

# *bepress Legal Series*

---

*Year 2005*

*Paper 692*

---

## The Five Stages of Law Review Submission

Brannon P. Denning  
Cumberland School of Law

This working paper is hosted by The Berkeley Electronic Press (bepress) and may not be commercially reproduced without the permission of the copyright holder.

<http://law.bepress.com/expresso/eps/692>

Copyright ©2005 by the author.

# The Five Stages of Law Review Submission

## **Abstract**

Our article is a humorous look at the law review submissions process from the author's perspective. It suggests that the process of submitting to law reviews tracks Elisabeth Kubler-Ross's "five stages of grief."

## The Five Stages of Law Review Submission

Brannon P. Denning<sup>\*</sup>  
Miriam A. Cherry<sup>\*\*</sup>

### Introduction

In 1969, Elisabeth Kubler-Ross published her landmark book, *On Death and Dying*, which, among other topics, details the responses that individuals exhibit upon learning that they have been diagnosed with a terminal illness.<sup>1</sup> According to Kubler-Ross, the process of grieving follows five stages: denial, anger, bargaining, depression, and acceptance. Although these categories are somewhat fluid and an individual may move back and forth between stages, ultimately the individual works through the loss, reaching peace through the process of acceptance. We contend that Kubler-Ross's five stages are remarkably useful in analyzing a different process that tends to induce grief, to wit, the process of submitting an article to law reviews for publication.

### Stage One: Denial

*The person struggles with disbelief that the loss has occurred. They may feel numbness, or an overwhelming feeling that the events are somehow unreal.*

*Scene:* Professor Patrick Denton's Office, Room 43 in the Robert Lethe Law School at Bamford University

*Time:* Late April, 20\_\_

*O.K., What I need to be doing is getting ready for class. C'mon get focused. You've still got to cover sex discrimination and then grade the mid-terms and then get around to writing the exam questions for the final and . . . . Hmmm. I wonder if the mail has come. I'll just go check.*

[Leaves office to check mail in faculty mailroom. Re-enters office. Broods.]

---

<sup>\*</sup> Associate Professor, Cumberland School of Law, Samford University; B.A., The University of the South; J.D. University of Tennessee; L.L.M., Yale University.

<sup>\*\*</sup> Assistant Professor, Cumberland School of Law, Samford University; B.A., Dartmouth College; J.D., Harvard Law School.

Special thanks to our families, colleagues, and friends who endured our company when we have each had articles under submission to law reviews.

<sup>1</sup> ELISABETH KUBLER-ROSS, *ON DEATH AND DYING* (1969). This is the only serious footnote.

*I don't understand it. I sent that article out just like they said—right before Spring Break. To, like, seventy-five journals. General and specialty. I haven't heard from one. I've barely even gotten acknowledgements. I'll bet I've got something wrong with my damn e-mail.*

[E-mails wife to see if e-mail works. It does. Continues brooding.]

*Maybe I put the wrong phone number . . . or, well, you know, they probably don't get to many of the articles until way after break. I mean, they've got to look through all their submissions before they make decisions don't they? I know that tons of folks have gotten good offers from great journals way into the summer. I'll bet that they sort of pull out their favorite articles, set them aside, read the rest of the crap, then start making offers. Yeah. I'm sure that's what they do. I mean, it's only been [looks at computer calendar] six . . . well, okay, seven weeks, since I sent out the article. That's not even two months. I'm sure the editors are busy and looking at the end of classes, exams. Exams. I need to get back to my classes, but first I'll just look one more time at the list of law reviews. Ah! See, I've only gotten rejections from, like, twelve law reviews. Out of seventy-five. That's nothing. And I've still got plenty of biggies left. There'll be plenty of time to get an offer from a lower one, and then flip it to the better-ranked journals. I think. Yeah, definitely. I mean, this article was so good, and it was short! I'm sure that I'll hear something today; most reviews have probably had this week's editors' meeting.*

[Phone rings.]

*See, I was worried for nothing. If it's Columbia, they'll want to know within twenty-four hours. Should I accept on the spot?*

[Answers.]

“Oh, hi honey . . . .”

## **Stage Two: Anger**

***In this stage, the person experiences anger or even rage at the loss. Sometimes the anger is directed at God, sometimes at a friend, colleague, or family member.***

*Scene:* Faculty Break Room, Robert Lethe Law School at Bamford University

*Time:* Early May, 20\_\_

“Listen, we have to stop deluding ourselves,” said Patrick, pouring coffee. “The sad fact,” he continued, “is that it's been eight weeks, and nothing. By now our articles have been out in the world long enough that we should have heard something, gotten a call, gotten an offer, anything, something.”

“Well, it hasn’t been THAT long,” said his junior colleague Marion Peach, waiting her turn for caffeine, “I’m sure that they just haven’t sorted through our articles yet. I have every confidence that *Hegemonic Hermeneutics / Hermeneutic Hegemonies* is some of your best work, just as *From Coast to Coase: Eliminating Structural Asymmetric Transaction Costs in Maritime Law* is some of my best. Offers will come along for both, hopefully soon.”

“The fact is, the articles did arrive, and are sitting, moldering at the very bottom of some editor’s pile,” Patrick said, with some vitriol, as he ripped open a packet of sugar.

“Why do you say moldering?,” asked Marion, taking a mug and pouring some coffee.

“Because the students don’t select articles through blind submissions. They put our articles at the very bottom of the pile because our stationary is not fancy enough and our names aren’t Richard Delgado and Richard Posner. Sure, if your stationary comes from a prestigious school, or you’re famous, well, that must be a proxy for good work. Face the facts, we’re at a third tier school. *From Coast to Coase*, which you slaved over all last year, is likely not to see the light of the day in a top fifty review, my friend.”

“Huh,” said Marion, really annoyed to learn this. “That’s ridiculous! Whatever happened to individual merit, and whether it was a quality article? What would students say if we starting judging their exams that way? Surely that would be seen as unfair!”

“Don’t get mad at me. I didn’t make up this process, I have to live with it the same as you,” muttered Patrick.

“But your last piece placed well, a top 35!,” says Marion, practically screaming. “So I bet that you buy into the system! You wouldn’t even want to change it if you could!”

At that very moment, both Patrick and Marion reach for the coffee pot. Clumsily. It falls, crashing to the floor. And there the broken coffee pot sits, a testament to anger, a shattered, wounded thing, a sacrifice to the process of law review submissions.

### **Stage Three: Bargaining**

***This stage involves “magical thinking” that a deal can somehow be made. The person struggles to hold onto some sense of control in a situation that feels out of control.***

*Scene:* Professor Marion Peach’s Office, Room 42 in the Robert Lethe Law School at Bamford University

*Time:* Mid-May, 20\_\_

Marion woke up wondering if today would be the day that the *Harvard Law Review* would call with an offer for *From Coast to Coase*.

*Please, please let Harvard call today. I swear that if I get an offer from them, I'll never ask for another thing ever again. Ever. I promise to give up stress over law review placements and be happy with any other offer I ever get.*

*Meanwhile, I have got to ask my outstanding offer for more time. This is going to be a difficult negotiation. Of course, there is the possibility that the editor would understand and grant another week for consideration by other reviews. I guess I've got to ask. I'm so nervous I'm shaking. But here goes nothing...*

*"Um, hi, yes, is this Editor #40? This is Marion Peach calling, about the, er, offer?"*

*"Yes? So, are you publishing with us?"*

*"Well, that's what I wanted to talk to you about. See, er... I actually am at the mercy of some other editors at reviews who are looking at it... and, well, I'm up for promotion review next year, and so I really do need it to place well. And, so the fact is, er ... I'm going to need some more time, just one more week."*

*"Sorry. We need an answer today. So, are you publishing with us?"*

*"Just three more days? There's one place especially where the board has promised to look at it, and I at least want to hear back from that one place. Um, please?"*

*"The answer's still no. But I like where this conversation is going. I had an awful professor first year who used the Socratic method to humiliate students. And so having a law professor begging is a nice change of pace."*

*"Just the weekend? I'm really a nice person. Not like that professor who treated you mean. I would never do that to any student, least of all, and quitespecifically, you. Please, just two more days so I can make up my mind?"*

*"No, you need two more days so you can just call places with better names than our law review. Ha! I see through you. By the way, I'm enjoying the groveling, but it's getting you nowhere. You still don't get any more time. So, are you publishing with us?"*

*Oh no, what have I done?!*

#### **Stage Four: Depression**

***As the reality of the loss is taken in, the person experiences intense sadness, hopeless, and despair.***

Scene: Professor Patrick Denton's Office, Room 43 in the Robert Lethe Law School at Bamford University

Time: Mid-May, 20\_\_

*Seventy-five law reviews. Sixty-two rejections. Twelve didn't even acknowledge receipt. One offer, from the SHECH-TECH LAW & TRUCK DRIVING L. REV. Wonderful. Might as well have gone zero for seventy-five. Can you believe this e-mail I just got? That guy who came and talked to us. His first law review article. Yale accepted it, he writes. And he's nervous about whether their editing process will be too hard to go through. Cry me a river, dude.*

*Why do I bother? I don't have anything important to say. I obviously can't write. I'm really not even that smart, apparently. Who cares? Maybe I'll take Shech-tech's offer. It's about what I deserve, I suppose. I'll end up being one of those guys whose publication list stops about thirty years before I retire. I always wondered what happened to those people. I'll just concentrate on my teaching. Or maybe I'll volunteer to be Associate Dean. Filling out schedules and listening to students complain about spotty wi-fi coverage in the library has to beat this. I don't think I've ever felt so inadequate and worthless in my life. I guess I just have to accept the fact that I'm not that smart, I'm not that good, and I'll never see my name on one of those tastefully understated Harvard Law Review reprint covers. It's a good thing I don't have class tomorrow. I just don't think I could face my students. Good thing they don't know that they're being taught by a third-string wannabe scholar who couldn't even get an offer from his "safe" law reviews.*

[Sighs.]

*Three-thirty? Close enough to five to justify a drink.*

[Turns off light. Leaves office.]

## **Stage Five: Acceptance**

### **A Serenity Prayer for Law Review Authors<sup>2</sup>**

Editor-in-Chief of the Universe,

Grant me the serenity to accept the things I cannot change—

like the *U.S. News* rankings of the law reviews that give me offers, the public law bias of law review editors, the idiosyncratic article selection processes of the elite law reviews, the fact that article selection editors don't appreciate how important my topic is, and the timing of law review editorial board elections;

the courage to change things I can—

like tailoring my articles to the latest academic fad no matter how tenuous the connection, using cutesy titles for articles, and staggering my submissions in order to get expedited review from a highly-ranked law review;

and wisdom to know whether it is better to accept an offer from an elite school's specialty journal, as opposed to the general journal of a lower-ranked school, or vice-versa.

berpress Legal Repository

<sup>2</sup> With apologies to Reinhold Niebuhr.

Living one article at a time;  
Enjoying one publication at a time;  
Accepting rejection letters and placements at lower-ranked journals as the pathway to  
peace.

Taking the submissions process  
As it is, not as I would have it;  
Trusting that the editors will make things right  
If I surrender to their will;  
That I may be reasonably happy with this placement  
And supremely happy with the next.