

# ORALL NEWSLETTER

OHIO REGIONAL ASSOCIATION OF LAW LIBRARIES

DECEMBER 2001

VOLUME 2001, NUMBER 4

---

*President's Column - Ellen Quinn*

---

## The Group and The Individual

While contemplating my role as President of ORALL I found myself pondering the sometimes conflicting needs of the individuals within ORALL and the organization itself. Significantly greater minds than my own have grappled with this philosophical debate of collectivism vs. individuality. However, at a very practical level these issues are with us daily.

Whether you are a committee member or a member of the Board, you find yourself considering how you can make the best decision for the greatest number of members. When planning a program, you try to find common areas of interest. While it is not always possible to plan something that everyone will like, it is always your goal. As members of the Executive Board we wonder if we are meeting the needs of our members, whether we are planning a program, debating how many meetings to have, or discussing the format for our meetings. We try to make the best use of your time and the Association's funds.

The Special Interest Groups were created partly as a way to respond to the differences among us. While we certainly have enough in common to be a regional association, we also have members within our group who have very specific interest and concerns that are not always shared

by the entire group. ORALL has attempted to address those important more individualized differences through the SIG.

I believe that we should focus on our common interests and work as an association of individuals to meet our common goals. I think that is the purpose of associating in the first place. ORALL does not just advise its individual members, we attempt to act as an association and in support of our common interests. When you attend a meeting and the topic is not exactly relevant to your daily work life, please recognize that it is of interest to many of your fellow members and that it is worth knowing the scope and variety in our profession. Consider that we are building a group identity by educating each other about our shared and varied interests.

### In This Issue...

<b>ORALL Officers</b>	<b>4</b>
<b>Annual Mtg. Program Reviews</b>	<b>5</b>
<b>ORALL Directory Corrections</b>	<b>11</b>
<b>AALL Call For Papers</b>	<b>12</b>
<b>Research Tips</b>	<b>13</b>
<b>2002 Ann. Mtg. Call for Volunteers</b>	<b>14</b>
<b><i>Unpublished Opinion Quagmire</i></b>	<b>15</b>
<b>Important Dates</b>	<b>16</b>

If you find that the programs never meet your needs, then tell us why. Talk to me, a member of the Board, or your SIG chair. We always want to know what our members need and what we can do to help. If your interests are not shared by many other members, there still may be a solution. While your specific need may not be of general enough interest for a program slot at the annual meeting, there may be other ways to help. Perhaps there is an AALL program on your topic, a book, a web site, a course at a local community college or university, or we may know someone within ORALL who can assist. The ORALL Listserv or the LawLib Listserv are places where questions can be posed or people resources can be located. I have been a member of ORALL for many years and I know that there is a wealth of knowledge and expertise out there. I am continually amazed at our profession's willingness to share. This year the Board will be reviewing and discussing the results of our Needs Assessment Survey. Issues and questions raised by our discussion will be brought to the membership for further discussion and perhaps action. We want to make sure we are relevant to our members and that we are doing the right things. This process will be an important tool for determining what we should be doing in the future.

One of my goals as President relates to the needs of the individuals within our organization. I believe that in order for ORALL to thrive as an organization and maintain its relevancy to our members, we need to have members willing to serve as officers, committee members and SIG chairs. We need to make sure that the

roles and responsibilities of the officers, committees and SIGs are clear to all of us. We also need to make sure that these responsibilities are possible for most of our members who are willing to serve. By this I mean that we should have clearly articulated responsibilities and tasks. We should also work to insure that we have realistic expectations for our committee members and officers. If the job of Treasurer, President or committee chair becomes too burdensome then we will suffer as an organization. In order to meet that goal I would like to work toward improving ORALL's institutional memory (actually mine could use some improvement too). I will be presenting the Bylaws committee with a list of questions, problems and inconsistencies in our current Bylaws that need to be fixed. I will work to make sure that information is passed on to the next board member or committee chair and that the ORALL Archives continues to be a useful and accessible resource for our organization's identity and memory.

A copy of the ORALL Handbook, which contains the Bylaws and other information, will go out to members soon. Please take a close look at it and share your ideas and concerns with any member of the Board or the Bylaws committee.

I look forward to my year as ORALL President and hope that I can add my contribution to this ever changing and always interesting group. ORALL has been an important part of my professional career and I hope to do my part to see that all our members share that belief.

Lexis Ad

**ORALL**  
**Ohio Regional Association of Law Libraries**

**ORALL Officers**

Ellen Quinn, President Cleveland-Marshall College of Law	216-687-6913	ellen.quinn@law.csuohio.edu
Beth Langton, Vice-President Buckingham, Doolittle & Burroughs	330-258-6495	BLangton@bdblaw.com
Claudia Zaher, Secretary Northern Kentucky Univ.	859-572-5712	zaher@nku.edu
Thomas Hanley, Treasurer University of Dayton	937-229-2444	hanley@udayton.edu
Nancy Clark, Exec. Board Jones, Day, Reavis & Pogue	614-469-3996	nsclark@jonesday.com
Kurt Metzmeier, Exec. Board University of Louisville	502-852-6082	Kurt.metzmeier@Louisville.edu
Michael Whiteman, Exec. Board University of Louisville	502-852-6080	mwhiteman@louisville.edu

Membership

Members: 303

Dues: \$15 per year

Non-member subscriptions: \$10 per year

Contact: Tom Hanley, Univ. of Dayton, Zimmerman  
Law Library, Dayton, OH 45469, or call 937-229-2444  
or e-mail hanley@udayton.edu

Newsletter

The ORALL Newsletter is the official publication of the  
Ohio Regional Association of Law Libraries. Published  
quarterly in March, June, September, and December.

Editor: Ken Kozlowski, Univ. of Dayton Zimmerman  
Law Library, Dayton OH 45469  
937-229-4810 kozlowsk@udayton.edu

Printer: Robbie Robertson, Univ. of Akron School of  
Law Library

Send address changes to: Tom Hanley, Univ. of  
Dayton Zimmerman Law Library, Dayton OH 45469,  
(937)229-4810, hanley@udayton.edu

Unsolicited contributions are encouraged,  
contributions submitted for publication are subject to  
editorial review. For extra copies, contact the editor.

Deadlines for submissions: Feb. 15, May 15, Aug. 15,  
and Nov. 15

Advertising (per issue) : \$150 for full page, \$90 for  
half page, \$55 for quarter page, and \$35 for eighth  
page.

**Profile**

ORALL is a 4-state chapter of the American Association of Law Libraries [Ohio, Indiana, Kentucky, Michigan]. It was formed in 1949 "to further the development and usefulness of law libraries and to stimulate a spirit of mutual helpfulness among law libraries of this region."

An annual conference is held in the Fall of each year. ORALL publishes or sponsors the following publications: *Core Legal Collection* [bibliographies for Ohio, Indiana, Kentucky, Michigan], ORALL Membership Directory, ORALL Newsletter, Ohio Legal Resources Annotated Bibliography & Guide 3rd.



## 2001 Annual Meeting Maumee Bay

---

This section contains a nice collection of reviews of the programs that were held at the 2001 Annual Meeting held at Maumee Bay in October. Don't be surprised to see a few pictures interspersed as well. Thanks to Nancy Clark for the photos.

**Program: "Enhancing Presentation Skills"**

**Presenter: Jack Powers, Term Faculty, Communication Department, Cleveland State University**

**Submitted by: Denise Carpenter, Reference Librarian, Cleveland-Marshall College of Law Library**

CSU Communications Professor Jack Powers began the ORALL Annual Conference at Maumee Bay with an enjoyable and informative program titled "Enhancing Presentation Skills." Members were exchanging comments about his "tips, reminders, and tricks" throughout the conference. Professor Powers spoke about areas such as: the "organization of a presentation, the method of delivery, and the skills and techniques to improve presentations." Librarians find themselves as presenters in various contexts, the ideas that were presented at this program are adaptable for the novice or experienced public speaker.

Presentations should be organized into four parts that include: the "introduction", "main body", "conclusion", and "bibliography". Introductions should accomplish a number of goals and are an important part of the presentation. They should attract the listeners' attention, explain the significance of the presentation, and offer the credibility of the speaker. Making a thesis statement and giving the listener a preview of what lies ahead not only draws the attention of the listener, it also enables the speaker to bring the presentation full circle. Professor Powers suggests that the "main body" should have between three and five major points. If you overload the listener with too much information they will "tune out". Support your points with statistics, testimony, analogies, examples, or stories. Use these supporting materials efficiently and effectively to inform your audience. The "conclusion" should provide a "final statement" and review the main points.

Delivery skills is another topic that Professor Powers discussed in the program. He suggests that there are four types of delivery and that the context of the speech will dictate the method that should be used. The types of speeches include: the "extemporaneous, impromptu, memorized, and manuscript." For example, using the "extemporaneous" approach requires the speaker to use notes as a tool, where as the "manuscript" approach requires the speech be presented word for word.

The method you choose for delivering your message will depend on the information you want your audience to hear. Professor Powers states that a "dynamic speaker will use lots of variety in volume, rate, pitch, and rhythm." Physical delivery is also important because appearance leads to credibility; this too depends on the audience. Consider the location, and the formality or informality of the speech to determine how to dress appropriately. This leads to another notion that he emphasized, which was to know to whom you will be speaking. He suggests gathering information about your audience prior to

the presentation. Analyzing the demographics and attitudes of your audience will aid in determining how you are going to deliver your message according to those criteria. Movement, facial expressions, and gestures are also physical delivery components to keep in mind. For example, gestures should be appropriate and varied depending on the size of the audience.

The next topic covered was presentational aids and techniques for better public speaking. Presentational aids are valuable if you use them effectively because they attract the audience's attention. Professor Powers suggests that you should not show the visual aid (poster, objects, or handout) or use it unless you are referring to it in the speech. Techniques you can use to be a better public speaker include story telling, using humor, and finding ways to overcome fear. Story telling should be used to illustrate points relevant to the subject that you are addressing. Additional items about story telling to note include: using the fewest number of words possible, and selecting stories with the intended audience in mind. Professor Powers used humor and story telling in his presentation quite effectively.

Humor is mandatory, he suggests regardless of the type of presentation. It livens up the audience, disarms them of hostility, and allows the speaker to connect with the audience. Relevant humor interspersed throughout a presentation aids in keeping the audience's attention and makes the information more memorable. A few tips for humor delivery are "practicing, not signaling your punch line, and highlighting the jokes in your notes" as a reminder.

The fear of public speaking is a major barrier to effective public speaking. Professor Powers states that fear is normal in this situation and that what is needed is ways to overcome it. Relaxation techniques should be used to control nervousness. Stretching, exercising, and meditating are ways to alleviate some of the stress that fear causes. He suggests that eliminating fear requires you to: "know your topic, practice out loud, use relaxation techniques, and replace negative thoughts with positive ones."

This is just a selective summary of the information presented at this program by Professor Powers. Librarians disseminate information to those who need it in many different situations that require public speaking in some form. Knowing your audience, planning your presentation, and practicing your delivery will enable you to be a more effective and confident public speaker.

**Program: Collection Development**

**Presenter: Miriam A. Murphy, Associate Director, Indiana University School of Law Library**

**Submitted by: Nancy Hanacek, Serials Librarian, Cleveland-Marshall Law Library**

Miriam's discussion on collection development covered a wide array of topics. She suggests that libraries have a mission. Where do we want to go with our collection? What titles do we want to buy and why? Are subjects we collect related to faculty interests, course study? What are the hot topics, relating to current events?

Library space is another consideration. What should be done about multiple copies? Should libraries transfer items to a remote storage facility? Should other formats be considered? If there is space for archival material, what should be placed there. Are you going to keep every edition? Physically review the books in your collection, review for newer publications.

Miriam suggests that libraries plan for a shortfall and a windfall when money is budgeted. Plan for end of the year ordering if extra money is available. Make cancellation policies part of collection development. If multiple copies are not affordable, consider what titles can be dropped. Libraries need to be aware of where publishers are heading.

Changing to electronic resources may cost more money, along with software updates, and time invested in updates. Consideration how will your patron access the materials and how they will be linked for access.

Set up a collection development committee, along with a meeting time and frequency for these meetings. Policies for cancellations, preservation, weeding, and processing (superseded/updates) should be added into your collection development policy. Review product literature, reviews, catalogs, web sites, new book lists. Some vendors will profile your collection. Consider staff changes when procedures are written. Always keep a record of decisions. Record cancellations for archival purposes.

Don't make your collection development policy too long because no one will read it. Keep a short brief copy to refer to. Get input from everyone.



Enjoying the dinner on Thursday evening was Al Podboy and local arrangements co-chairs Marianne Mussett and Gail McCain

**Program: Preservation**

**Presenter: Patricia K. Turpening, Head, Preservation & Archives, Univ. of Cincinnati College of Law, Robert S. Marx Library**

**Submitted by: Nancy Hanacek, Serials Librarian, Cleveland-Marshall Law Library**

Patricia's 20 years of preservation experience gave her audience some insight on various conditions that we often overlook as possible dangers to our library collections. She also gave some excellent advice on what libraries can do to preserve their collections. She has visited approximately 30 libraries during her 2000-2001 sabbatical, 19 where academic libraries. She visited at least two libraries a day during her tour. The buildings she visited ranged from three years to 100 years old, so she was able to view a wide range of building conditions. She found that policies and staffing varied at each library.

She recommended that there be someone on the staff that is in charge of preservation efforts. Training for staff on preservation was an issue at some libraries. She suggested that there be some hands on workshop for staff. Videos and books are fine, but a trainer is better. The Ohio Preservation Council has workshops available (<http://winslo.state.oh.us/OPC/OPCWalter.htm>). Some advance workshops will be available next year.

Some libraries had food/drink signs with examples of what was allowed in the library and what wasn't.

Libraries need to have a plan on preserving their rare books. She found that some libraries had no book repair unit. Most libraries, she found, sent their books to a commercial bindery and had a turn around a return rate of 2-6 weeks. Many had uncovered windows with no UV protection. Some libraries had special collection rooms for their rare books. She found that little things left in a book such as post-it-notes can be a potential danger to book pages.

She suggests that libraries use a triage approach for a large number of books with problems. Books should be separated according to treatment needed. Options need to be investigated for the type of repair needed, housing, and reformatting.

The library needs the support of the director and a budget for preservation efforts. Designate a portion of the budget for preservation supplies, tools, and services.

Writing a long-range preservation plan was recommended. Consult subject specialists for their expertise, read as much as you can about preservation and become informed. Patricia said there is a lot of interest in preservation and if you have any questions your e-mails are welcome at: [pat.turpening@law.uc.edu](mailto:pat.turpening@law.uc.edu)

Recent Publications: Preservation Planning and Implementation in the Law Library, 5 Legal Information Management Reports (1993). Basic Book Repair at Your Fingertips, 21 American Association of Law Libraries Newsletter (1992). Contributing Editor for Preservation, Technical Services Law Librarian, 1983-96; Editor, 1990-94.



**Rain forced the "Crab Bake" dinner to move inside. Not letting that spoil the party was Beth Langton, Susan Hersch, and Ellen Quinn**



**[Editor's Note: Pat Turpening was kind enough to submit some comments concerning her "Preservation" presentation. Read them in conjunction with the previous review.]**

**Program: Preservation: What You Can do Now  
Presented and Submitted By: Patricia Turpening, Head, Preservation and Archives;  
University of Cincinnati Law Library, pat.turpening@law.uc.edu**

I spoke at the ORALL meeting in October and thought I would write some of my comments for the Newsletter for those members unable to attend.

My presentation had to do with the sabbatical I took during the last academic year from the University of Cincinnati. During the alternating months I was away from UC, I personally visited thirty law libraries in Ohio, Kentucky, Michigan, and Illinois. The purpose of the visits was to see exactly what the libraries are doing to preserve their collections, to conduct a detailed survey on preservation at each library, and to conduct workshops on basic preservation issues. I was warmly welcomed everywhere I went. As a matter of fact, some of the libraries even set out breakfast or lunch buffets.

During my presentation I asked those present to indicate if I had visited their libraries, and at least a quarter held up their hands. I believe that gave me credibility right off the bat!

As for the structure of the library visits, I generally saw two libraries every day, with the visits lasting 2-4 hours. I had to be very structured to see and do everything necessary and to stay on schedule. Nineteen of the thirty libraries were academics, but I also went to county, state, private, and court law libraries. I realized at the conclusion of the sabbatical that there were almost as many libraries with volume counts under 50,000 as there were over 500,000 (5 under and 6 over). The libraries were a mixture of sizes and types as well as being in different locales.

I developed a survey instrument, which was designed to find out not just what the libraries had done about preservation, but also to what degree they had worked on various projects. At this time, the vast majority (80%) of the libraries I surveyed address their preservation problems or issues individually and informally, while only 10% have formal in-house preservation programs. I characterize formal in-house programs as 1) having a single staff person in charge of all efforts, 2) trained staff to do book repairs, 3) ongoing efforts in stacks maintenance and book dusting, 4) awareness programs for staff and patrons, and 5) a long-range preservation plan. There seemed to be some desire on the part of the librarians who do address their problems individually and informally to do more, but they weren't sure how to obtain the necessary training and know-how.

The most important issue with setting up a repair area in the library is the training for the staff member(s) who will do the repairs. Poor quality training will result in poor quality repairs. Hands-on book repair workshops should be utilized for the training. However, locating workshops in this area of the country is problematic. The Ohio Preservation Council has conducted several workshops recently. Consult their website (<http://winslo.state.oh.us/OPC>) to learn of plans for workshops in the future. Another option for hands-on training is for several libraries to contract with SOLINET ([www.solinet.net](http://www.solinet.net)), NEDCC ([www.nedcc.org](http://www.nedcc.org)), or the Conservation Center for Art and Historic Artifacts ([www.ccaha.org](http://www.ccaha.org)). Each one can send a trainer to your location and the libraries split the travel costs and the fees for the presenter.

Following the visits, I sent a letter to each of the librarians. I told them of my observations about their collections, for example, the need for more stepstools to reach high book stacks or blinds to protect books from sunlight. I also made specific recommendations, which came from questions asked of me or comments made while I was conducting the

survey. Some of the recommendations were: 1) set up an in-house repair facility to save money compared to rebinding every book in need of repair, 2) use a triage approach to deal with hundreds of deteriorated books in need of treatment, 3) appoint a librarian to be in charge of stacks maintenance, 4) establish a schedule to dust all books, and 4) write a disaster plan using resources at the NEDCC and SOLINET websites.

Starting a preservation program can be a daunting prospect, especially in large collections, those with older, more deteriorated volumes, and those in buildings lacking adequate environmental controls. Several foundations and associations offer grants for preservation purposes, specifically the National Endowment for the Humanities ([www.neh.gov](http://www.neh.gov)) and the Institute of Museum and Library Services ([www.imls.fed.us](http://www.imls.fed.us)).

I set up a listserv last spring in order for the librarians from those 30 libraries to communicate with each other and with me about preservation topics. I am opening that listserv to any member of ORALL interested in learning more about preservation. Email me if you want to be included. In addition, I have included 28 bookmarks at the website for the listserv (<http://groups.yahoo.com/group/lawlibrarypres>) with links to various types of organizations with online pamphlets, catalogs, and other types of information about library preservation.

Preservation isn't just for rare books, incunabula, and one-of-a-kind documents. It's also for the reporters with loose spines, paperbacks with pages coming out of the binding, old volumes with red rot, pamphlets in acidic envelopes - in other words, everything that will be kept for any length of time at all.

Feel free to email me personally or through the listserv with specific or general questions about preservation issues.



**Nancy Clark with her final remarks  
as the ORALL President**



**Ellen Quinn accepts the gavel and  
assumes the responsibilities of the  
ORALL Presidency**

## From Tom Hanley, ORALL Treasurer...

### NEW MEMBERS AND DIRECTORY CHANGES

ORALL welcomes new members Neil P. Agarwal, Cynthia Becknell, Steve Jacobs, and Ellen Seibert

Please note the following additions, corrections and changes to the 2001-2002 ORALL Membership Directory:

p.5 Delete from listing for Indiana University School of Law Library **Barbara A. Lind, Evening Circulation Supervisor/UN Documents Asst.**, (317) 274-1926, [balind@iupui.edu](mailto:balind@iupui.edu)

Add to listing for Indiana University School of Law Library **Steve Jacobs, Evening Circulation Supervisor/UN Documents Asst.**, (317) 274-1926, [stjacobs@iupui.edu](mailto:stjacobs@iupui.edu)

p. 12 Add, under Cincinnati, a listing for Cognis Corporation, 5051 Estecreek Drive (45232), (513) 482-3014, FAX (513) 482-5521, **Cynthia Becknell**, [cindy.becknell@cognis-us.com](mailto:cindy.becknell@cognis-us.com)

p.18 Delete from listing for Capital University Law Library **Michelle Rigual**, (614)236-6465, [mrigual@law.capital.edu](mailto:mrigual@law.capital.edu)

Change the domain name for the email addresses of the staff of the Columbus Law Library Association from .com to .org in all cases where .com appears. For example, the correct email address for Keith Blough is [kblough@columbuslawlib.org](mailto:kblough@columbuslawlib.org)

p. 20 Add to listing for Supreme Court of Ohio Law Library **Ellen Seibert, Public Services Librarian**, (614)466-2362, [seiberte@sconet.state.oh.us](mailto:seiberte@sconet.state.oh.us)

p. 24 Delete listing for city of Middletown

Delete listing for Bowles, Rice, McDavid, Graff & Love PLLC under listing for Middletown

Delete listing for city of Sandusky (Upper)

Delete listing for Wyandot County Law Library

Add new city of Springboro after Ravenna

Add under Springboro Bowles, Rice, McDavid, Graff & Love PLLC, 25 Marbury Court (45066), (937) 886-9172, FAX (937) 886-9173, **Wendy L. Gramza, Director of Research & Library Services**, [wgramza@bowlesrice.com](mailto:wgramza@bowlesrice.com)

p. 25 Add new city of Stow between Steubenville and Tiffin.

Add under Stow **Neil P. Agarwal**, 3136 Preakness Dr. (44224-6217),

(330)688-7393, FAX (330)688-2268, [neilpa@aol.com](mailto:neilpa@aol.com)

p. 26 Add new city of Upper Sandusky between Troy and Urbana

Add under Upper Sandusky Wyandot County Law Library, 109 S. Sandusky Avenue, Room 15 (43351), (419) 294-4088, FAX (419) 294-4088, [lawlibrary@udata.com](mailto:lawlibrary@udata.com), **Danita L.**

**Southward**

p. 39 Add, above **Allen, Megan, Agarwal, Neil P.**, Stow, OH..... 25

Add, between **Beal, Joanne R.** and **Beer, Richard L., Becknell, Cynthia**, Cognis Corporation, Cincinnati, OH.....12

p. 43 Change city in listing for **Gramza, Wendy L.** from Middletown to Springboro

p. 44 Add, between **Jacobs, Roger** and **Jelf, Linda S., Jacobs, Steve** Indiana University School of Law, Law Library, Indianapolis, IN..... 5

p. 45 Delete, between **Lenart, Lynn** and **Linz, Robert, Lind, Barbara**, Indiana University School of Law, Law Library, Indianapolis, IN..... 5

p. 48 Delete, between **Rider, Mary** and **Riley, Camille M., Rigual, Michelle**, Capital University Law School Law Library, Columbus, OH..... 18

p. 49 Add, between **Schwant, Kim** and **Shen, Yuezeng, Seibert, Ellen**, Supreme Court of Ohio Library, Columbus, OH.....20

Change city in listing for **Southward, Danita L.** from Sandusky to Upper Sandusky and change page reference from 24 to 26

p.52 Change city in listing for Bowles, Rice, McDavid, Graff & Love PLLC from Middletown to Springboro

Add between Clinton County Law Library Association and Columbiana County Law Library, Cognis Corporation, Cincinnati, OH.....12

p. 54 Change city in listing for Wyandot County Law Library from Sandusky to Upper Sandusky and change the page reference from 24 to 26

---

## CALL FOR PAPERS ANNOUNCEMENT

Have you been thinking about writing an article about law librarianship? Or are you already writing an article and just need an incentive to finish? If yes, read on! The AALL/LEXIS Publishing Call for Papers Committee eagerly solicits your articles for its annual competition. The objectives of the contest are threefold: 1) to promote scholarship among practicing law librarians and in areas of interest to the profession; 2) to provide a creative outlet for law librarians and a forum for their scholarly activities; and 3) to recognize the scholarly efforts of established members, new members, and potential members of AALL.

Up to three winning authors will receive a prize of \$750, generously donated by LEXIS Publishing. The recipients will be recognized during award ceremonies at the Association Luncheon of the AALL Annual Meeting. Winners also will present their papers in a program at the Annual Meeting and the paper will be considered for publication in the Law Library Journal.

Visit AALLNET at [http://www.aallnet.org/about/award\\_call\\_for\\_papers.asp](http://www.aallnet.org/about/award_call_for_papers.asp) for more information, including selection criteria and application procedures. Submissions must be postmarked by March 1, 2002. Good luck!

Questions? Contact a member of the Call for Papers Committee: Maria Protti (chair) at [maria\\_protti@ci.sf.ca.us](mailto:maria_protti@ci.sf.ca.us), Karen Beck at [beckka@bc.edu](mailto:beckka@bc.edu), or Marie-Louise Bernal at [mber@loc.gov](mailto:mber@loc.gov).

## Tips for Research...A Handy Multi-Purpose Tips Sheet for You!

**Submitted By: Marie Remar, Head of Reference, Cleveland-Marshall College of Law Library**

Do you do any research instruction sessions? This Tips sheet was first developed for a College of Law Legislation class presentation, but I have since found it useful for numerous other types of classes, including graduate and undergrad classes from other parts of our University, paralegal groups, and even some high school groups. You may find it useful for your sessions as well. Feel free to skip some sentences, emphasize others, and expand upon the most pertinent. And sometimes some of the sentences stand all on their own for frequent Reference Desk utilization.

1. The Details -- Try to obtain as many specifics as you can in advance (and especially the time frame of the research). Any citations may be helpful clues that may save you from having to get to that information all over again.
2. Act Calm/Patient -- Allow more time than you expect you will need, especially since at the beginning you may be learning how to use various sources, how they're organized, etc. And, you may need some time for creative thinking about your research strategy.
3. We're Not Born Knowing Everything -- Don't be afraid to use a secondary source like a looseleaf service, a legal encyclopedia, a law review article, or a newspaper or magazine article from Lexis - Nexis or Westlaw to get you started. (Someone may have done some of the work for you -- in law review articles, compiled legislative histories, etc. Consider checking an index.)
4. The Bluebook -- Spend some time with the Harvard Citator so when you are using a particular information source, you are jotting down the appropriate pieces of citation information. (And it is normal to feel a little frustrated at the outset dealing with all of the tiny punctuation details.)
5. Flexibility -- There is likely to be more than one route to the information you are seeking. If you aren't finding what you expect, try a different term or a different method.
6. The Source of the Information and/or the Publisher -- Think of "who" may be required to, or be caring about, keeping up with a subject area. Save time by using cross references to other sources. Indexes are useful. Also, be aware that there may be changes in sources/content.
7. Read -- If there is a law on the issue you are researching, read the law itself.
7. Currency-- Remember to always check supplementation and/or electronic or other sources to have current information.
8. Integrate -- Utilize the best and more useful features of both printed and electronic resources, and be aware of their limitations. Expect changes and developments. And again, you do need to develop expertise in both.
9. The Copier or Printer-- A document in your hand is worth three sources/details/citations you can't remember. Sometimes some information on a printed page is helpful later. (Note what it is that you have copied.)

10. Libraries -- The more complex or multi-disciplinary your research, the more likely you are to need to go to more than one library. Be glad they exist. Also - get a card for your local public library - for books, but also for access to electronic resources.

11. The Telephone -- Not all information has been published and/or is available electronically.

A. Call early in the day. Avoid lunch time when your person may be out and/or the office short-staffed.

B. Also consider time zones.

C. Skip the end of the day when people are clearing their desks and may not have time to follow through on your request.

D. Be aware of the environment--a call about a detailed matter from some time ago may not get as much attention as you'd like if made just as the governor is about to deliver a major speech.

E. Do your work in advance so you can make your request more specific. Don't ask the person to do the research that you should have done. And, have you checked the Internet?

F. Even with using directories or local phone books, and finding the most appropriate phone number, count on speaking with three people before you reach the right person. Most toll free numbers are for quick or commonly asked questions. If you need more extensive assistance, you may have to call long-distance at your own expense.

G. Don't automatically assume a person will be able to call you back long distance.

H. Don't assume that because an office has a fax number, the fax can be utilized for your request, especially if long-distance. Likewise, not every office responds to e-mail. But maybe the person can give you a URL in case the information has been put on the Internet.

12. Ask A Librarian! -- For suggestions when you are beginning a research project or at any point in your research.

13. Please and Thank You -- are critical and helpful words in one's vocabulary.

---

## **It's Not Too Early...**

### **...To Start Thinking About the 2002 Annual Meeting**

The 2002 ORALL Annual Meeting will take place on October 16-18 in Akron, Ohio. Local Arrangements Co-Chairs Rosemarie Chrisant and Robbie Robertson are looking for volunteers. Please contact Rosemarie ([allarkc@akronlawlib.org](mailto:allarkc@akronlawlib.org)) or Robbie ([rk4@uakron.edu](mailto:rk4@uakron.edu)) if you can provide some help.

# The Unpublished Opinion Quagmire

**Submitted By: Ken Kozlowski, Associate Director for Public Services,  
Zimmerman Law Library, University of Dayton School of Law**

The market for unpublished decisions in the state of Ohio spawned a cottage industry in the 1980s. First there was the microfiche and associated indices which then lead to CD-ROMs and finally to the World Wide Web. Of course, Lexis and Westlaw have always included these gems within their databases. It wasn't just Ohio state courts, however, there are always a number of decisions "released without publication" emanating from the Sixth Circuit United States Court of Appeals. You remember those opinions. You would get a Federal Reporter cite that would lead to a long list of 6th Circuit cases. Full text available on Westlaw and Lexis, of course.

Just recently, West has started publishing the *Federal Appendix* (as if we needed more books on the shelves). The *Federal Appendix* publishes "unpublished" opinions, or those not deemed worthy of being included within the *Federal Supplement* or *Federal Reporter*. With all of the above as a backdrop, there has erupted a sort of "disagreement" among some of the federal circuit courts as to the citing of unpublished opinions within documents submitted to the court.

In a case decided last year, *Anastasoff v. United States*, 223 F.3d 898 (8th Cir. 2000), the Eighth Circuit Court of Appeals held that the courts' own rule concerning the citing of unpublished opinions was unconstitutional. They found that the doctrine of precedent (a thorough analysis is given within the opinion) limits the "judicial power" delegated to the courts in Article III of the Constitution of the United States.

In the above decision, Ms. Anastasoff sought a refund of overpaid federal income tax. Her argument to the court echoed a similar argument that was rejected by the court in a previous "unpublished" decision. Anastasoff stated that the court was not bound by the previous decision because there was no "precedent" set because of 8th Circuit Rule 28A(i). The rule states that "[u]npublished opinions are not precedent and parties generally should not cite them." The rule does offer some limited instances when citing to unpublished decisions would be proper (res judicata, collateral estoppel, law of the case, no published opinion on point). The doctrine of precedent, according to the court, would be thwarted if rule 28A(i) would allow the court to avoid the precedential effect of prior decisions, unpublished or not. Anastasoff lost her case, but the court granted a motion for rehearing *en banc*. Before the rehearing could take place, the parties settled out of court.

On September 24, 2001, the Ninth Circuit Court of Appeals handed down a decision that affirmed its policy of barring the citation of unpublished opinions. *Hart v. Massanari*, 2001 WL 1111647 (9th Cir.(Cal.)).

Appellant Hart cited an unpublished decision in a brief submitted to the court. The court took exception, stating that the opinion was marked with a notice that stated that the decision was "not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3." The latter rule provides that unpublished dispositions and orders of the court are not binding precedent and generally may not be cited to or by the courts of the circuit. The court ordered counsel to show cause why he should not be disciplined for violating rule 36-3. Counsel responded that the rule might be unconstitutional based on the *Anastasoff* decision.

According to an article from *The Recorder* (reprinted on **law.com**), the 9th Circuit decided 84 percent of its cases without publishing the decisions - the third highest of any federal appellate court (745 of 4,700). In an opinion filled with the historical aspects of

precedent, Circuit Judge Alex Kozinski ultimately held that although courts must follow the law, there was no requirement that they make binding law every time they issue a decision. He also stated that "one important aspect of the judicial function is separating the cases that should be precedent from those that should not."

The Ninth Circuit's disagreement with the *Anastasoff* decision came down to whether the binding authority of a prior opinion was a matter of "judicial policy or constitutional imperative." The Ninth Circuit believed that Eighth Circuit erred in holding that, as a constitutional matter, courts of appeal could not decide which of their opinions would be deemed binding on themselves and the courts below them. Obviously, the Ninth Circuit came down on the side of judicial policy as the determining factor. The court then went on to buttress its decision by giving the example of a Second Circuit decision binding the Eighth Circuit and inferior federal courts in the circuit if, as stated in *Anastasoff*, the Constitution dictated that every declaration of law "must be applied in subsequent cases to similarly situated parties."

The Eighth Circuit says yes, the Ninth Circuit says no. What about our own Sixth Circuit? 6 Cir. R. 28(g) states that the "[c]itation of unpublished decisions in briefs and oral arguments...is disfavored." The rule goes on to say that if an unpublished disposition has precedential value in relation to a material issue in a case, *and there is no published opinion that would serve as well*, the decision may be cited. The language of the rule seems to give a bit more leeway than the Ninth Circuit's.

The American Bar Association has also stepped into the fray with its House of Delegates Report 115. The Report "opposes the practice of various federal courts of appeal in prohibiting citation to or reliance upon their unpublished opinions as contrary to the best interests of the public and the legal profession."

What will be the next step in this battle? One solution was offered by Hastings College of Law Professor Rory Little in the aforementioned *Recorder* article: the court should issue one-word decisions.



## Important Dates

- March 1-2, 2002 / **ORALL Spring Retreat**, Salt Fork State Park
- July 20-24, 2002 / **AALL Annual Meeting**, Orlando, FL
- October 16-18, 2001 / **ORALL Annual Meeting**, Akron, OH
- **ORALL Newsletter deadlines:** February 15, May 15, August 15, November 15