nineteenth-century scientific studies of optical phenomena, constructed his canvases with small brush strokes of generally complementary colors—red-green, violet-yellow, blue-orange—with white.”<sup>38</sup> The comparable writing lesson that I provide my students is:

In a work of persuasive writing (Statement of Facts and Proceedings), facts can be ordered and presented to “suggest” a (desired) conclusion.

In the VARA writing example from Lesson 11 above, my students learn that they are not permitted to assert in the Statement of Facts and Proceedings that the sculpture was a work made for hire, because that is a legal conclusion. But that is, of course, the “desired conclusion” that they should strive to suggest in that portion of the brief. How to do it? By the careful placement of one fact next to another (the right facts in the right order), drawing the judge to the conclusion—on his or her own—that the sculpture was created as a work made for hire.

#### Lesson 13: Contrast

In a work of visual art, distinctions between different areas of the image are created by

placing colors with different characteristics (value, chroma, hue) next to one another.

An example of high contrast can be found in the next work:

[\*Red/Blue\*, Ellsworth Kelly \(1964\)](#)

Its opposite, the almost complete absence of contrast, can be seen in following painting:

[\*Still Life with Flask\*, Giorgio Morandi \(1953\)](#)

In the latter, the liquid in the vessel in the center of the still life is represented by two different colors. But because the value (light to dark) of those colors is so similar, it is difficult to distinguish one from the other. The parallel to legal writing is:

In a piece of (persuasive) writing, negative authority can be distinguished by contrasting the facts of those cases with the facts of the case at bar.

Thus, the topic sentence of a paragraph in the Argument portion of a brief might begin, “Under facts markedly different from those in the case at bar, the *Smith* court held. . . .”<sup>39</sup>

#### Lesson 14: Excess

In a work of visual art, elements such as color can be used to excess for effect.

The works of Andy Warhol, such as this one, readily demonstrate this lesson:

[\*Liz #6\*, Andy Warhol \(1963\)](#)

Here, Warhol has used several visual devices, including saturated color, to both capture the viewer’s attention and comment on an aspect of American culture. Though “excess” may be used successfully in a work of visual art, it will almost certainly fail in a legal memorandum or brief.

In a piece of writing, elements used to excess can have a negative effect (purple prose).

Returning to my VARA/work-made-for-hire writing example above, I offer my students the following example of excessive language that will

<sup>38</sup> H.H. Arnason, *History of Modern Art* 38 (1968).

<sup>39</sup> In signaling that contrasting information is about to be offered, such phrases can also provide an effective transition between paragraphs.

likely harm, not help, the client's cause: "Only by thoroughly twisting and torturing the facts could Plaintiff/artist possibly argue that a genuine dispute of material fact exists in this case. There is not a shred or even a scintilla of evidence pointing to any conclusion other than that Plaintiff was an employee of Defendant / business."

#### Lesson 15: Proportion

In a work of visual art, the proportion of positive to negative space helps direct the viewer's attention over the entire image.

This photograph by Edward Weston demonstrates the use of positive and negative space:

#### *Dunes, Oceano, Edward Weston (1936)*

Large areas of the sand dunes are in shadow. That negative space plays as important a role in the overall composition as the positive space (those portions of the dunes in sunlight). For all types of writing, the corollary is:

In a piece of writing, the proportion of text to white space helps direct the reader's attention to where the writer intends.

My students are taught that, if used sparingly, a one-sentence paragraph—that is, a single sentence surrounded by white space—can be very powerful and memorable for the reader. Explaining that a one-sentence paragraph can be particularly effective as a mini-conclusion, I offer the following example from the VARA assignment treated previously: "Because Plaintiff created the large sculpture as an employee working within the scope of her employment, it is a 'work made for hire' not protected by VARA."

#### IV. Benefits of Teaching Through Visual Lessons

For all its benefits, teaching through visual lessons is not *the* way to teach; rather, it is a way of supplementing one's teaching. It recognizes that some students are stronger visual learners, that all students take in at least some information visually, and that teaching methods can thus be made more effective by incorporating visual lessons.

For teachers, like me, who want theirs to be an active learning classroom, using visual lessons will promote that goal. Accompanying the images can be a simple question: "What do you see?" This open-ended question succeeds in getting students talking; more guided questions will help students to "see" the writing lesson demonstrated by the image.

To date, my students have responded favorably to these visual lessons. As noted previously, I began using them in my first-year legal writing class during AY 2012-13. In my student evaluations, five to six students out of 24 commented on the visual lessons at the end of each semester. A significant number of those comments were favorable. For example, one student wrote: "Visual presentation of writing topics was unique, relevant, and interesting." Another commented that "Professor Glassman shows a determination toward making an otherwise uninteresting/dry subject more interesting and 'colorful' (in a word)."

The final benefit: beyond teaching legal writing skills, I hope these lessons will get more students interested in visual art. At some point, students' exposure to these great works of art may produce more arts appreciators, supporters, and advocates.

#### Conclusion

I have chosen to focus on one element of VARK learning theory: visual learning. Because students take in information in other ways, it is my hope that other teachers will more fully develop, for example, kinesthetic learning techniques, or the use of music in the classroom to better reach aural listeners. From another perspective, if such techniques work in legal writing, then they can work in other law courses, too. I invite my colleagues who teach Contracts, Torts, Criminal Law, etc. to explore and develop teaching techniques designed to address all of the different ways in which students learn.

Finally, a law teacher does not need to have a vast amount of instruction in art history/studio art to try what I've tried. Doing so will stretch you professionally, and ultimately provide your students with a more enriching learning experience. On this point of "no experience

"In a piece of writing, the proportion of text to white space helps direct the reader's attention to where the writer intends."

necessary,” consider this description of Harriet Beecher Stowe, visiting Paris in the 1850s:

She had become increasingly interested in art. So the Louvre occupied the greater part of her time. She knew nothing of the “rules of painting,” as she said, but confident in what she knew of the art of literature, she compared the painters who most strongly appealed to her to one or another of her favorite writers. Rembrandt struck her as very like Hawthorne, for example. “He chooses simple and everyday objects, and so arranges light and shadow as to give them a somber richness and a mysterious gloom. ‘The House of Seven Gables’ is a succession of Rembrandt pictures done in words instead of oils. ...”<sup>40</sup>

© 2014 Brian Glassman

---

<sup>40</sup> David McCullough, *The Greater Journey: Americans in Paris* 215 (2011).

### **Accessing Perspectives**

Beginning with volume 19, *Perspectives* is published in an electronic format only. Current and archived issues are available in PDF at <http://info.legalsolutions.thomsonreuters.com/signup/newsletters/perspectives/archive.aspx> and are also available to academic subscribers on Law School Exchange at [exchange.westlaw.com](http://exchange.westlaw.com).

To receive *Perspectives* by e-mail, sign up at <https://pc2.mypreferences.com/ThomsonReutersUSLegal/?ltid=NEWSLETTERS>. Authors are encouraged to submit brief articles on subjects relevant to the teaching of legal research and writing. The *Perspectives* Author’s Guide and Style Sheet are posted at <http://info.legalsolutions.thomsonreuters.com/signup/newsletters/perspectives/perstyle.aspx>.