

Understanding Law Review Success: An Analysis of Factors that Impact Citation Counts

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TABLE OF CONTENTS

I. CITATIONS AND THEIR ROLE IN THE LEGAL COMMUNITY	2
A. Citations and Legal Scholars.....	3
B. Citations and Legal Journals	6
II. ARTICLE SELECTION PROCESS	9
III. PREDICTING ARTICLE SUCCESS: FACTORS IMPACTING CITATION COUNT.....	14
A. Timeliness of Topic	16
B. Prominence or Reputation of a Particular Scholar.....	20
C. Author Background.....	23
1. <i>Law School Affiliation</i>	23
2. <i>Author Works</i>	26
3. <i>Author Title</i>	28
IV. PUTTING THE CITATION IMPACTING FACTORS IN PRACTICE: MAXIMIZING JOURNAL	
SUCCESS	30
A. Creating and Maintaining an Efficient Article Selection Process.....	30
B. Organizing Success Through Symposia: Creating Opportunity for Increased Citation Counts Outside the Article Selection Process.....	35
CONCLUSION	37

INTRODUCTION

To some, law review citation counting is just a reference-manipulating “shell game”¹ more suited to the parlor room than being used as the foundation of a reliable assessment measure of scholarly impact for legal journals. But to the about 200 general print law reviews and over 700 specialized law journals that publish hundreds of thousands of pages of legal scholarship per year, those citations are the lifeblood of their journal rank—a commonly recognized appraisal of a journal’s reputation and prestige that benefits not only the journal’s

¹ Arthur Austin, *Essay: The Reliability of Citation Counts in Judgments on Promotion, Tenure, and Status*, 35 Ariz. L. Rev. 829, 830 (1993) (quoting Frederick C. Thorne, *The Citation Index: Another Case of Spurious Validity*, 33 J. CLINICAL PSYCHOL. 1157, 1157 (1977)).

editors and publishing authors, but the sponsoring schools themselves.² The critical importance of citation count to journal rank, and perhaps even law school rank,³ creates heavy pressures on student editors to carefully sort through the hundreds, or for some, thousands, of article submissions to select those with the highest potential for generating citations. However, without knowing what factors contribute to citation potential and using those factors to make educated selections of articles, attempting to rise in the journal ranks will prove to be a Sisyphean task.

Part I of this Article will explore the importance of citations in the legal community and how they are used as a measure of scholarly impact for articles, authors, and legal journals. Part II will illustrate what a typical year might look like in terms of submissions from the perspective of a law review and discuss some of the methods currently employed by journals for selecting articles. It will also illustrate the need for concrete data to support what factors can be an indication of high citation potential and that are important to look at when screening articles. Through aggregated data including data points on over 4,000 journal articles, Part III will illustrate some factors that impact citation potential. Part IV will discuss how these factors should be used to create an effective and efficient article selection process and to select symposia that will allow maximization of article citation potential, ultimately resulting in an increase in the rank and prestige of a student-edited journal.

I. CITATIONS AND THEIR ROLE IN THE LEGAL COMMUNITY

While some say that citation-counting falls “somewhere between historiography and parlor game,” it nonetheless plays an integral role in the legal publication ecosystem for the

² See John Doyle, *The Law Reviews: Do Their Paths of Glory Lead but to the Grave?*, 10 J. APP. PRAC. & PROCESS 179, 180 (2009).

³ See Alfred L. Brophy, *The Emerging Importance of Law Review Citations for Law School Rankings*, 78 U. COLO. L. REV. 35, 35 (2007).

readers of legal scholarship, legal scholars, and the publishing journals.⁴ For authors, legal scholarship and citations serve as a means of garnering recognition and professional advancement.⁵ For journals, citations are often used as a measurement of success and reputation, thereby also serving as a reflection of the prominence of its student editors and the affiliated law school.

A. Citations and Legal Scholars

Historically, citation counts have served as a reliable, objective method of measuring the influence of a particular article or author in many different disciplines, including the legal field.⁶ They have been used extensively in the sciences as a means of assessing scholarly impact.⁷ In 1973, Jonathan R. Cole and Stephen Cole concluded that “straight citation counts are highly correlated with virtually every refined measure of quality.”⁸ In particular, they found a correlation between the citation counts of scientists to the number of awards they received.⁹ Similarly, a correlation was even found between high citation counts and winning the Nobel

⁴ Fred R. Shapiro, *The Most-Cited Law Review Articles*, 73 CALIF. L. REV. 1540, 1540 (1985).

⁵ “Scholarship is the door to promotion, tenure, and salary increases.” Austin, *supra* note 1, at 829.

⁶ Austin, *supra* note 1. “In general, it may be assumed that, although the purposes underlying particular citations may be various and sometimes capricious, and all citations do not merit equal weight, large numbers of citations to a publication are strong evidence of its scholarly influence.” Shapiro, *supra* note 4, at 1542.

⁷ For instance:

[Citation counts are] used to do such things as [evaluate the research role of individual journals, scientists, organizations, and communities; define the relationship between journals and between journals and fields of study; measure the impact of current research; provide early warnings of important, new interdisciplinary relationships; spot fields of study whose rate of progress suddenly begins accelerating; and define the sequence of developments that led to major scientific advances.

EUGENE GARFIELD, *CITATION INDEXING: ITS THEORY AND APPLICATION IN SCIENCE, TECHNOLOGY, AND HUMANITIES* 62 (1979).

⁸ J. COLE & S. COLE, *SOCIAL STRATIFICATION IN SCIENCE* 35 (1973).

⁹ Shapiro, *supra* note 4, at 1542 (citing Jonathan R. Cole & Stephen Cole, *Scientific Output and Recognition: A Study in the Operation of the Reward System in Science*, 32 AM. SOC. REV. 377 (1967)).

Prize.¹⁰ It is also commonly recognized by scientists that impressive citation counts increase the likelihood of getting grants.¹¹

In the same way that citation count is an indication of scholarly impact in the sciences, the amount and quality of publishing done by a professor in legal periodicals affects tenure decisions.¹² Many law schools expect professors seeking tenure to publish two or more law review articles within the first five to six years of teaching.¹³ Faculty members not only face scrutiny based on the amount and quality of the legal scholarship they produce, they are also evaluated based on the placement of their articles in notable law reviews and the frequency of which their articles are cited.¹⁴

In a system of legal scholarship consisting of over 1,000 legal publications,¹⁵ the use of citation counts to evaluate the success of authors, articles, and journals provides a relatively effective method of appraisal where the sheer volume of legal scholarship fuels the demand for student-edited journals. While peer-edited¹⁶ or faculty edited¹⁷ journals could theoretically ameliorate what some view as a smothering plague of unnecessary or improper citations (that is

¹⁰ *Id.* (citing Cole & Cole, *Measuring the Quality of Sociological Research: Problems in the Use of the Science Citation Index*, 6 AM. SOC. 23, 23-24 (1971)).

¹¹ Austin, *supra* note 1, at 829 (“[C]itations are like home runs, citation rates like batting averages.” (quoting Jon Wiener, *In the Magazines Footnote—or Perish*, 21 DISSENT 588, 589 (1974))).

¹² James W. Harper, *Why Student-Run Law Reviews?*, 82 MINN. L. REV. 1261, 1275 (1998).

¹³ Clyde W. Summers, *United States: American Labor Law Scholarship—Some Comments*, 23 COMP. LAB. L. & POL’Y J. 801, 803 (2002).

¹⁴ See Fred R. Shapiro, *The Most-Cited Articles from the Yale Law Journal*, 100 YALE L.J. 1449 (1991). (“Another application of citation data is the compilation of rankings of journals based on straight citation counts or ‘impact factors’ (the average number of citations received by articles published in a particular journal). Authors too have been evaluated through tabulation of citations to their writings. Citation counts have been utilized in assessing scholars’ work for purposes of grant awards, tenure, or promotion decisions. Those using citation data for evaluative purposes have justified such use by pointing to research demonstrating a high correlation between the total of citations to a scientist’s or scholar’s writings and judgments by peers of the “‘productivity,’ ‘significance,’ ‘quality,’ ‘utility,’ ‘influence,’ ‘effectiveness,’ or ‘impact’ of scientists and their scholarly products.’ One investigator has gone so far as to say that ‘citations and peer ratings appear to be virtually the same measurement.’” (internal citations omitted)). “The only thing that is important is who cites whom. If you’re cited, that means you’re identified as a player in the game: a scholar of significance.” Herma H. Kay, *In Defense of Footnotes*, 32 ARIZ. L. REV. 419, 426 (1990) (footnote omitted).

¹⁵ See INDEX TO LEGAL PERIODICALS, <http://www.ebscohost.com/academic/index-to-legal-periodicals-books>.

¹⁶ See Austin, *supra* note 1, at 832.

¹⁷ See Richard A. Epstein, *Faculty-Edited Law Journals*, 70 CHI.-KENT L. REV. 87, 88 (1994).

only if they *actually* compel authors to delete irrelevant or political citations), the current system simply conducts too much traffic to have peers policing every article. This proliferation of legal scholarship provides constant fuel for student-edited journals—a unique but firmly established system of legal scholarly publishing.¹⁸ There exists a large volume of legal scholarship and a need for an effective method for evaluating the hundreds of thousands of pages published annually—hence the reliance on the existing system of citation counts.¹⁹

While the use of citation counts has a central role as a valuable evaluative measure used to demonstrate scholarly influence or utility, the use of citation counts is viewed by some as debatably superficial and certainly far from perfect. The counting of all citations creates vulnerabilities to manipulative ploys in citations, such as “hat-tipping” prominent people for recognition, citing the research of a friend, “padding” one’s own citation count through self-citation, or frivolously and unnecessarily overciting material regardless of the triviality of the subject matter.²⁰ As a result of these vulnerabilities, the system of legal scholarship’s dependence on citation count has remained controversial, with some even harkening that ranking by citation counts could be an “invidious virus in the world of scholarship.”²¹

¹⁸ See Austin, *supra* note 1, at 832 (“The most unusual characteristic of legal scholarly publishing is the near total absence of peer review.”). Student-run journals have been around since 1875, when the Albany Law School Journal was first published. See Michael I. Swygert & Jon W. Bruce, *The Historical Origins, Founding, and Early Development of Student-Edited Law Reviews*, 36 HASTINGS L.J. 740, 763 (1985). Though it was short lived, prestigious law schools began establishing law reviews in the late 19th and early 20th century. *Id.* By the 1930s, students could be found in control of law reviews with faculty in advisory positions. *Id.*

¹⁹ Despite the extensive complaints about law reviews, there is little indication that the current system is soon headed for change. Brophy, *supra* note 3, at 54-55 (“There are numerous complaints about law reviews in the academy. However, there seems to be little done to reform the system. Faculty attack reviews, yet students and recent graduates who have been successful at the law review game defend it. A few faculty take their marbles and go to play elsewhere in leading peer-reviewed journals . . . which may be where the legal academy is heading. But at the very least, it seems that law reviews will be with us for a very long time.”).

²⁰ Austin, *supra* note 1.

²¹ Joseph Goldstein, *Commentary*, 100 YALE L.J. 1485, 1485 (1991) (“It bears no relationship to scholarly merit. It is nondiscriminating in its discrimination. It is not even a reliable indicator that the work cited was read, let alone understood by the citer.”).

Despite their known limitations, citation counts still provide an expansive and relatively objective method for evaluating the level of scholarly impact of an author or article. Not only are they helpful in assessing the influence of authors and their works, they are also an integral part of the use and evaluation of legal journals.

B. Citations and Legal Journals

The realm of legal journal scholarship is a bustling marketplace of ideas, constantly producing new concepts and advancing the law. Journals are easy to use, inexpensive, and their expansive coverage of so many legal topics makes them a useful resource that is highly accessible. As a source for general overviews to the coverage of very niche topics, they are consistently relied upon by students, professors, legislators, practicing attorneys, and judges alike. As mentioned before, professors and student authors depend on them as a legal research tool and as a means of referencing a vetting source, citing them in their articles and textbooks.²² Practicing attorneys use articles to structure arguments and explore new developments in an area of law.²³ While some judges avoid the usage of legal journals,²⁴ they are still used and cited consistently in court opinions.²⁵ Law review articles are also a perfect place for legislators to

²² Some authors feel that legal journal articles are cited a little too frequently.

[T]he footnote foible breeds nothing but sloppy thinking, clumsy writing, and bad eyes. Any article that has to be explained or proved by being cluttered up with little numbers until it looks like the Acrosses and Downs of a cross-word puzzle has no business being written. And if a writer does not really need footnotes and tacks them on just because they look pretty or because it is the thing to do, then he ought to be tried for willful murder of his readers' (all three of them) eyesight and patience.

Fred Rodell, *Goodbye to Law Reviews-Revisited*, 48 Va. L. Rev. 279, 282 (1962).

²³ Harper, *supra* note 12, at 1278.

²⁴ “Roberts said he doesn’t pay much attention to academic legal writing. Law review articles are ‘more abstract’ than practical, and aren’t ‘particularly helpful for practitioners and judges.’” Justice Stevens, *Law Reviews, More*, WALL ST. J. (Apr. 7, 2010, 7:20 PM), <http://blogs.wsj.com/law/2010/04/07/chief-justice-roberts-on-obama-justice-stevens-law-reviews-more/>.

²⁵ See Richard A. Posner, *The Future of the Student-Edited Law Review*, 47 STAN. L. REV. 1131, 1137-38 (1995) (“Do not worry that judges do not read law reviews . . . Law reviews are indispensable resources for judges and their clerks, whether or not the judge’s opinion actually cites the article or student note that proved helpful in the preparation of the opinion. Law reviews are indispensable resources for practitioners and law professors, as well. . . .”); William O. Douglas, *Law Reviews and Full Disclosure*, 40 WASH. L. REV. 227, 227 (1965) (“I have drawn heavily from [legal journals] for ideas and guidance as practitioner, as teacher, and as judge.”); Stanley H. Fuld, *A*

explore legal problems ripe for lawmaking and the correlating, suggested solutions.²⁶ As these different players in the legal scholarship game cite to articles, this not only generates more notability for the published work that is cited, but also increases the citation count of the legal journal publishing the article. Journals are often ranked and judged based on their number of referencing citations,²⁷ thereby causing citation counts to contribute to reputation and prestige.

There have been a number of attempts to rank legal journals,²⁸ but the law journal rankings available on the Washington and Lee Library website are some of the most commonly referenced, recent, and comprehensive rankings currently available.²⁹ Updated annually, the counted citations used in the ranking methodology look at the number of times sources in the Westlaw ALLCASES (U.S. federal and state cases) and JLR (law reviews, CLE course materials, and bar journals) databases have cited a particular journal in the preceding eight years.³⁰ It is limited to the preceding eight years to prevent a bias towards journals that have been

Judge Looks at the Law Review, 28 N.Y.U. L. REV. 915 (1953); Louis J. Sirico, Jr. & Beth A. Drew, *The Citing of Law Reviews by the United States Courts of Appeals: An Empirical Analysis*, 45 U. MIAMI L. REV. 1051 (1991); Richard A. Mann, *The Use of Legal Periodicals by Courts and Journals*, 26 JURIMETRICS J. 400-20 (1986); Frank K. Richardson, *Law Reviews and the Courts*, 5 WHITTIER L. REV. 385-93 (1983); see also Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34, 45 (1992) (“I often use treatises and law review articles that are not ultimately cited in my opinions.”).

²⁶ Harper, *supra* note 12, at 1278-79. (“Legislators, their counsels, and their committee staffs use law reviews as they develop the law through legislation. This may be where a law review article can have its most direct influence, because the worst in law reviews is the best for lawmaking. That pedantic format—introduction, background, legal context, legal problem, legislative solution, conclusion—is a one-stop resource for the busy legislator. Law review articles’ arcane subjects frame issues in ‘legislable’ bites. The narrow problem an article addresses will, at some point, injure a constituent or sympathetic interest. The good legislator will declare the problem the scourge of our times, demanding immediate attention, yet it will be small enough to fix without a constitutional amendment, a war, or (war’s equivalent) a revival of the abortion debate.”)

²⁷ See Karen Dybis, *100 Best Law Reviews*, NAT’L JURIST 23 (Feb. 2008).

²⁸ See, e.g., *id.*; Gregory S. Crespi, *Ranking Specialized Law Reviews: A Methodological Critique*, 26 FLA. ST. U. L. REV. 837 (1999); Russell Korobkin, *Ranking Journals: Some Thoughts on Theory and Methodology*, 26 FLA. ST. U. L. REV. 851 (1999); Gregory Scott Crespi, *Ranking International and Comparative Law Journals: A Survey of Expert Opinion*, 31 INT’L LAW. 869 (1997); Robert M. Jarvis & Phyllis G. Coleman, *Ranking Law Reviews: An Empirical Analysis Based on Author Prominence*, 39 ARIZ. L. REV. 15-24 (1997); Arthur Austin, *The Top Ten Politically Correct Law Reviews*, 1994 UTAH L. REV. 1319; Ronald L. Brown, *Rave Reviews: The Top Ten Journals of the 1990s*, 12 LEGAL REF. SERV. Q. 121 (1992) (humorous rankings).

²⁹ See *Law Journals: Submissions and Ranking*, WASH. & LEE LAW SCH., <http://lawlib.wlu.edu/LJ/> (last visited April 1, 2013).

³⁰ *Law Journals: Submissions and Ranking, Introduction*, WASH. & LEE LAW SCH., <http://lawlib.wlu.edu/LJ/method.asp> (last visited April 1, 2013).

publishing for extended periods of time.³¹ The site offers a combined-score ranking that weighs both the total cites of a journal and its impact-factor (the average number of annual citations to articles) to provide a more balanced view of journal ranking.³² The combined-score is weighted with two-thirds of the weight given to the total number of citations and the last third to impact-factor.³³ By taking into account impact-factor with the citation count, more pressure is placed on law reviews to carefully select high citation potential articles rather than rewarding journals that simply try to publish as much material as possible to increase citations. These are careful decisions journal editors have to make when selecting submissions, else the rank of the journal suffer the consequences.³⁴

The increase of a journal's ranking is a prime motivation for most editors at a student-edited journal.³⁵ An increase in journal rankings is an increase in reputability, and a "journal's improved reputation then redounds to that of the law school, which raises the market value of its degrees, both future and past."³⁶ In fact, a study published in 2006 that looked at the relationship between law review rankings (as measured by citations) and law school rankings (such as through *U.S. News and World Report*) found that citations are a "fairly accurate gauge of reputation (and perhaps quality)" for the top 100 schools.³⁷ It was also found that, as law schools

³¹ *Id.*

³² *Id.* "Combined-score ranking is based on the idea proposed by Ronen Perry that neither ranking by total cites nor by impact-factor are in themselves sufficient, and need to be combined." *Id.*; See Ronen Perry, *The Relative Value of American Law Reviews: Refinement and Implementation*, 39 CONN. L. REV. 1 (2006).

³³ *Law Journals: Submissions and Ranking*, *supra* note 30.

³⁴ "It would, indeed, be unfortunate for reviews to decline to publish an otherwise meritorious work because the editors believe that it will not be heavily cited. Alas, good scholarship may sometimes be one of the unintended casualties of obedience to citation counts." Alfred L. Brophy, *Law School Rankings: The Relationship Between Law Review Citations and Law School Rankings*, 39 CONN. L. REV. 43, 48, 56 (2006) (citing Brophy, *supra* note 3, at 35).

³⁵ Korobkin, *supra* note 28, at 856.

³⁶ Jordan H. Leibman and James P. White, *How the Student-Edited Law Journals Make Their Publication Decisions* 39 J. LEGAL EDUC. 387, 404 (1989).

³⁷ Brophy, *supra* note 34. "It is possible that law review citations may be a good gauge of intellectual engagement at the various schools and may offer a better assessment of academic quality than peer assessments. At the very least,

change in ranks, there is a corresponding change in the quality of their flagship journal, as reflected by a measurement of citation count.³⁸ Because of these correlations, Alfred Brophy suggests that law school rankings, such as those provided by *U.S. News*, should take into account the rankings of the law reviews as an aid in gauging the quality of schools, “particularly in the third and fourth tier—where reliable data on the intellectual culture of a school may be difficult to obtain.”³⁹ The fact that a legal journal’s ranking is a reflection on its sponsoring law school creates a strong motivation on the behalf of student editors to increase the visibility of their journals.⁴⁰ This motivation means selecting the articles with the highest citation potential when going through the article selection process. To comprehend what factors need to be analyzed for the accurate identification of articles with the highest citation potential, an understanding of the methods employed by student-edited journals to sort and select articles is of vital importance.

II. ARTICLE SELECTION PROCESS

The article selection process varies greatly among law journals, but they all must have a method for acquiring and selecting upcoming pieces for publication. The selection process takes place mainly during the two main submission cycles that occur every year, once in the fall and once in the spring. The submissions received by law reviews during this time follow a fairly consistent pattern.

citations to law journals offer an objective measure, which we know to be closely associated with peer assessments at the schools where assessors likely have some knowledge.” *Id.*

³⁸ Brophy, *supra* note 3, at 37.

³⁹ *Id.* at 48.

⁴⁰ Leibman & White, *supra* note 36, at 404. Rankings may even be more important to editors of specialty law journals versus general law reviews. “It is reasonable to speculate, however, that the majority of specialty journal editors hold their positions because they were not selected for membership on the school’s law review. Consequently, the amount of prestige associated with positions on specialty journals is more uncertain than the prestige that comes with law review membership.” Korobkin, *supra* note 28, at 855. (“Most employers probably perceive an editorship with a specialty journal to carry less clout than an editorship on the same school’s flagship law review. In fact, one study found that the attorneys, professors, and judges sampled in the study all rated membership in a general-interest journal as significantly more important to their hiring decisions than membership in a specialty journal. But if a specialty journal is among the top-ranked publications in its field nationwide, perhaps recruiters would question their default assumption and find themselves more impressed with an editorship on an ‘elite’ specialty journal.”)

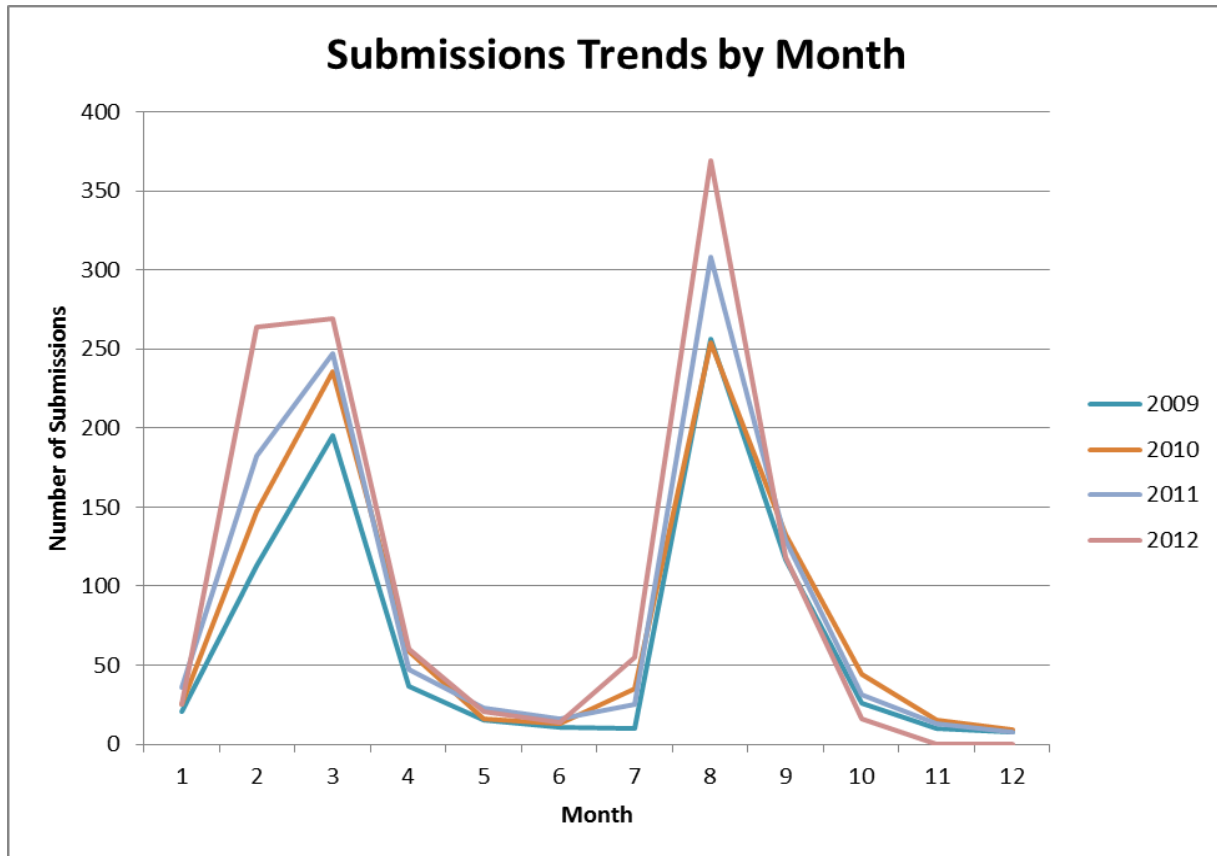


Figure 1

This chart reflects the volume and timing of all of the submissions received by the *Michigan State Law Review* from 2009 to 2012 through ExpressO, an online submission tool for authors.⁴¹ As it illustrates, the amount of submissions received by law reviews follows a very consistent pattern, with the submission cycles taking place distinctly in July-October and January-April.

Figure 1 reflects that the *Michigan State Law Review* received over 1,200 submissions through ExpressO in 2012, but the amount of submissions a legal journal receives may vary greatly based on the prestige of the journal. The more highly ranked the journal, the greater the volume of submissions, while lowly ranked journals or specialty journals may have to solicit

⁴¹ *ExpressO*, BEPRESS, <http://law.bepress.com/expresso/> (last visited Apr. 1, 2013).

authors to get enough quality submissions for publication.⁴² Because there are only a few journals with restrictions preventing authors from submitting to other legal journals, it is common for authors to submit dozens of copies⁴³ of their manuscripts simultaneously to law reviews.⁴⁴ Since they are all simultaneously reviewing the same articles, this process results in extremely high volumes of manuscripts for many of the student-edited journals.⁴⁵ For instance, the *Alabama Law Review* reports receiving over 2,000 submissions a year,⁴⁶ *William & Mary Law Review* receives approximately 1,800 annually,⁴⁷ and the *Yale Law Journal* received about 2,500 submissions for a volume set to include only about forty of those articles.⁴⁸

The sheer volume that needs to be sorted and evaluated by the articles editors of law reviews makes it difficult for journals to effectively evaluate each of the manuscripts. To compound the problem, it is common for authors who receive an offer of publication to try to “shop” their article or use that offer to get a more highly ranked journal to carefully review their manuscript.⁴⁹ For instance, once an author is given an offer from a journal and a set number of days to accept, she may choose to use that offer to request “expedited review” of her article from more preferred law reviews before the offer expires.⁵⁰ This can turn into the author engaging in multiple shopping expeditions: “For example, an author might begin with offers from Illinois and William & Mary, move to offers from UCLA, Wisconsin, and Texas, and ultimately accept an

⁴² Michael L. Closen & Robert J. Dzielak, *The History and Influence of the Law Review Institution*, 30 AKRON L. REV. 15, 40 (1996) (“There are some disadvantages of specialty law reviews in comparison to generalist law reviews. One disadvantage is that, depending on the area of law, there may be substantial droughts of manuscript submissions.”).

⁴³ “[A]uthors often send copies of their articles to as many as thirty or forty different law reviews.” Stephen R. Heifetz, *Efficient Matching: Reforming the Market for Law Review Articles*, 5 GEO. MASON L. REV. 629, 634 (1997)

⁴⁴ William C. Whitford, *The Need for an Exclusive Submission Policy for Law Review Articles*, 1994 WIS. L. REV. 231, 231 (1994).

⁴⁵ *Id.*

⁴⁶ *Submissions*, ALA. LAW REVIEW, <http://www.law.ua.edu/lawreview/submissions-2/> (last visited Apr. 1, 2013).

⁴⁷ *Submissions*, WILLIAM AND MARY LAW REVIEW, <http://wmlawreview.org/submissions> (last visited Apr. 1, 2013).

⁴⁸ *Update: YLJ Submission Policy Revealed*, PRAWFSBLAWG, <http://prawfsblawg.blogs.com/prawfsblawg/2008/05/developments-in.html> (May 20, 2008).

⁴⁹ Whitford, *supra* note 44.

⁵⁰ Heifetz, *supra* note 43, at 635.

offer from Chicago.”⁵¹ As a result, many articles editors constantly struggle to effectively and efficiently screen articles and still be able to make timely offers amidst the constant barrage of expedite requests, many of which are just swept away by more highly ranked law reviews.⁵²

It is widely believed among authors that the most prestigious law reviews, such as the *Harvard Law Review* and the *Yale Law Journal*, do not review submissions unless the author is already a prominent, well-established scholar (e.g., Richard Posner or Cass Sunstein) or an offer of publication from a respectable law review has already been made on the article.⁵³ In this way, the law review members of lower ranked journals expend the significant time and energy needed to decipher which of the hundreds or thousands of submissions should be published, and this information is communicated without compensation to the more highly ranked journals in the form of the expedite request.⁵⁴

The article selection process can take a variety of forms depending on the number of journal members involved in the process and the volume of submissions received by that particular journal. At the low submission volume end of the spectrum, journals may need to solicit authors to get the requisite number of quality articles for publication. For such small, “low-impact”⁵⁵ journals that require solicitation or receive relatively few submissions, no secondary evaluation beyond an initial screening may be deemed necessary.⁵⁶ If there is a secondary evaluation, it is typically less burdensome than the winnowing secondary evaluation

⁵¹ Heifetz, *supra* note 43, at 635.

⁵² *See id.*; Whitford, *supra* note 44.

⁵³ Whitford, *supra* note 44.

⁵⁴ Heifetz, *supra* note 43, at 636.

⁵⁵ This terminology comes from Olavi Maru, *Measuring the Impact of Legal Periodicals*, 1976 AM. B. FOUND. RES. J. 227, which ranked journals according to how frequently their articles, old and new, were cited in other journals and in their own pages during the publication year of 1972, classifying journals as high, medium, and low impact. The 23 high-impact journals accounted for about 50 percent of the journal citations, the 48 medium-impact journals for another 25 percent, and the remaining 207 low-impact journals for the balance. *Id.* at 233; *see also* Leibman & White, *supra* note 36, at 393.

⁵⁶ Leibman & White, *supra* note 36, at 416. Leibman and White’s list of “high-impact” journals includes general law reviews from several schools from the top tier of U.S. law schools, as ranked yearly by *U.S. News and World Report*.

processes necessary to medium- and high-impact journals that have much greater volumes of submissions.⁵⁷ When submissions start nearing a thousand per year, those law reviews have some of the largest demands on time as they have to effectively screen this very large volume of submissions⁵⁸ and still make enough quality offers to account for the ones lost to “article shopping.”⁵⁹ Once the articles are initially screened, medium- and high-impact generally have a secondary evaluation to identify the highest quality articles.⁶⁰ This review may include the entire board, all the articles editors, a panel of articles editors and other officers, or perhaps the Senior Articles Editor and the Editor-in-Chief.⁶¹ The highest echelon of submission volume encompasses the most preferred law reviews—reviews that receive enough expedite requests that they can take the place of the initial round of article screening altogether.⁶² In other words, the most highly ranked law reviews have the ability to “free ride” on some of the leg work already conducted by another law review to get through the first level of article screening, while the lower law reviews must still constantly struggle to screen and sort through their hundreds to thousands of submissions to identify the highest quality articles.⁶³

Due to the large volumes of submissions received by medium- and high-impact journals, it is commonly recognized that many law reviews do not and cannot thoroughly read and evaluate each of their submissions.⁶⁴ As a result, these journals employ the use of an initial

⁵⁷ *Id.*

⁵⁸ Law reviews at this level spend a very significant amount of their time simply screening articles. Whitford, *supra* note 44. With such a high volume of submissions, collective decision making can pose difficulties. *Id.* Articles given a negative recommendation as they are screened by a single editor are commonly rejected without further consideration. *Id.*

⁵⁹ Heifetz, *supra* note 43, at 636.

⁶⁰ Leibman & White, *supra* note 36, at 407.

⁶¹ *Id.* at 407-08.

⁶² Heifetz, *supra* note 43, at 636.

⁶³ *Id.*

⁶⁴ See, e.g., Nathan H. Saunders, *Student-Edited Law Reviews: Reflections and Responses of an Inmate*, 49 Duke L.J. 1663, 1666 (2000) (“I was amazed at the sheer volume of articles stacked on our shelves, to be read and evaluated by the four article editors. How, I asked, could they possibly review them all? An uncomfortable snicker accompanied the response: ‘We don’t.’”).

screening process that usually involves making some sort of educated guess based on the characteristics of the article and the author to determine whether the submission should progress to the next round of reviews. Admittedly, this means that some diamonds in the rough will certainly get overlooked,⁶⁵ but most journals simply do not have the manpower to give every article a thorough investigation. While expedite requests may serve as an initial screening process for some of the highest ranking law reviews, other journals still require a screening process that uses heuristic methods to quickly and effectively sort through the hundreds, or perhaps thousands, of submission received each year. This commonly used process begs a number of questions: What factors do law reviews use to initially judge an article and why?⁶⁶ How are these factors determined? Are these factors reliable? What are the most important factors? Using data, the next Part discusses what factors can be shown to have a correlative relationship with the number of citations an article will generate.

III. PREDICTING ARTICLE SUCCESS: FACTORS IMPACTING CITATION COUNT

Accepting articles to raise a journal's citation count without understanding their likelihood to do so would be akin to an investor hoping to develop a fortune in the stock market by blindly purchasing stock in companies he or she knew nothing about. A good investor researches the company and makes an educated guess as to whether it truly is a prudent investment. A careful evaluation of the circumstances contributes to the likelihood that the decision will be a sound one. Similarly, a law review that tries to make its way up the journal rankings without carefully appraising articles and making investments in the articles with higher citation potential is likely to find itself, and its journal rank, completely stymied.

⁶⁵ *Id.*

⁶⁶ While there have been surveys on the factors used by law reviews to evaluate article submissions, these surveys leave to be desired an understanding of why those factors are used and how they correlate to article success or citation count. *See generally* Leah M. Christensen & Julie A. Oseid, *Navigating the Law Review Article Selection Process: An Empirical Study of Those with All the Power-Student Editors*, 59 S.C. L. REV. 175 (2007).

Because of the demands on middle- and high-impact journals to sort through large volumes of articles, student-edited journals need a reliable method for the initial screening of articles. If the goal of a law review is to maximize its prestige through its journal rank, it will need to identify and make offers on all of the articles of high citation potential in its submission pool. This is a concrete step towards maximizing annual citation counts for the journal rankings. While there has been much speculation as to what factors journals *should* use to locate an article of high citation potential,⁶⁷ here we will use aggregated data to concretely identify factors that *actually* demonstrate a relationship with citation potential.

These figures stem mainly from two different datasets. The first set is a list of all of the articles published between 2002 and 2011 by the *Michigan State Law Review* and a number of diverse factors about each article. These factors include the article's year of publication; title; page length; citation; number of footnotes; primary author; number of works in the Westlaw Journals & Law Reviews (JLR) database written by the primary author;⁶⁸ the number of times the primary author is mentioned in the Westlaw JLR database;⁶⁹ the law school with which the author is associated;⁷⁰ the *U.S. News* rank of that law school;⁷¹ the number of the issue the article appeared in; whether it was in an independent or symposium issue; if it was a symposium issue, the name of the symposium with which the article is associated; and lastly, but most importantly,

⁶⁷ See, e.g., *id.*; Jason P. Nance & Dylan J. Steinberg, *The Law Review Article Selection Process: Results from A National Study*, 71 ALB. L. REV. 565, 582 (2008).

⁶⁸ This was identified by searching the WESTLAW JLR database for au(authors /2 name) to find the number of authored works on West.

⁶⁹ This was identified by searching the Westlaw JLR database for the author's name in a terms and connectors search to see how often she has been mentioned in other journals and periodicals. ALLCASES was NOT included in this search because it is easy to get people/party names from cases, thereby diluting the data. JLR database query: authorfirstname /2 lastname. This query should include works written by the author and whenever the author is mentioned in other works, either as a citation or simply as a mention.

⁷⁰ This was determined by looking at the author footnote of each article. If the author was not associated with a law school, "N/A" was used.

⁷¹ Based on the 2012 law school ranks by *U.S. News. Top 2012 Law School Rankings*, TOP LAW SCHS., <http://www.top-law-schools.com/rankings.html> (last visited Apr. 1, 2013).

the number of citing references to that article as provided by Westlaw's KeyCite feature.⁷² The second set is a collection of data on all of the articles published between 2000 and 2010 by the *Yale Law Journal*, the *Columbia Law Review*, and the *Stanford Law Review* and published between 1985 and 2010 by the *Harvard Law Review*. This set includes the article title, year of publication, issue number, volume number, citation, and the number of citing references to the article as provided using Westlaw's KeyCite. As such, all references to the citation count correlated with articles in this data are referring to the number of "Citing References" that exist for that article according to Westlaw's KeyCite as of April 2013.

In any given article, there can be a large number of reasons why that article may generate citations. The following sections will attempt to isolate some of the different factors; namely, timeliness of the topic, the reputation or prominence of the scholar in the legal field, and various background details about authors, including their title, the *U.S. News* rank of the law school with which they are affiliated,⁷³ the number of works they have written (based on the works that are included in the Westlaw JLR database of law reviews), and the number of times they are mentioned in the Westlaw JLR database. When buying stock, one would want to make an educated investment. Similarly, in selecting articles, these factors provide additional information that student editors can use to supplement their knowledge of an article so they can make a more informed and accurate determination of its citation potential.

A. Timeliness of Topic

The timeliness of an issue discussed in an article can be a powerful indication of citation success. Even pieces written by authors with no citation history or legal experience at all, such as

⁷² The number was gathered by locating the article on Westlaw and using the number of "Citing References" provided by Westlaw's KeyCite. Because KeyCite it used, the number of citing references identified depends wholly on the sources and databases indexed by KeyCite.

⁷³ Based on the 2012 law school ranks by *U.S. News. Top 2012 Law School Rankings*, *supra* note 71.

students, can achieve an above average number of citations if it is a topic that is gathering interest in the legal community.⁷⁴ One particular piece of evidence indicating the importance of topic timeliness is reflected in Figure 2.

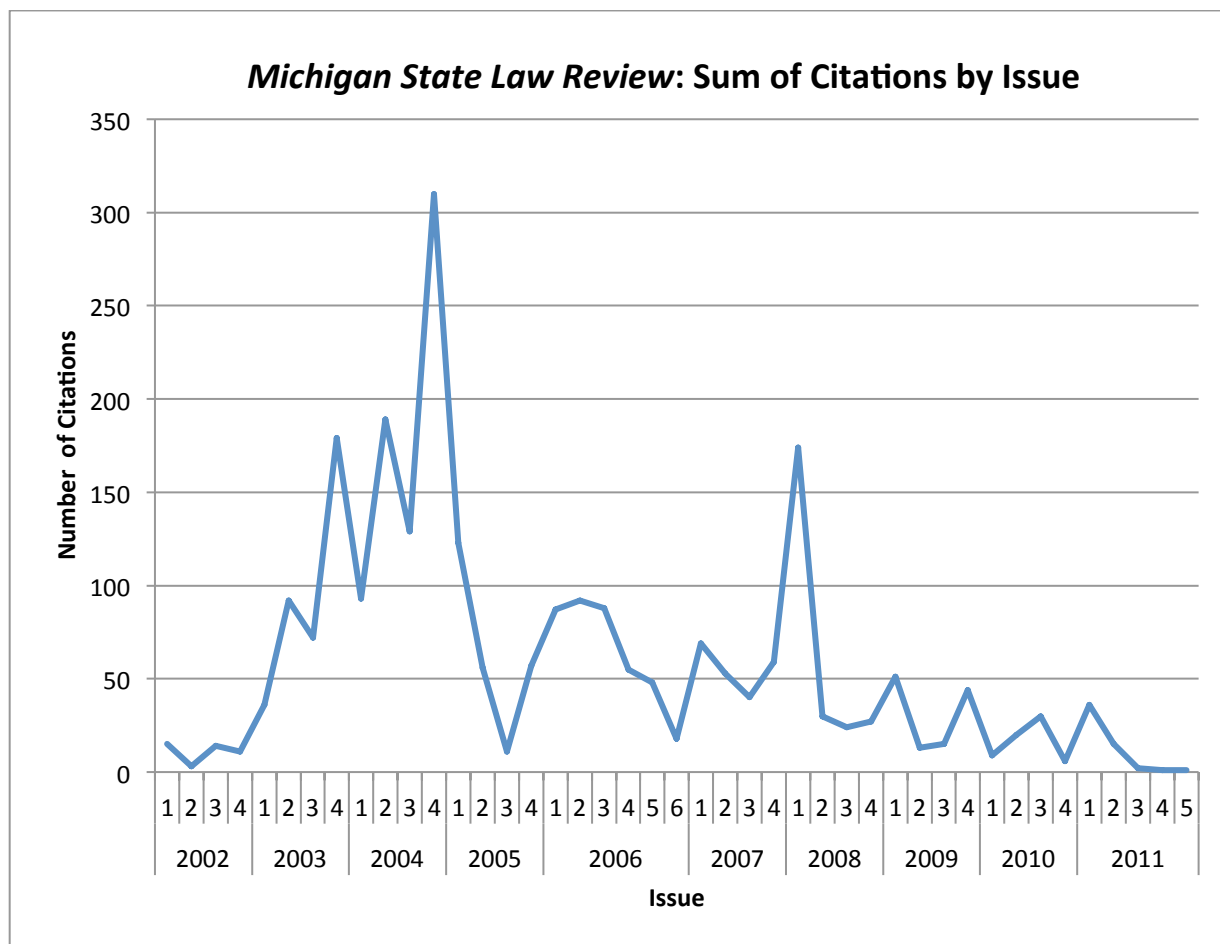


Figure 2

Figure 2 is an illustration of the total number of citations generated by each issue of the *Michigan State Law Review* from 2002 to 2010. The data clearly shows that there was very significant above-average success in 2004. In fact, a large portion of the success of that year is

⁷⁴ Several student notes published in the *Michigan State Law Review* between 2002 and 2011 have over triple the average number of citations for student notes. Since most, if not all, of the students published have no citation history or professional legal experience, it is likely that the topic is the key contributing factor to the citations. See Theodore J. Westbrook, *Owned: Finding A Place for Virtual World Property Rights*, 2006 MICH. ST. L. REV. 779 (2006); Jillian Smith, *Secret Settlements: What You Don't Know Can Kill You!*, 2004 MICH. ST. L. REV. 237 (2004); Eric C. Bartley, *And Federal Regulation for All: Federally Regulating the Mortgage Banking Industry*, 2006 MICH. ST. L. REV. 477 (2006).

attributable to 2004:4, an issue entirely dedicated to a symposium entitled, *The Death of Poletown: the Future of Eminent Domain and Urban Development After County of Wayne v. Hathcock*. The issue was composed of seven articles and an introductory piece, all of which received very significant success.⁷⁵ In fact, five of the seven articles are in the top ten most cited articles out of the almost 450 pieces published by the *Michigan State Law Review* between 2002 and 2012.⁷⁶ The other two articles fall in the thirties.

Timeliness was a critical factor in the success of this symposium as it was held only a few months after the Michigan Supreme Court's decision to reverse its twenty-three-year-old precedent in *Poletown Neighborhood Council v. City of Detroit in County of Wayne v. Hathcock*.⁷⁷ *Poletown* was a landmark case for “public use” in matters of eminent domain. *Hathcock* was a significant decision that later was cited by the United States Supreme Court in *Kelo v. City of New London*⁷⁸ as an example of how states may elect to impose their own restrictions on the taking of property. To react quickly to these changes in the law that occurred in the summer of 2004, this symposium was organized in September 2004 and held in November 2004.⁷⁹ The law review issue was published just a few months later.⁸⁰ Not just one, but all of the

⁷⁵ See Ilya Somin, *Overcoming Poletown: County of Wayne v. Hathcock, Economic Development Takings, and the Future of Public Use*, 2004 MICH. ST. L. REV. 1005 (2004) (57 citations); Adam Mossoff, *Foreword: The Death of Poletown: The Future of Eminent Domain and Urban Development After County of Wayne v. Hathcock*, 2004 MICH. ST. L. REV. 837 (2004) (17 citations); James E. Krier & Christopher Serkin, *Public Ruses*, 2004 MICH. ST. L. REV. 859 (2004) (46 citations); Eric R. Claeys, *Public-Use Limitations and Natural Property Rights*, 2004 MICH. ST. L. REV. 877 (2004) (50 citations); Lee Anne Fennell, *Taking Eminent Domain Apart*, 2004 MICH. ST. L. REV. 957 (2004) (66 citations); William A. Fischel, *The Political Economy of Public Use in Poletown: How Federal Grants Encourage Excessive Use of Eminent Domain*, 2004 MICH. ST. L. REV. 929 (2004) (46 citations); James W. Ely, Jr., Thomas Cooley, “Public Use,” and New Directions in Takings Jurisprudence, 2004 MICH. ST. L. REV. 845 (2004) (17 citations); Alan T. Ackerman, *The Changing Landscape and Recognition of the Public Use Limitation: Is Hathcock the Precursor of Kelo?*, 2004 MICH. ST. L. REV. 1041, 1042 (2004) (9 citations). The average number of citations for an article published by the *Michigan State Law Review* overall from 2002-2010 is 6.36.

⁷⁶ See Appendix E.

⁷⁷ *County of Wayne v. Hathcock*, 684 N.W.2d 765 (Mich. 2004).

⁷⁸ *Kelo v. City of New London*, 545 U.S. 469 (2005).

⁷⁹ Mossoff, *supra* note 75, at 844 (“What is even more impressive is that they were able to produce this top-rate scholarship on such short notice, as the symposium was organized in early September 2004, held in early November 2004, and this law review issue was published only a few months later.”).

⁸⁰ *Id.*

articles (including the introductory piece) demonstrated significant citation generation. This symposium clearly demonstrates the incredible advantage that exists to being among first published pieces of legal scholarship out on a particular topic. In this way, the topic and timeliness of an article should be carefully evaluated.

Another significant event illustrated by Figure 2 is 2004:2, another symposium that enjoyed considerable success. That issue, consisting of eight articles and an introductory piece, was based on a symposium entitled, *In the Wake of Corporate Reform: One Year in the Life of Sarbanes-Oxley—A Critical Review*. The eight articles in this symposium all enjoyed considerable citation success, as almost all of them fall in the top 50 most cited articles of the *Michigan State Law Review* for 2002-2010.⁸¹ As the title of the symposium indicates, this was another timely topic reflecting on the impact of recent legislation, the Sarbanes-Oxley Act of 2002.⁸² As further corroboration of the fact that timely topics have a significant impact on citation counts using Sarbanes-Oxley as an example, the most highly cited journal article published by the *Yale Law Journal* between 2000 and 2010 was published during its 2004-2005 volume (which was published around the same time as this *Michigan State Law Review* symposium) and was entitled, *The Sarbanes-Oxley Act and the Making of Quack Corporate*

⁸¹ Lisa H. Nicholson, *Sarbox 307's Impact on Subordinate in-House Counsel: Between A Rock and A Hard Place*, 2004 MICH. ST. L. REV. 559 (2004); Peter C. Kostant, *Sarbanes-Oxley and Changing the Norms of Corporate Lawyering*, 2004 MICH. ST. L. REV. 541 (2004); Brett H. McDonnell, *Sox Appeals*, 2004 MICH. ST. L. REV. 505 (2004); Matthew J. Barrett, *"Tax Services" As A Trojan Horse in the Auditor Independence Provisions of Sarbanes-Oxley*, 2004 MICH. ST. L. REV. 463 (2004); David A. Westbrook, *Telling All: The Sarbanes-Oxley Act and the Ideal of Transparency*, 2004 MICH. ST. L. REV. 441 (2004); Larry Cata Backer, *Surveillance and Control: Privatizing and Nationalizing Corporate Monitoring After Sarbanes-Oxley*, 2004 MICH. ST. L. REV. 327 (2004); Stephen M. Bainbridge & Christina J. Johnson, *Managerialism, Legal Ethics, and Sarbanes-Oxley Section 307*, 2004 MICH. ST. L. REV. 299 (2004); Larry E. Ribstein, *Sarbox: The Road to Nirvana*, 2004 MICH. ST. L. REV. 279 (2004); Mae Kuykendall & Elliot A. Spoon, *Introduction to Michigan State University College of Law Sarbanes-Oxley Symposium: Enforcement, Enforcement, Enforcement . . .*, 2004 MICH. ST. L. REV. 271 (2004).

⁸² Pub. L. No. 107-204, 116 Stat. 745 (codified in scattered sections of 15, 18, 28 and 29 U.S.C.)

Governance.⁸³ This timely topic greatly impacted citation counts, both for the *Michigan State Law Review* and the *Yale Legal Journal*.⁸⁴

While timeliness is an enticing factor to utilize, it is not quite so easy to take advantage of. It is simply the nature of the beast that publishing submitted articles takes a significant amount of time, thereby threatening any factor of timeliness an article may have. The time it takes to write the article, submit it, get it reviewed, and have it proceed through the production process is extensive, and long processes are the bane of timely topics. If a typical law review article takes from three months to a year to write, three months to get through the article submission process, and additional sixth months for production, one would be hard pressed to attempt to get anything published in less than a year's time.⁸⁵ This means authors should not linger when determining whether to write on an emerging area of law, and law reviews making offers on timely topics should try to keep the production timeline in mind and perhaps try to arrange article placement so that any timely articles get placed in the earlier issues.

B. Prominence or Reputation of a Particular Scholar

It is commonly understood that authors who are particularly prominent and well-recognized in their areas of legal scholarship will have no issues getting selected by a top law review.⁸⁶ The Richard Posners and Cass Sunsteins will have little problem generating citations wherever they are published. For instance, Erwin Chemerinsky, Lawrence Lessig, and Richard

⁸³ Roberta Romano, *The Sarbanes-Oxley Act and the Making of Quack Corporate Governance*, 114 YALE L.J. 1521 (2005).

⁸⁴ As of April 2013, *The Sarbanes-Oxley Act and the Making of Quack Corporate Governance* has 313 cites. The *Columbia Law Review* and the *Harvard Law Review* later published articles relating to Sarbanes-Oxley around 2006-2007, but those articles received less than one-fifth of the citations received by the article in the *Yale Law Journal*.

⁸⁵ Alex C. Davis, *The University of Louisville Law Review at Fifty: A Brief Look Back and A Hard Look at the Future*, 50 U. LOUISVILLE L. REV. 699, 708 (2012). "Given the relatively protracted editing and publishing process at law reviews, law reviews may frequently find themselves publishing articles that are already out-of-date if they concentrate on these topics." Nance & Steinberg, *supra* note 67, at 570.

⁸⁶ Whitford, *supra* note 44.

Epstein are three very prominent and well-respected scholars that have consistently been published in the law reviews at Harvard, Stanford, Yale, and Columbia. While they all generate generous amounts of citations for these top law reviews through their publications, their articles in the *Michigan State Law Review*⁸⁷ have also generated a very significant amount of citations—they all rank among the top twenty-five most cited articles published by the *Michigan State Law Review* since 2002.⁸⁸

This suggests that, at a certain level of prominence, an author can generate a significant number of citations regardless of where he or she may be getting published. However, it is guaranteed that student editors will not recognize every prominent scholar that crosses their path. How, then, are law reviews supposed to know if an author is at the level of prominence where they can generate significant citations regardless of where they are publishing? One commonly used method of measuring the scholarly impact of an author, as discussed in Part I, is looking at the author's citation history.⁸⁹

In an attempt to objectively measure author prominence in the legal field, I did a “terms and connectors” search of authors' names in the Westlaw Journals & Law Reviews (JLR) database for all of the primary authors that wrote articles for the *Michigan State Law Review* between 2002 and 2011. For instance, a search for Erwin Chemerinsky would be “Erwin /2 Chemerinsky.” This query would not only return any journal articles written by Chemerinsky, but it would also return instances where he was cited or mentioned in a journal article (such as in an author thank you footnote or referenced in discussion). While not strictly a measure of author citation history, one might argue that this is still an objective assessment of a given scholar's

⁸⁷ Erwin Chemerinsky, *Challenging Direct Democracy*, 2007 MICH. ST. L. REV. 293 (2007); Richard A. Epstein, *The Roman Law of Cyberconversion*, 2005 MICH. ST. L. REV. 103 (2005); Lawrence Lessig, *The Second Annual Distinguished Lecture in Intellectual Property and Communications Law*, 2006 MICH. ST. L. REV. 33 (2006).

⁸⁸ See Appendix E.

⁸⁹ See Section I.A.

presence in the realm of legal scholarship.⁹⁰ The below chart is a graph of the average number of article citations based on the number of mentions the authors have in the JLR database.⁹¹

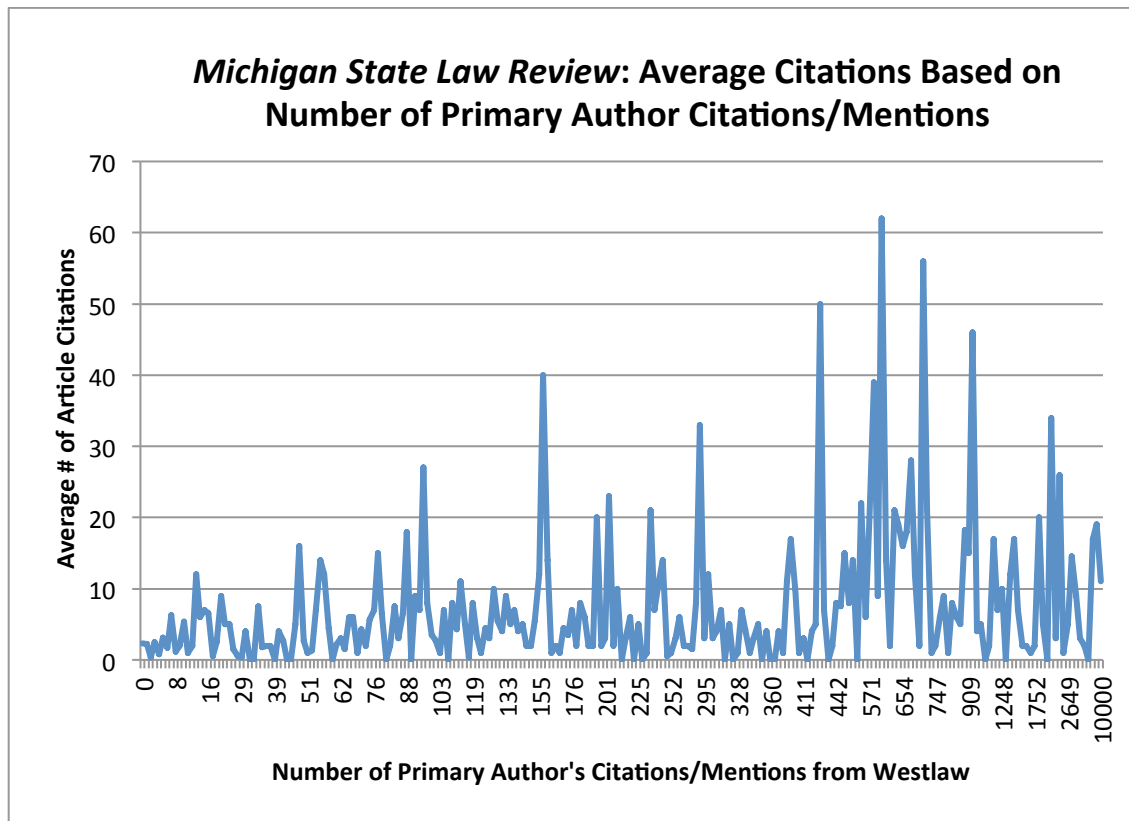


Figure 3

Based on the data represented in this chart, authors having 0 to 250 citations and mentions tend to have an average of 5.29 citations. This is slightly below the average number of citations for all the articles published by the *Michigan State Law Review* between 2002 and 2010, which is 6.36. Authors having 250 to 500 citations and mentions have an average of 6.12 citations. However, there is a very significant jump when going up to authors with 500 to 750 citations and mentions, as the average number of article citations increases to 18.29. That

⁹⁰ Of course, this database would not include books or other non-legal journal material written by authors, but theoretically those resources, if widely used and respected, will still be repeatedly cited or mentioned in the journal articles of other authors.

⁹¹ This data only reflects articles from 2002-2010, as the works from 2011 have not been in publication long enough to generate an accurate amount of citations to be included in the data.

average comes down to 12.69 for authors with 750-1000 mentions and stays fairly consistent above 1000 mentions with an average of 12.87 citations.

Though these citation averages do not reflect a perfect correlation with mentions, there is certainly a significant relationship when going from fewer than 250 mentions to above 500 mentions. Authors with over 500 mentions generally have *at least* double the average number of citations of those below 500. Though certainly not perfect, this significant relationship between average article citations and number of mentions could serve as an efficient and effective objective form of author prominence measurement that law reviews can use to make more accurate screening determinations. In fact, without having known the extensive background of the three prominent authors mentioned before, Erwin Chemerinsky, Richard Posner, and Lawrence Lessig, an articles editor could have simply used this method and found that these three authors have the highest number of citations/mentions out of all the authors publishing in the *Michigan State Law Review* between 2000 and 2011—a significant and efficient indication of their strong prominence in the legal field.⁹²

C. Author Background

Research has shown that law review editors, and particularly those from more highly ranked schools, are very heavily influenced by details about an author's background.⁹³ While perhaps not as influential of factors as the level of prominence of the scholar or the timeliness of the topic, if those factors are not determinative of whether an article should make it to the second round of evaluations, these factors can come into play as helpful criteria for article editors to use.

1. *Law School Affiliation*

⁹² At the time this data was gathered, Erwin Chemerinsky had 8,350 citations and mentions, Lessig had 5,178, and Richard Posner had over 10,000.

⁹³ Christensen & Oseid, *supra* note 66, at 188.

Another one of the most commonly assessed author characteristics used by articles editors when screening submissions is the law school at which the author teaches. A majority of respondents in a survey of law review editors responded that they were influenced by where an author teaches.⁹⁴ In fact, law reviews from the top ranked law schools showed more concern for the author's credentials than respondents from 3rd or 4th tier law schools.⁹⁵ We know that the law school an author is affiliated with is an important credential to law reviews, but at what point does the rank of the law school make a difference to citation potential? What, in particular, should articles editors be looking for when identifying the law school associated with the author?

The data reflected in the chart below attempts to answer these questions. Again, this data uses all the articles published by the *Michigan State Law Review* from 2000 to 2010, and it illustrates the average number of article citations based on the 2012 *U.S. News* law school rankings.⁹⁶ The law school affiliated with an author was identified by looking at the author footnote of each article. As such, the chart reflects an author's school based on what he or she self-reported at the time the article was written, not with the school which the author may currently be associated.⁹⁷

⁹⁴ *Id.* at 189.

⁹⁵ *Id.*

⁹⁶ *Top 2012 Law School Rankings*, *supra* note 71.

⁹⁷ Only authors with faculty positions were included in this data so as not to skew it inappropriately. Judges, students, practitioners, and non-law professors are not included in the data.

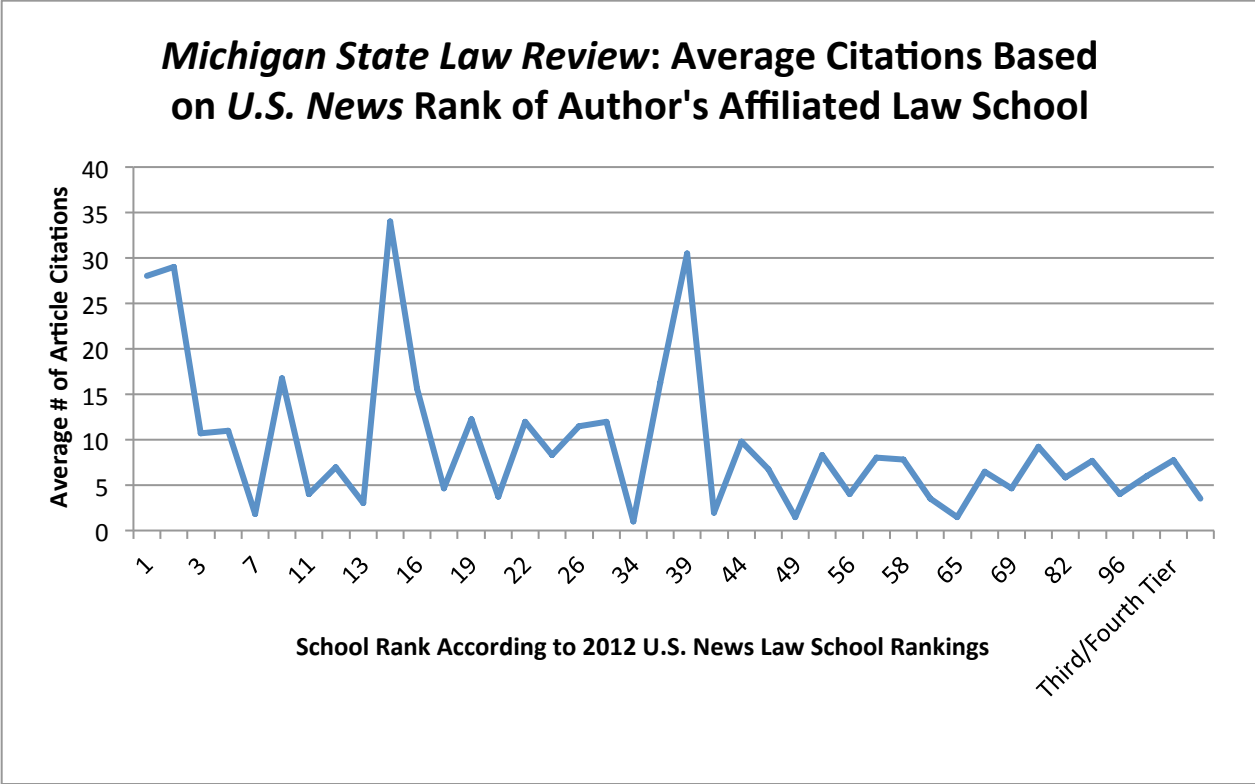


Figure 4

Based on the articles included in this data, the average number of citations for authors from law schools ranked between 1-50 is 11.72. However, authors from law schools ranked between 51-99 have an average of 5.92 citations. Lastly, authors from the third and fourth tiers of law schools have an average of 7.71 citations. While the lower half of the top 100 law schools are relatively close in average citations with the authors from the third and fourth tier schools, the biggest takeaway an editor can have from this data is the significant change in average article citations found among the top fifty law schools. It is almost double the average number of citations found among the law schools ranked 51-99.

As a result, if articles editors notice that a submission is from an author associated with a top 50 law school when they are screening article submission, they may be able to use that as another significant factor to estimate that a manuscript has high citation potential.

2. *Author Works*

While the law reviews from the top 15 law schools⁹⁸ tend to be more concerned with where an author has published as opposed to how much she has published, the majority of law reviews find the number of times an author has published to be a very important factor in considering articles.⁹⁹ Again, this raises concrete questions as to how many works an author should have before this factor can weigh in his or her favor.

The data in the chart below reflects the average number of citations based on the number of works the primary author has written that are included in the Westlaw Journals and Law Reviews database. To do this, a query was made that specifically searched through the author field of all the journals contained in the database.¹⁰⁰ The query would return with the total number of works out of all U.S. legal journals on which that scholar is listed as an author. The data covers all the authors who wrote an article in the *Michigan State Law Review* between 2000 and 2010.

⁹⁸ The study this is referencing is based on law school rankings done by U.S. News and World Report in 2006. See Christensen & Oseid, *supra* note 66, at 180.

⁹⁹ *Id.* at 193.

¹⁰⁰ A sample query would be “au(erwin /2 chemerinsky),” and it would be run in the JLR database.

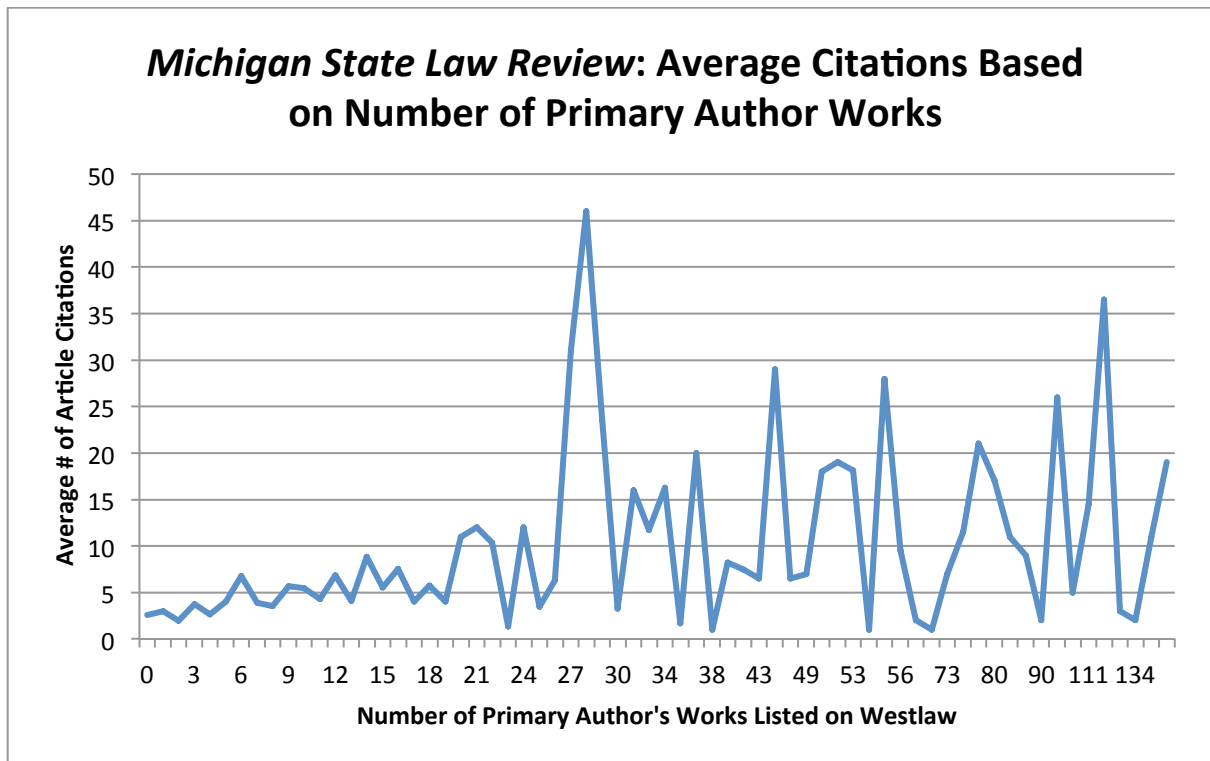


Figure 5

This chart clearly illustrates the discrepancy between authors that have authored fewer than 25 works included in the JLR database and those above that threshold. The average number of article citations for authors with between 1 and 25 works is 5.56. This number almost triples to 13.61 citations in articles written by authors who have between 25 and 50 works. This number dips slightly to 11.51 for authors with 50 to 75 works, and increases back up to an average of 13 citations where authors have between 75 and 100 works. Lastly, authors with over 100 works associated with them as an author have an average of 14.33 citations.

This data illustrates that there is a strong indication that authors with more than 25 written works are much more likely to generate a higher number of citations. Once an author is above the threshold level of 25 written works, there does not seem to be a need to put any additional significance on volumes of written work, as the average numbers of citations were fairly consistent. Additional weight may be apportioned in situations where the author has over

100 works, but according to this data, there does not seem to be a significant reason to prefer an author that has written 80 works over an author with 50. As another weapon in the arsenal, articles editors can now use this objective classification to determine whether any additional preference should be given to an article based on the number of works written by the author.

3. *Author Title*

Depending on whether the author is a law professor, a practitioner, or a student, a law review may evaluate the submission very differently. For instance, many law reviews will not publish student notes not written by their own members.¹⁰¹ Many journals from 3rd and 4th tier law schools are more interested in articles written by practitioners as opposed to law reviews from the top 15 law schools who do not generally take an author's practice experience into consideration when making publication decisions.¹⁰² The data here is intended to be used to inform an articles editor if there are certain position titles that he or she should watch out for, either positively or negatively.

The data for Figure 6 was collected by looking at the author footnotes for all articles published by the *Michigan State Law Review* from 2002 to 2010. Each author was characterized into different titles depending on how he or she self-identified his or her title in the author footnote. "Other Law Professor" refers to individuals that are law professors at non-U.S. law schools. "Other Professor" signifies that the author is a non-law professor. "Student" covers all the student notes of members of the *Michigan State Law Review*.

¹⁰¹ See, e.g., VANDERBILT LAW REVIEW, <http://sfx.cceu.org.cn/cgi-bin/tgxx.cgi?issn=0042-2533> (last visited Apr. 1, 2013); *Journal of Law and Policy*, WASH. UNIVER. LAW, <http://law.wustl.edu/journal/pages.aspx?id=705> (last visited Apr. 1, 2013).

¹⁰² Christensen & Oseid, *supra* note 66, at 194.

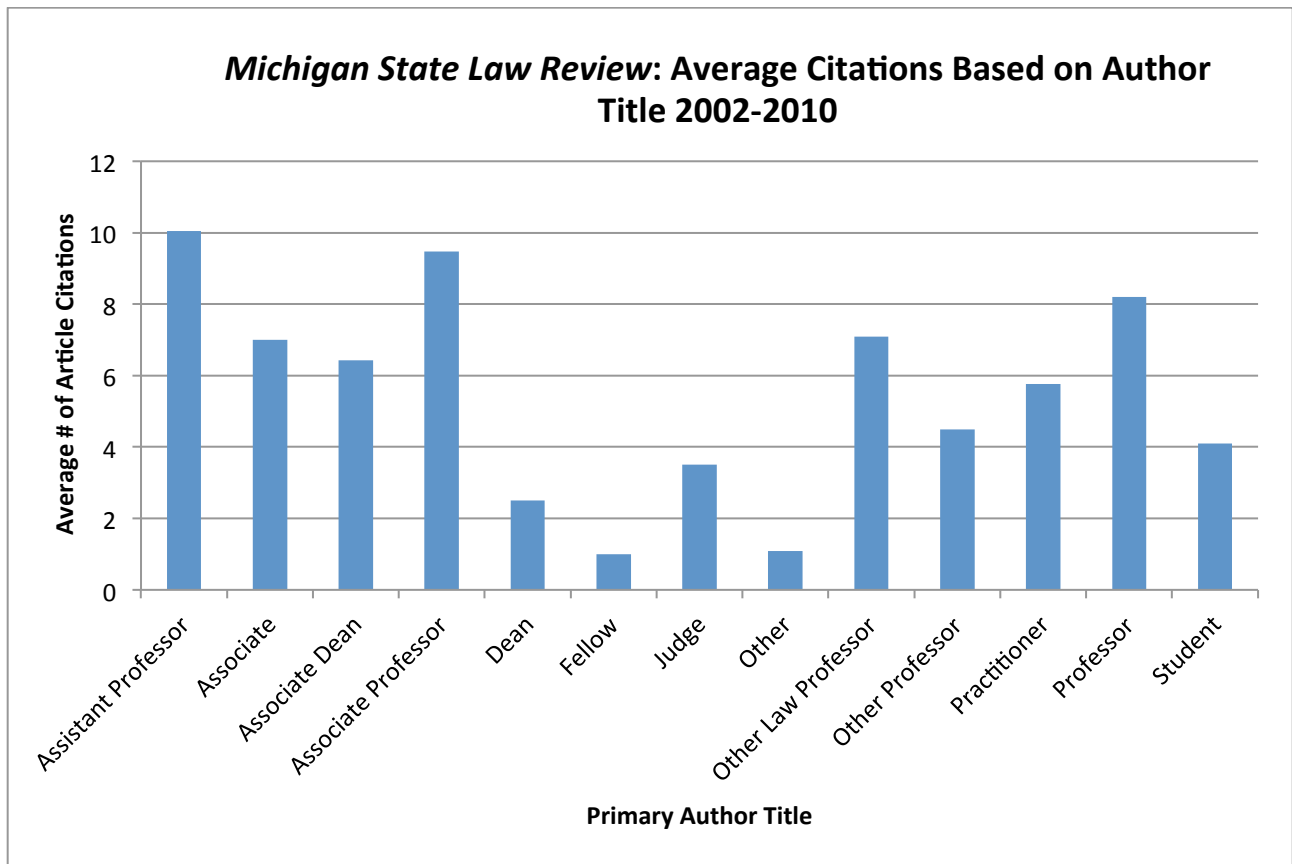


Figure 6

The data reflected in this chart offers some interesting observations based on the titles of authors. For one, the average number of citations associated with the title of “dean” here is low because the pieces authored by deans in this data set are mostly symposia introductory pieces, which usually do not garner many citations.¹⁰³ Next, judges can tend to have lower citation averages if they write on jurisdiction-specific topics.¹⁰⁴ These articles may be beneficial to some, but the limited scope hampers the general applicability of a given article and thereby decreases its potential to be cited. In terms of articles written for the *Michigan State Law Review* during this time frame, practitioners tend to average 5.76 citations per article, which is just slightly

¹⁰³ See, e.g., Terence L. Blackburn, *Introductory Remarks*, 2003 MICH. ST. DCL L. REV. 529 (2003); Dean Terence L. Blackburn, *Introduction*, 2002 L. REV. M.S.U.-D.C.L. 899, 901 (2002).

¹⁰⁴ See, e.g., Jeffrey R. Hughes, *Bankruptcy*, 2002 L. REV. M.S.U.-D.C.L. 243 (2002) (part of an annual Sixth Circuit survey).

below the overall average of 6.36, and therefore, probably not enough of a reason *not* to review practitioner pieces. One piece of information that might be surprising to some is the fact that student notes have an average of about 4 citations per article. Considering that students usually have no citation history and little legal experience, they still generate a significant number of citations.¹⁰⁵ In this way, the title of an author can have a number of implications and provides articles editors with yet another factor to use when screening articles.

By providing factors and concrete reasons supported by empirical data as to why certain factors are indications of high citation potential, articles editors now have a number of different heuristics they can employ to not only sort through articles more efficiently, but also to successfully identify all of the articles with high citation potential. Going forward, the query now turns to how these evaluative heuristics should be used and what processes should be put in place to best take advantage of this information.

IV. PUTTING THE CITATION IMPACTING FACTORS IN PRACTICE: MAXIMIZING JOURNAL SUCCESS

Using data, Part III isolated some critical factors that can be used by law reviews to make better educated decisions regarding citation potential. This section will discuss how law reviews can effectively put those factors into practice and start increasing their annual citation counts and, consequently, their journal rank. Two critical ways law reviews can do this is by streamlining their article selection process to minimize waste and make offers on the articles with the highest citation potential and also by hosting symposia that exploit the factors discussed in Part III, namely topic timeliness and author prominence.

A. Creating and Maintaining an Efficient Article Selection Process

¹⁰⁵ Because students have no citation history and little professional legal experience, the success of an article written by a student probably has more to do with the topic of the article since the factors that generally would be applied to a regular author simply would not work. *See* Section III.A.

One of the biggest challenges law reviews encounter is developing a system that can optimize the article selection process by striking a balance between the goals of minimizing the time spent reviewing articles and publishing the best articles available.¹⁰⁶ Without an effective, reliable way to sort through the high volumes of articles and the constant barrage of expedite requests, high volumes of submissions will eventually pressure student editors to make “ill-informed, snap decisions about articles” and, ultimately, result in lower citation counts because of less careful evaluation of articles.¹⁰⁷ One season of poorly selected articles will harm a journal’s Washington and Lee rankings for the next eight years, so it is imperative for a law review to create a reliable and efficient article selection method that is consistently used year to year and minimizes room for student error.¹⁰⁸

Such an article selection methodology needs to be dynamic and able to accommodate fluctuating levels of submissions and constant expedite requests. Ideally, a law review would be able to take all of the submissions it receives in a year and rank them from most to least desirable, giving offers on enough of the most highly ranked articles to fill its issues and compensate for those that will ultimately be “shopped up.” Unfortunately, the constant ebb and flow of submissions with varying deadlines and the anxieties of quickly-expiring expedite requests makes such a system impossible. The editors are not afforded the luxury of being able to carefully weigh the value of an article compared to all of the other submissions of that cycle. Instead, the system demands a dynamic process where articles editors make rolling determinations based on factors editors know to be indicative of citation success. The factors discussed in the previous Part provide concrete indications of correlations that can serve as a

¹⁰⁶ See Heifetz, *supra* note 43, at 642. (describing the struggle law reviews face in reviewing articles and the diminishing returns for student editors).

¹⁰⁷ *Id.* at 178 (quoting *Posting of Randy Kozel to Legal Affairs Debate Club*, LEGAL AFFAIRS, http://www.legalaffairs.org/webexclusive/debateclub_posner1104.msp (Nov. 15, 2004, 9:00 EST)).

¹⁰⁸ See discussion *supra* Section I.B.

reliable vehicle for quickly sifting and sorting through initial reviews of articles rather than making “snap judgments” or relying on unsubstantiated evaluative criteria founded only in hearsay. The implementation of these factors as some of the variables in a careful balancing algorithm can be employed as a valuable initial screening method that can more efficiently provide feedback regarding the citation potential of an article.

These factors can be utilized in any number of different article selection tools, but one example is illustrated in Appendices G, H, and I. This particular tool serves as one effective and efficient method of quickly performing article assessment through both a quantitative and qualitative process that attempts to delineate the most accurate estimate of citation potential. It utilizes an online spreadsheet format so that articles editors can quickly update information in one central location and can be immediately updated to correspond to any changes in submissions that may occur, such as submissions that are withdrawn (which are usually removed) or expedited (which are designated in a separate column). Furthermore, the spreadsheet format allows for formulaic calculations based on the data input by the articles editors.

This particular tool is divided into three main portions. The first part, illustrated in Appendix G, covers the administrative details. All submissions, whether they are received through ExpressO or otherwise, are immediately added to the tool, assigned to an articles editor, and given a deadline. The articles editor would then be responsible for filling out the quantitative and qualitative details in the form. Appendix H, the “About the Author” portion of the tool, covers many of the objective factors regarding the author and the article. Appendix I, the “Article Quality” portion of the tool, and an associated “Comments” column correlate to many of the qualitative assessments of the article. Once the details are filled out, the articles editor then

makes a recommendation based on the quantitative and qualitative information. Any recommendations other than an absolute “No” are moved on past the initial screening phase.

Rather than charge inexperienced articles editors with deciding whether a “medium-quality article with a somewhat popular topic written by an associate professor from a law school ranked 77th that has written 14 other articles” is more or less likely to generate a higher number of citations than a “well written but poorly footnoted article with an expedite request written by a professor that has written 35 articles and is from a law school ranked 90th,” this tool utilizes an algorithm based on the factors discussed in Part III to produce an “Objective Citation Potential Score” (illustrated in Appendix I). Not determinative, this score simply provides a more easily understood weighted calculation of the factors. This is then used by the assigned articles editor in conjunction with the qualitative factors he or she has developed from reviewing the article to determine the initial recommendation.

This particular tool’s “Objective Citation Potential Score” produces a number particularly keyed for the *Michigan State Law Review* based on the articles it published between 2000 and 2010. It takes into account four categories determined to correlate to citation potential as explained in Part III: the rank of the school, the number of written works by the author on Westlaw, the number of times he or she is mentioned in the JLR database, and the topic popularity level.¹⁰⁹ The submission earns a certain number of points based on each of these categories, and then those points are divided by the total number of possible points to put it on a 0-100 point scale. Appendix J illustrates how the points are tabulated for the “Author Works”

¹⁰⁹ This is typically determined by each articles editor based on prevalence of the topic in the news, on blogs, the number of other articles on the topic and the dates that they were published, when the cases it discusses were decided, etc.

and “Author Mentions” factors.¹¹⁰ The points used in this particular tool are allotted specifically based on data correlating to the *Michigan State Law Review* and are hypothetical evaluations of citation potential based on that dataset. However, the measurement is not meant to say that a submission with a score of 66% is effectively “better” than one with 65%, but rather is meant to be an incredibly clear and concise indication that a submission with a value of 5% could likely be dismissed quickly while another with a score of 95% should probably be given a closer look. The more quickly articles can be stratified, the more quickly decisions can be made.

The creation of a dynamic, rolling system that evaluates all articles on the aforementioned factors efficiently is not only valuable because it creates quicker submission determinations, but also because it helps attempt to control a critical weakness in the current articles selections process—student error. Because editorial boards turn over so quickly, training is a very short period of time and there is hardly any accumulation of experience, leaving much more room for error in making article selections since articles editors are more likely to have misguided or unsubstantiated understandings of how articles are to be selected.¹¹¹ As a result, “The transience of responsibility prevents the steadiness of approach.”¹¹² The creation of efficient article selection process, particularly one based on data that *objectively* illustrates or calculates the importance of certain factors reduces the amount of student discretion in trying to determine critical factors. An articles editor not taught that topic popularity is an important characteristic will see that it is a required factor listed in the articles selection tool, and an articles

¹¹⁰ Appendix J illustrates how points are calculated for Author Works and Author Mentions. Essentially, more points are awarded based on the percentage of where it falls in comparison to all the other articles published by the *Michigan State Law Review* between 2000 and 2010. For instance, no written works would get 0 points in that category, but 1-3 articles would put the author in the first quartile of number of works by the authors published by the *Michigan State Law Review* from 2000 to 2010. If an author has written 10 works, she will be awarded 2 points in the “Author Works” category because she has the same number of works as those in the second quartile of all the authors published by the *Michigan State Law Review* from 2000 to 2010.

¹¹¹ Arthur Nussbaum, *Some Remarks About the Position of Student-Editors of the Law Review*, 7 J. LEGAL EDUC. 381, 381 (1955).

¹¹² *Id.*

editor not taught that 2,500 mentions is a significant amount to recognize will still see a very high “Objective Citation Potential Score.” In other words, the consistent usage and development of a reliable articles selection method can reduce the amount of inconsistency in offer decisions created by student editors that are poorly trained.¹¹³

By developing a dynamic article selection method that is based on factors actually demonstrated to have an effect on citation potential, articles editors can more efficiently and consistently identify articles that are likely to generate high citation counts. Furthermore, the consistent use of such a tool can also reduce problems related to student-error, as even students that are poorly trained can use it properly to make accurate submission determinations.

B. Organizing Success Through Symposia: Creating Opportunity for Increased Citation Counts Outside the Article Selection Process

It is also important for law review editors to recognize that the article submission process is not the only method for receiving articles of high citation potential. In fact, symposia provide a particularly unique opportunity for journals to actively seek out and receive articles on some of the timeliest topics and receive articles that are written by particularly prominent authors that otherwise may not publish with a particular journal.¹¹⁴

¹¹³ Proper training alleviates many potential inconsistency problems, and should be carried out jointly in the spring with the outgoing and incoming articles editors so that incoming articles editors are fully familiar with the process for the submission cycle in the fall. It is critical that law review use both submission cycles for article selection, even if just for training purposes, so there are always experienced articles editors in a given submission cycle.

¹¹⁴ Many journals have found success in the symposia format. *See, e.g.,* Fred R. Shapiro, *The Most-Cited Law Review Articles Revisited*, 71 CHI.-KENT L. REV. 751, 761 (1996) (“Schools seeking to increase their citations might do several things. . . . The use of symposia and the printing of lectures by distinguished scholars are both helpful. The former technique has been harnessed with particularly good results at the Chicago-Kent Law Review, which has moved to an all-symposium format.”).

Timeliness¹¹⁵ is one of the biggest advantages to a law review organizing a symposium. As described in Part III, if there is a particularly recent event that is likely to garner attention in the realm of legal scholarship, just as Sarbanes-Oxley was around 2003, a symposium is the perfect opportunity to generate a large amount of material on that popular topic quickly before that area of law has been extensively explored. In this way, a journal would not be relying as heavily on articles received through the submission cycle and would also not have to worry about authors “shopping” their article elsewhere, since the authors would typically already be committed to the journal through their attendance at the symposium.

Another particularly notable advantage of symposia is that they present law reviews with the opportunity to approach some very prominent authors to request that they attend and publish with the journal—authors that would otherwise only publish in more highly ranked journals. Several of the most successful pieces published by the *Michigan State Law Review* between 2000 and 2010 were the result of very prominent and respected authors that attended symposia, such as Mark Lemley,¹¹⁶ Larry Ribstein,¹¹⁷ and Lawrence Lessig.¹¹⁸ Symposia present the unique opportunity to bring in key scholars in certain fields, whether as keynote speakers or panelists, and have them publish with the law review. The centralized theme of a symposium helps to bring in these authors because of the projected prominence of having an entire issue dedicated to the topic.¹¹⁹

Unlike the article submission process, symposia are a valuable opportunity for law reviews to actively generate articles on a particularly timely topic or for them to proactively seek

¹¹⁵ “Timeliness” is referring to “fresh” topics rather than “hot” topics on which much has already been written. Nance & Steinberg, *supra* note 67, at 574.

¹¹⁶ Mark A. Lemley, *Ignoring Patents*, 2008 MICH. ST. L. REV. 19 (2008).

¹¹⁷ Ribstein, *supra* note 81.

¹¹⁸ Lessig, *supra* note 87.

¹¹⁹ Closen & Dzielak, *supra* note 42, at 20.

out a prominent author that they might not otherwise have the opportunity to publish. In fact, symposia can be so considerably successful that some law reviews have even converted to a completely symposium format.¹²⁰ Most importantly, law reviews need to recognize that they can take advantage of the factors that contribute to high citation potential not only through the article selection process, but also by organizing events such as symposia to attract desirable articles for publication.

CONCLUSION

While some authors disregard law reviews as “spinach”¹²¹ or as merely players in a valueless numbers game, the reality is that authors and journals alike depend on citation counts. The current system is certainly far from perfect and creates a tremendous amount of waste because of the simultaneous reviews of the same article by many different journals. The high volumes force quicker assessments and snap judgments by often poorly guided student editors, but the transition to single-submission policies in law reviews is highly unlikely unless competing journals collectively agree to use them.¹²² With lower volumes of submissions, students would have more time to be better trained, faculty could possibly be more involved in the article selection process or in training student editors on what to look for in quality articles, and overall greater care could be taken to qualitatively review each article. However, top law reviews have no incentive to change their procedures, and it is likely that any change would have to be enacted from the top down since lower-ranked journals are unlikely to change if changing would only hurt their rank and further entrench more highly ranked journals.¹²³ Despite the advantages a reform of the system may have, “as a direct result of the firmly entrenched

¹²⁰ *Id.*

¹²¹ Fred Rodell, *Goodbye to Law Reviews-Revisited*, 48 Va. L. Rev. 279, 282 (1962).

¹²² Heifetz, *supra* note 43, at 633.

¹²³ Saunders, *supra* note 64, at 1676.

hierarchy of law reviews, collective action among law reviews to reform student editing and article submission processes is impossible.¹²⁴

Regardless of whether or not the student-edited law review model should eventually change, law reviews must deal with the current system, especially since there is no indication that it will be shifting in the near future. With the high volumes of submissions many journals have to handle and the quick determinations that they must make, there are high demands on articles editors to make offers on the articles most likely to help the rank of the journal—those with the highest citation potential. By developing an efficient and effective article selection tool based on concrete factors relating to article citation success and selecting symposia with timely topics that can attract prominent authors, a law review can maximize its citation potential and exert greater control over its trajectory in the journal rankings.

¹²⁴ *Id.*

APPENDIX A: TOP 25 MOST CITED ARTICLES PUBLISHED IN 2000-2010 FROM THE
*YALE LAW JOURNAL*¹²⁵

Title	Author	Year	Citation	Citing Refs
Sarbanes-Oxley Act and the Making of Quack Corporate Governance, The	Romano, Roberta	2004-2005	114 Yale L.J. 1521	313
Equal Protection by Law: Federal Antidiscrimination Legislation after Morrison and Kimel Essay	Post, Robert C.; Siegel, Reva B.	2000-2001	110 Yale L.J. 441	309
Do Human Rights Treaties Make a Difference	Hathaway, Oona A.	2001-2002	111 Yale L.J. 1935	282
Optimal Standardization in the Law of Property: The Numerus Clausus Principle	Merrill, Thomas W.; Smith, Henry E.	2000-2001	110 Yale L.J. 1	282
Coase's Penguin, or, Linux and The Nature of the Firm	Benkler, Yochai	2002-2003	112 Yale L.J. 369	275
Covering	Yoshino, Kenji	2001-2002	111 Yale L.J. 769	271
Contract Theory and the Limits of Contract Law	Schwartz, Alan; Scott, Robert E.	2003-2004	113 Yale L.J. 541	244
Waging War, Deciding Guilt: Trying the Military Tribunals Essay	Katyal, Neal K.; Tribe, Laurence H.	2001-2002	111 Yale L.J. 1259	239
Corporations and Human Rights: A Theory of Legal Responsibility	Ratner, Steven R.	2001-2002	111 Yale L.J. 443	234
Schools, Race, and Money	Ryan, James E.	1999-2000	109 Yale L.J. 249	228
Legislative Constitutionalism and Section Five Power: Policentric Interpretation of the Family and Medical Leave Act	Post, Robert C.; Siegel, Reva B.	2002-2003	112 Yale L.J. 1943	201
Core of the Case against Judicial Review, The Essay	Waldron, Jeremy	2005-2006	115 Yale L.J. 1346	199
Deliberative Trouble - Why Groups Go to Extremes Essay	Sunstein, Cass R.	2000-2001	110 Yale L.J. 71	195

¹²⁵ The citation counts referred to for these Appendices are the number of citing references to the article listed on Westlaw using KeyCite. Therefore, the citing references contain beyond simply references in law reviews as cases, but perhaps also other legal periodicals and treatises. The year span of 2000-2010 was chosen to give a large enough sample to see highly cited articles and was ended at 2010 because recent articles have had less time to become cited. The numbers in this chart reflect the citation counts as of April 2013.

Chaos and Rules: Should Responses to Violent Crises Always Be Constitutional	Gross, Oren	2002-2003	112 Yale L.J. 1011	187
Law and Economics of Reverse Engineering, The	Samuelson, Pamela; Scotchmer, Suzanne	2001-2002	111 Yale L.J. 1575	186
Emergency Constitution, The Essay	Ackerman, Bruce	2003-2004	113 Yale L.J. 1029	183
Birth of an Academic Obsession: The History of the Countermajoritarian Difficulty, Part Five, The	Friedman, Barry	2002-2003	112 Yale L.J. 153	183
Executive Power over Foreign Affairs, The	Prakash, Saikrishna B.; Ramsey, Michael D.	2001-2002	111 Yale L.J. 231	183
Copy This Essay: How Fair Use Doctrine Harms Free Speech and How Copying Serves It Essay	Tushnet, Rebecca	2004-2005	114 Yale L.J. 535	169
Two Western Cultures of Privacy: Dignity versus Liberty, The	Whitman, James Q.	2003-2004	113 Yale L.J. 1151	168
Essential Role of Organizational Law, The	Hansmann, Henry; Kraakman, Reinier	2000-2001	110 Yale L.J. 387	163
Punitive Damages as Societal Damages	Sharkey, Catherine M.	2003-2004	113 Yale L.J. 347	162
Internet and the Dormant Commerce Clause, The Essay	Goldsmith, Jack L.; Sykes, Alan O.	2000-2001	110 Yale L.J. 785	162
What Happened to Property in Law and Economics Essay	Merrill, Thomas W.; Smith, Henry E.	2001-2002	111 Yale L.J. 357	161
Right-Remedy Gap in Constitutional Law, The Essay	Jeffries, John C. Jr.	1999-2000	109 Yale L.J. 87	161

APPENDIX B: TOP 25 MOST CITED ARTICLES PUBLISHED IN 2000-2010 FROM THE
COLUMBIA LAW REVIEW

Title	Author	Year	Citation	Citing Refs
Second Generation Employment Discrimination: A Structural Approach	Sturm, Susan	2001	101 Colum. L. Rev. 458	388
Textualism and the Equity of the Statute	Manning, John F.	2001	101 Colum. L. Rev. 1	273

More Supreme than Court - The Fall of the Political Question Doctrine and the Rise of Judicial Supremacy	Barkow, Rachel E.	2002	102 Colum. L. Rev. 237	218
Life's Work Essay	Schultz, Vicki	2000	100 Colum. L. Rev. 1881	204
Ossification of American Labor Law, The	Estlund, Cynthia L.	2002	102 Colum. L. Rev. 1527	202
Toward a Doctrine of Fair Use in Patent Law	O'Rourke, Maureen A.	2000	100 Colum. L. Rev. 1177	195
What ERISA Means by Equitable: The Supreme Court's Trail of Error in Russell, Mertens, and Great-West	Langbein, John H.	2003	103 Colum. L. Rev. 1317	188
Engaging Facts and Policy: A Multi-Institutional Approach to Patent System Reform	Rai, Arti K.	2003	103 Colum. L. Rev. 1035	173
Property/Contract Interface, The	Merrill, Thomas W.; Smith, Henry E.	2001	101 Colum. L. Rev. 773	157
Copyright and Control over New Technologies of Dissemination	Ginsburg, Jane C.	2001	101 Colum. L. Rev. 1613	143
Racial Profiling under Attack Essay	Gross, Samuel R.; Livingston, Debra	2002	102 Colum. L. Rev. 1413	141
All about Words: Early Understandings of the Judicial Powe in Statutory Interpretation, 1776-1806	Eskridge, William N. Jr.	2001	101 Colum. L. Rev. 990	139
Torture and Positive Law: Jurisprudence for the White House	Waldron, Jeremy	2005	105 Colum. L. Rev. 1681	137
Theorizing Yes: An Essay on Feminism, Law, and Desire Essay	Franke, Katherine M.	2001	101 Colum. L. Rev. 181	137
Rise and Fall of Textualism, The Exchange	Molot, Jonathan T.	2006	106 Colum. L. Rev. 1	136
Rebuilding the Law of the Workplace in an Era of Self-Regulation	Estlund, Cynthia	2005	105 Colum. L. Rev. 319	124
Racing towards the Top: The Impact of Cross-Listing and Stock Market Competition on International Corporate Governance	Coffee, John C. Jr.	2002	102 Colum. L. Rev. 1757	116
Preexistence Principle and the	Nagareda, Richard	2003	103 Colum. L.	115

Structure of the Class Action, The	A.		Rev. 149	
Two View of the River: A Critique of the Liberal Defense of Affirmative Action Essay	Lawrence, Charles R. III	2001	101 Colum. L. Rev. 928	109
Preference-Estimating Statutory Default Rules	Elhauge, Einer	2002	102 Colum. L. Rev. 2027	107
Ruth Bader Ginsburg, Professor of Law Symposium: Celebration of the Tenth Anniversary of Justice Ruth Bader Ginsburg's Appointment to the Supreme Court of the United States	Kay, Herma Hill	2004	104 Colum. L. Rev. 2	104
When the Hurlyburly's Done: The Bar's Struggle with the SEC Symposium: Regulating the Lawyer: Past Efforts and Future Possibilities	Koniak, Susan P.	2003	103 Colum. L. Rev. 1236	98
Prosecutors and Their Agents, Agents and Their Prosecutors	Richman, Daniel	2003	103 Colum. L. Rev. 749	103
Rethinking Article I, Section I: From Nondelegation to Exclusive Delegation	Merrill, Thomas W.	2004	104 Colum. L. Rev. 2097	104
Deliberating about Dollars: The Severity Shift Empirical Study	Schkade, David; Sunstein, Cass R.; Kahneman, Daniel	2000	100 Colum. L. Rev. 1139	100

APPENDIX C: TOP 25 MOST CITED ARTICLES PUBLISHED IN 2000-2010 FROM THE
HARVARD LAW REVIEW

Title	Author	Year	Citation	Citing Refs
Presidential Administration	Kagan, Elena	2000-2001	114 Harv. L. Rev. 2245	528
Foreword: We the Court The Supreme Court, 2000 Term - Foreword	Kramer, Larry D.	2001-2002	115 Harv. L. Rev. 5	337
Fashioning the Legal Constitution: Culture, Courts, and Law The Supreme Court, 2002 Term - Foreword	Post, Robert C.	2003-2004	117 Harv. L. Rev. 4	334
Lawrence v. Texas: The Fundamental Right That Dare	Tribe, Laurence H.	2003-2004	117 Harv. L. Rev. 1893	322

Not Speak Its Name Essay				
The Document and the Doctrine The Supreme Court - 1999 Term: Foreword	Amar, Akhil Reed	2000-2001	114 Harv. L. Rev. 26	296
Trojan Horses of Race	Kang, Jerry	2004-2005	118 Harv. L. Rev. 1489	286
Congressional Authorization and the War on Terrorism	Bradley, Curtis A.; Goldsmith, Jack L.	2004-2005	118 Harv. L. Rev. 2047	279
As-Applied and Facial Challenges and Third-Party Standing Commentary	Fallon, Richard H. Jr.	1999-2000	113 Harv. L. Rev. 1321	275
Case for Increasing Shareholder Power, The	Bebchuk, Lucian Arye	2004-2005	118 Harv. L. Rev. 833	273
Law of the Horse: What Cyber Law Might Teach, The Commentary	Lessig, Lawrence	1999-2000	113 Harv. L. Rev. 501	260
Delaware's Competition	Roe, Mark J.	2003-2004	117 Harv. L. Rev. 588	251
Plea Bargaining outside the Shadow of Trial	Bibas, Stephanos	2003-2004	117 Harv. L. Rev. 2464	248
Absurdity Doctrine, The	Manning, John F.	2002-2003	116 Harv. L. Rev. 2387	220
Searches and Seizures in a Digital World	Kerr, Orin S.	2005-2006	119 Harv. L. Rev. 531	212
Political Court, A The Supreme Court 2004 Term: Foreword	Posner, Richard A.	2005-2006	119 Harv. L. Rev. 32	210
Inmate Litigation	Schlanger, Margo	2002-2003	116 Harv. L. Rev. 1555	197
Secret Ambition of Deterrence, The	Kahan, Dan M.	1999-2000	113 Harv. L. Rev. 413	195
Gerrymandering and Political Cartels	Issacharoff, Samuel	2002-2003	116 Harv. L. Rev. 593	193
Destabilization Rights: How Public Law Litigation Succeeds	Sabel, Charles F.; Simon, William H.	2003-2004	117 Harv. L. Rev. 1016	188
Federal Rules of Statutory Interpretation	Rosenkranz, Nicholas Quinn	2001-2002	115 Harv. L. Rev. 2085	187
Trial as Error, Jurisdiction as Injury: Transforming the Meaning of Article III	Resnik, Judith	1999-2000	113 Harv. L. Rev. 924	174
She the People: The Nineteenth Amendment, Sex Equality, Federalism, and the Family	Siegel, Reva B.	2001-2002	115 Harv. L. Rev. 947	173
World Trade Constitution, The Commentary	McGinnis, John O.; Movsesian,	2000-2001	114 Harv. L. Rev. 511	172

	Mark L.			
Empty Votes in Jury Deliberations	Taylor-Thompson, Kim	1999-2000	113 Harv. L. Rev. 1261	170

APPENDIX D: TOP 25 MOST CITED ARTICLES PUBLISHED IN 2000-2010 FROM THE
STANFORD LAW REVIEW

Title	Author	Year	Citation	Citing Refs
Enemy Aliens	Cole, David	2001-2002	54 Stan. L. Rev. 953	274
Punishment Purposes More Perfect System: Twenty-Five Years of Guidelines Sentencing Reform: Purposes	Frase, Richard S.	2005-2006	58 Stan. L. Rev. 67	271
Locating Copyright within the First Amendment Skein	Netanel, Neil Weinstock	2001-2002	54 Stan. L. Rev. 1	271
Examined Lives: Informational Privacy and the Subject as Object Symposium: Cyberspace and Privacy: A New Legal Paradigm	Cohen, Julie E.	1999-2000	52 Stan. L. Rev. 1373	228
Freedom of Speech and Information Privacy: The Troubling Implications of a Right to Stop People from Speaking about You Symposium: Cyberspace and Privacy: A New Legal Paradigm	Volokh, Eugene	1999-2000	52 Stan. L. Rev. 1049	205
Reducing Digital Copyright Infringement without Restricting Innovation	Lemley, Mark A.; Reese, R. Anthony	2003-2004	56 Stan. L. Rev. 1345	199
Powerful Antitakeover Force of Staggered Boards: Theory, Evidence, and Policy, The	Bebchuk, Lucian Arye; Coates, John C. IV; Subramanian, Guhan	2001-2002	54 Stan. L. Rev. 887	195
On American Exceptionalism Foreword	Koh, Harold Hongju	2002-2003	55 Stan. L. Rev. 1479	188
Death of Privacy, The Symposium: Cyberspace and Privacy: A New Legal Paradigm	Froomkin, A. Michael	1999-2000	52 Stan. L. Rev. 1461	187
Theory of Path Dependence in Corporate Ownership and	Bebchuk, Lucian Arye; Roe, Mark J.	1999-2000	52 Stan. L. Rev. 127	181

Governance, A				
End of Bankruptcy, The	Baird, Douglas G.; Rasmussen, Robert K.	2002-2003	55 Stan. L. Rev. 751	178
Systemic Analysis of Affirmative Action in American Law Schools, A	Sander, Richard H.	2004-2005	57 Stan. L. Rev. 367	177
Defining Better Monopolization Standards	Elhauge, Einer	2003-2004	56 Stan. L. Rev. 253	173
Myth of State Competition in Corporate Law, The	Kahan, Marcel; Kamar, Ehud	2002-2003	55 Stan. L. Rev. 679	170
Creeping Mandatory Arbitration: Is It Just 2005 Stanford Law Review Symposium: The Civil Trial: Adaptation and Alternatives	Sternlight, Jean R.	2004-2005	57 Stan. L. Rev. 1631	165
Privacy and Power: Computer Databases and Metaphors for Information Privacy	Solove, Daniel J.	2000-2001	53 Stan. L. Rev. 1393	164
Privacy as Intellectual Property Symposium: Cyberspace and Privacy: A New Legal Paradigm	Samuelson, Pamela	1999-2000	52 Stan. L. Rev. 1125	152
Refugee Roulette: Disparities in Asylum Adjudication Feature	Ramji-Nogales, Jaya; Schoenholtz, Andrew I.; Schrag, Philip G.	2007-2008	60 Stan. L. Rev. 295	150
Corporate Risk Analysis: A Reckless Act	Viscusi, W. Kip	1999-2000	52 Stan. L. Rev. 547	148
First Amendment's Purpose, The	Rubinfeld, Jed	2000-2001	53 Stan. L. Rev. 767	143
Reform(aliz)ing Copyright	Sprigman, Christopher	2004-2005	57 Stan. L. Rev. 485	138
Towards an International Judicial System	Martinez, Jenny S.	2003-2004	56 Stan. L. Rev. 429	133
Screening/Bargaining Tradeoff, The	Wright, Ronald; Miller, Marc	2002-2003	55 Stan. L. Rev. 29	130
Behavioral Economics and the SEC	Choi, Stephen J.; Pritchard, A. C.	2003-2004	56 Stan. L. Rev. 1	127
Information Privacy/Information Property Symposium: Cyberspace and Privacy: A New Legal Paradigm	Litman, Jessica	1999-2000	52 Stan. L. Rev. 1283	125

APPENDIX E: TOP 25 MOST CITED ARTICLES PUBLISHED IN 2002-2011 FROM THE
*MICHIGAN STATE LAW REVIEW*¹²⁶

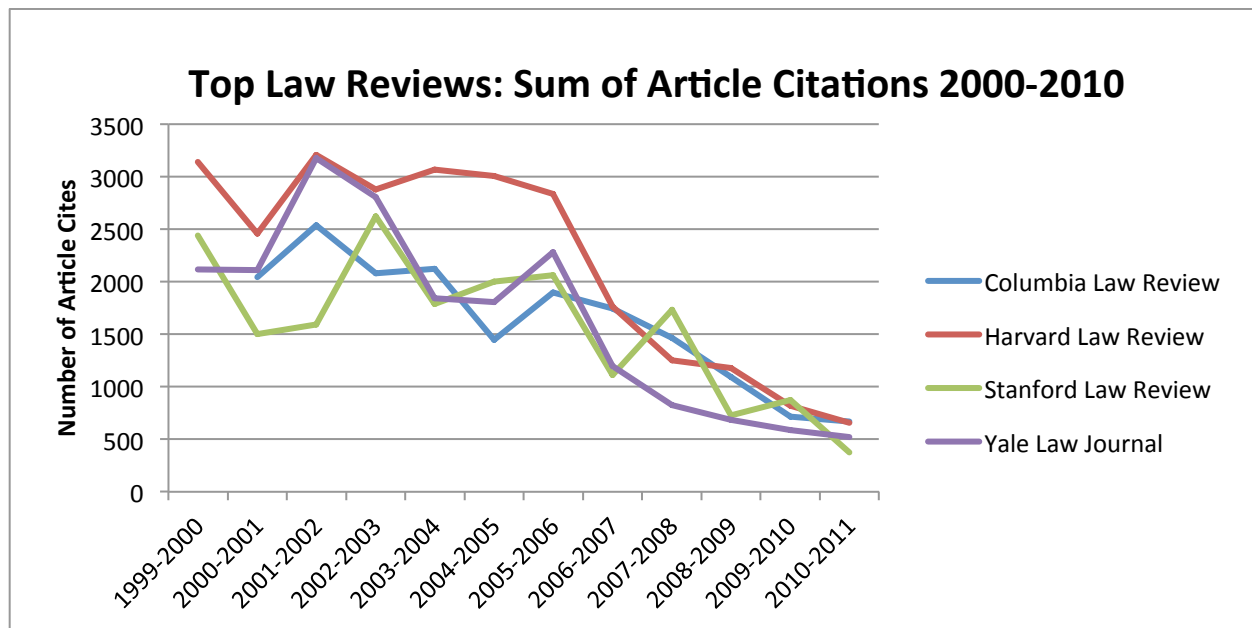
Year	Issue	Symposium	Citation	Title	Citing Refs	Primary Author
2004	4	Poletown: Wayne v. Hatchcock - Adam Mossoff	2004 Mich. St. L. Rev. 957	Taking Eminent Domain Apart The Death of Poletown: The Future of Eminent Domain and Urban Development after County of Wayne v. Hathcock Symposium Issue	62	Lee Anne Fennell
2004	4	Poletown: Wayne v. Hatchcock - Adam Mossoff	2004 Mich. St. L. Rev. 1005	Overcoming Poletown: County of Wayne v. Hathcock, Economic Development Takings, and the Future of Public Use The Death of Poletown: The Future of Eminent Domain and Urban Development after County of Wayne v. Hathcock Symposium Issue	56	Ilya Somin
2004	4	Poletown: Wayne v. Hatchcock - Adam Mossoff	2004 Mich. St. L. Rev. 877	Public-Use Limitations and Natural Property Rights The Death of Poletown: The Future of Eminent Domain and Urban Development after County of Wayne v. Hathcock Symposium Issue	50	Eric R. Claeys
2006	3	N/A	2006 Mich. St. L. Rev. 709	Backlash So Far: Will Americans Get Meaningful Eminent Domain Reform, The	48	Timothy Sandefur
2004	4	Poletown: Wayne v. Hatchcock - Adam Mossoff	2004 Mich. St. L. Rev. 929	Political Economy of Public Use in Poletown: How Federal Grants Encourage Excessive Use of Eminent Domain, The The Death of Poletown: The Future of Eminent Domain and Urban Development after County of Wayne v. Hathcock Symposium	46	William A. Fischel
2004	4	Poletown: Wayne v. Hatchcock - Adam Mossoff	2004 Mich. St. L. Rev. 859	Public Ruses The Death of Poletown: The Future of Eminent Domain and Urban Development after County of Wayne v. Hathcock Symposium Issue	46	James E. Krier
2004	2	Corporate Reform: Year in Sarbanes-Oxley - Kukyendall; Spoon; Ribstein	2004 Mich. St. L. Rev. 327	Surveillance and Control: Privatizing and Nationalizing Corporate Monitoring after Sarbanes-Oxley In the Wake of Corporate Reform: One Year in the Life of Sarbanes-Oxley - A Critical Review Symposium Issue	41	Larry Cata Backer
2007	4	N/A	2007 Mich. St. L. Rev. 941	Alchemy in the Courtroom - The Transmutation of Public Nuisance Litigation	40	Richard Faulk
2003	2	N/A	2003 Mich. St. DCL L. Rev. 447	Teaching Law Students to Be Self-Regulated Learners	39	Michael Hunter Schwartz
2004	2	Corporate Reform: Year in Sarbanes-Oxley - Kukyendall; Spoon; Ribstein	2004 Mich. St. L. Rev. 299	Managerialism, Legal Ethics, and Sarbanes-Oxley Section 307 In the Wake of Corporate Reform: One Year in the Life of Sarbanes-Oxley - A Critical Review Symposium Issue	34	Stephen M. Bainbridge

¹²⁶ The numbers reflected in this chart are those gathered in 2013.

2007	1	International IP/Peter Yu	2007 Mich. St. L. Rev. 1	International Enclosure, the Regime Complex, and Intellectual Property Schizophrenia The International Intellectual Property Regime Complex	28	Peter K. Yu
2005	1	IP and Info Ecosystem - Peter Yu	2005 Mich. St. L. Rev. 1	Intellectual Property and the Information Ecosystem Intellectual Property, Sustainable Development, and Endangered Species: Understanding the Dynamics of the Information Ecosystem Symposium	28	Peter K. Yu
2003	4	Rationality in Evidence Law - Craig Callen	2003 Mich. St. L. Rev. 1023	Rationality, Research and Leviathan: Law Enforcement-Sponsored Research and the Criminal Process Visions of Rationality in Evidence Law Symposium	28	D. Michael Risinger
2004	1	N/A	2004 Mich. St. L. Rev. 1	Describing the Ball: Improve Teaching by Using Rubrics - Explicit Grading Criteria	27	Sophie M. Sparrow
2004	3	Multi-Jurisdictional & Cross-Border Class Actions - Debra Bassett	2004 Mich. St. L. Rev. 643	International Human Rights Class Actions: New Frontiers for Group Litigation Multi-Jurisdictional and Cross-Border Class Actions Symposium Issue	26	Kevin R. Johnson
2004	2	Corporate Reform: Year in Sarbanes-Oxley - Kukyendall; Spoon; Ribstein	2004 Mich. St. L. Rev. 279	Sarbox: The Road to Nirvana In the Wake of Corporate Reform: One Year in the Life of Sarbanes-Oxley - A Critical Review Symposium Issue	25	Larry E. Ribstein
2006	2	N/A	2006 Mich. St. L. Rev. 411	Science of Persuasion: An Initial Exploration, The	23	Kathryn M. Stanchi
2005	1	IP and Info Ecosystem - Peter Yu	2005 Mich. St. L. Rev. 137	Traditional Knowledge & (and) Intellectual Property: A TRIPS-Compatible Approach Intellectual Property, Sustainable Development, and Endangered Species: Understanding the Dynamics of the Information Ecosystem Symposium	22	Daniel Gervais
2004	3	Multi-Jurisdictional & Cross-Border Class Actions - Debra Bassett	2004 Mich. St. L. Rev. 799	Choice of Law and the Protection of Class Members in Class Suits Certified under Federal Rule of Civil Procedure 23(b)(3) Multi-Jurisdictional and Cross-Border Class Actions Symposium Issue	21	Patrick Woolley
2003	4	Rationality in Evidence Law - Craig Callen	2003 Mich. St. L. Rev. 1149	Visions of Applying the Scientific Method to the Hearsay Rule Visions of Rationality in Evidence Law Symposium	21	Roger C. Park
2004	2	Corporate Reform: Year in Sarbanes-Oxley - Kukyendall; Spoon; Ribstein	2004 Mich. St. L. Rev. 505	Sox Appeals In the Wake of Corporate Reform: One Year in the Life of Sarbanes-Oxley - A Critical Review Symposium Issue	20	Brett H. McDonnell
2004	3	Multi-Jurisdictional & Cross-Border Class Actions - Debra Bassett	2004 Mich. St. L. Rev. 671	Judiciary's Flawed Application of Rule 23's Adequacy of Representation Requirement, The Multi-Jurisdictional and Cross-Border Class Actions Symposium Issue	20	Robert H. Klonoff
2003	4	Rationality in Evidence Law - Craig Callen	2003 Mich. St. L. Rev.	Baserates, the Presumption of Guilt, Admissibility Rulings, and Erroneous Convictions Visions of Rationality in	20	Michael J. Saks

			1051	Evidence Law Symposium		
2007	2	N/A	2007 Mich. St. L. Rev. 293	Challenging Direct Democracy	19	Erwin Chemerinsky
2003	4	Rationality in Evidence Law - Craig Callen	2003 Mich. St. L. Rev. 1315	What Does Innocence Have to Do With It: A Commentary on Wrongful Convictions and Rationality Visions of Rationality in Evidence Law Symposium	19	Myrna Raeder

APPENDIX F: CHARTS



APPENDIX G

A	B	D	E	F	G	H
<i>Administrative</i>						
Date Assigned	Assigne AE	Colored Cells Are Incomplete Submissions	Expedite Deadline	AE Review Due Date	AE Offer Recommendation	Article Submission Source
3/11/2013	Paul	Paul+		3/20/2013	No	ExpressO
3/11/2013	Paul	Paul+		3/20/2013	Maybe	ExpressO
3/11/2013	Paul	Paul+		3/20/2013	Yes	ExpressO
3/11/2013	Paul	Paul+		3/20/2013	No	ExpressO
3/11/2013	Paul	Paul+		3/20/2013	No	ExpressO
3/5/2013	Colleen	Colleen+		3/18/2013	High Maybe	ExpressO

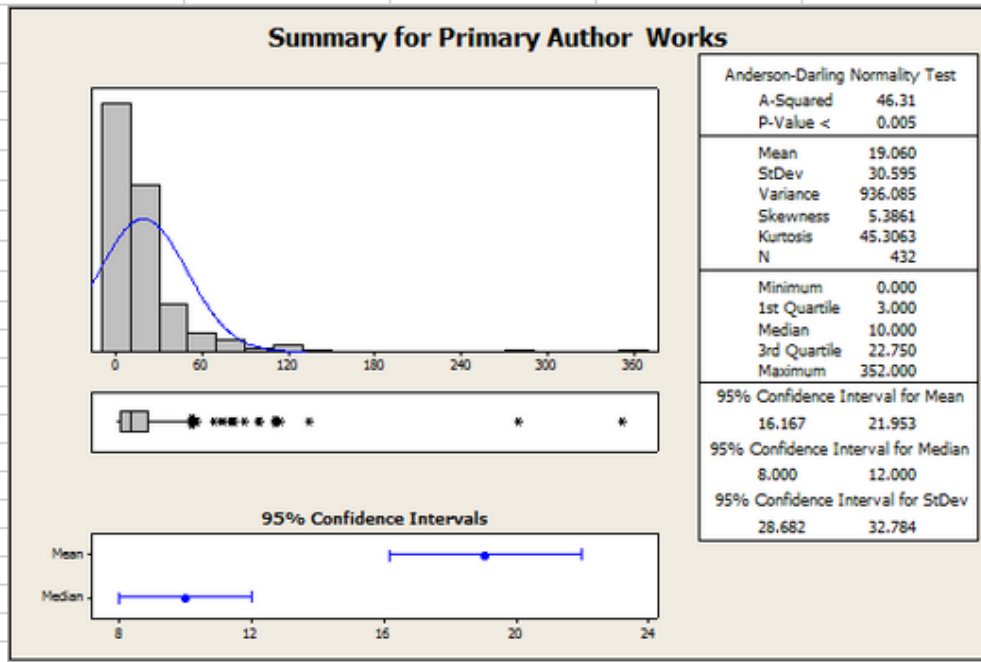
APPENDIX H

I	J	K	L	N	P
<i>About the Author</i>					
Author	Author Title	Author School of Origin	Rank of School of Origin	# of Author Westlaw Works	# of Author Westlaw Mentions
Blake Hudson	Associate Professor	Louisiana State U	79*	9	71
Ralph C. Brashier	Professor	U of Memphis (Humphreys)	3rd/4th Tier	11	250
Mark D. Rosen	Professor	IIT (Chicago-Kent)	62*	28	420
Sandeep Gopalan	Head of Department	N/A	N/A	15	126
Jill E. Family	Associate Professor	Widener U (DE)	3rd/4th Tier	10	47
Harry M. Caldwell	Professor	Pepperdine U (CA)	49*	25	122

APPENDIX I

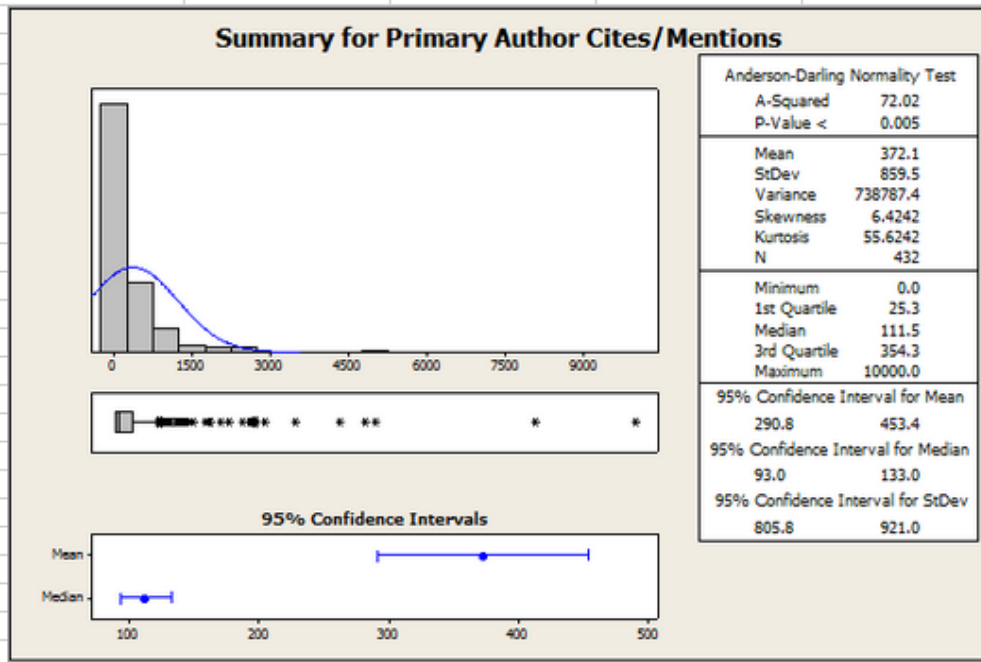
R	S	T	U	V	W	X	Y
<i>Article Quality</i>							<i>Score (beta)</i>
Article Title	Article Topic	Current Topic Popularity Level (1-10)	Is topic preempted	Article Writing Quality (1-10)	Level of Support of Assertions (1-10)	Bluebooking Quality (1-10)	Objective Citation Potential Score
Our Constitutional Commons	constitutional	6	No	7	5	7	45.83%
The Ghostwritten Will	estates	5	No	8	9	8	45.83%
Religious Institutions, Liberal States, and the Political Architecture of Overlapping Spheres	legal theory	6	No	8	8	8	66.67%
Enforcing International Law: States, IOs and Courts as Shaming Reference Groups	international	5	No	7	7	7	45.83%
Easing the Guidance Document Dilemma Agency by Agency: Immigration Law and Not Really Binding Rules	immigration	6	No	6	6	6	41.67%
The Prosecutor Prince: Misconduct, Accountability, and a Modest Proposal	Criminal Law and Procedure	8	No	8	9	8	75.00%

APPENDIX J



Justifications for point values

- 0 - 0 points
- 1-3 - 1 point (25%)
- 4-10 - 2 pts (50%)
- 11-22 - 3 pts (75%)
- 23-60 - 4 pts (95%)
- >60 - 5 pts (top 5%)



- 0-0 pts
- 1-25 - 1 pt (25%)
- 25-111 - 2pts (50%)
- 111-354 - 3pts (75%)
- 354-1000 - 4 pts (95%)
- >1000 - 5pts (top 5%)