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## Essay

### Thoughts on the New Era of Law Review Companion Sites

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#### I. INTRODUCTION

Some revolutions begin with great fanfare; others start unnoticed. The rise of the blogger is perhaps the most heralded development in the world of legal education since the first rankings of *U.S. News & World Report*. The number of legal bloggers, as determined in the latest online census, stands at over 300.<sup>1</sup> Symposia on the growth of legal blogs have been held, written about, and “live-blogged.”<sup>2</sup> The focus on blogging within the law coincides with the larger cultural attention being paid to bloggers across the spectrum.

The new crop of law review online “companions,” in contrast, simply has been noted. When a law review launches a companion, the new site is mentioned in a blog post and may also be added to the blog roll.<sup>3</sup> But there

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<sup>1</sup> Posting of Daniel J. Solove, Law Professor Blogger Census (Version 5.1), to Concurring Opinions, [http://www.concurringopinions.com/archives/2006/10/law\\_professor\\_b\\_6.html](http://www.concurringopinions.com/archives/2006/10/law_professor_b_6.html) (Oct. 5, 2006, 2:55 AM). This was a substantial increase from the 235 bloggers of the March 2006 census. Posting of Daniel J. Solove, Updated Law Professor Blogger Census, to Concurring Opinions, [http://www.concurringopinions.com/archives/2006/03/updated\\_law\\_pro.html](http://www.concurringopinions.com/archives/2006/03/updated_law_pro.html) (Mar. 17, 2006, 1:41 PM).

<sup>2</sup> See, e.g., Bloggership: How Blogs Are Transforming Legal Scholarship, Berkman Center for Internet & Society at Harvard Law School, <http://cyber.law.harvard.edu/home/bloggership> (last visited Apr. 25, 2007); Posting of Ann Althouse, Live-blogging the Bloggership conference!, to Althouse, <http://althouse.blogspot.com/2006/04/live-blogging-bloggership-conference.html> (Apr. 28, 2006, 7:46 AM).

<sup>3</sup> See, e.g., Posting of Orin Kerr, Virginia Law Review’s “In Brief,” to The Volokh Conspiracy, <http://volokh.com/posts/1169619687.shtml> (Jan. 24, 2007, 12:21 AM).

has been little attention paid to the overall phenomenon. In part, I believe this is because the role of the law review companion is still undefined and its future uncertain. These sites may simply become a repository for .pdfs of published articles, along with a light garnish of commentary that “raises questions.” On the other hand, these sites may develop into online presences of their own—formidable players in legal cyberspace.

In this Essay I lay out a structural analysis of the online companion. I begin with a brief descriptive discussion of the companion, including its design, content, and readership. I conclude with suggestions for such companions to consider in developing their approach for the future.

## II. THE PHENOMENON OF THE ONLINE COMPANION

The online companion is a very recent phenomenon, dating back less than two years. Almost all law reviews now have web sites, whether they be independent or part of the law school’s collection of sites. But a law review web site simply lists contact information, methods for submissions, tables of contents, mastheads, and sometimes synopses or full-length e-versions of works published in the print version. Such sites contain no independent content and are simply designed to facilitate different types of interaction with the journal itself.

On October 18, 2005, the *Yale Law Journal* launched *The Pocket Part*, an online companion to its print journal.<sup>4</sup> In its news release, the *Journal* stated that its purpose in creating *The Pocket Part* was to “bring the best of the print *Journal*’s content to the web and create an interactive forum for debate and discussion under the banner of the academy’s most respected home for legal scholarship.”<sup>5</sup> *The Pocket Part*’s primary content would initially be short responses to articles in the print journal. It later added a new set of original content—short essays written with an eye towards cyberspace style and substance. *The Pocket Part* has its own website<sup>6</sup> which highlights current articles and provides a subject-matter archive.<sup>7</sup>

*The Pocket Part* established the model for other online companions to follow. Although the number of companions will certainly grow, as of this writing there were eight (not including *CONNtemplations*):

- [Environmental Law Online](#) (Lewis & Clark Law School)<sup>8</sup>

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<sup>4</sup> News Release, Yale Law Journal Unveils Online Publication: “The Pocket Part” (Oct. 19, 2005), available at <http://www.yale.edu/opa/newsr/05-10-19-03.all.html>.

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

<sup>6</sup> The Pocket Part, <http://www.thepocketpart.org/> (last visited Apr. 25, 2006). While *The Pocket Part* has its own url, it has been integrated into the *Yale Law Journal*’s site and uses the same interface. *See id.*

<sup>7</sup> The Pocket Part, Pocket Part Archive, [http://yalelawjournal.org/pocket\\_part\\_archive.html](http://yalelawjournal.org/pocket_part_archive.html) (last visited Apr. 25, 2006).

<sup>8</sup> *Environmental Law Online*, <http://www.elawreview.org/elaw/> (last visited Apr. 26, 2007).

- [Harvard Law Review Forum](#)<sup>9</sup>
- [First Impressions](#) (Michigan Law Review)<sup>10</sup>
- [Colloquy](#) (Northwestern University Law Review)<sup>11</sup>
- [See Also](#) (Texas Law Review)<sup>12</sup>
- [PENNumbra](#) (University of Pennsylvania Law Review)<sup>13</sup>
- [In Brief](#) (Virginia Law Review)<sup>14</sup>
- [The Pocket Part](#) (Yale Law Journal)<sup>15</sup>

Although these companions generally share features with *The Pocket Part*, there are some important differences. Almost all of them have electronic versions of articles from the print journal along with short responses published only on the companion site.<sup>16</sup> Some of the sites also include original content. For example, *PENNumbra* hosts online debates between two or more professors that include an opening statement, a rebuttal, and closing statements by each side.<sup>17</sup> *First Impressions* is unique in that it consists only of responses to a particular symposium topic; the topics chosen generally relate to a recent change in the law.<sup>18</sup>

As *First Impressions* indicates, an online companion need not merely be a place for electronic versions of print articles together with short response pieces. Indeed, these “companion” sites do not have a monopoly on law journal web presence. For example, the *New York University Journal of Law & Liberty* has hosted a series of online symposia on its “blog.”<sup>19</sup> The *Hofstra Law Review* has started an “Ideas” section consisting of five to ten-page essays, published both in print and on the

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<sup>9</sup> Harvard Law Review Forum, <http://www.harvardlawreview.org/forum/HLRforum.shtml> (last visited Apr. 25, 2007).

<sup>10</sup> First Impressions, <http://www.michiganlawreview.org/index-fi.htm> (last visited Apr. 25, 2007).

<sup>11</sup> Colloquy, <http://northwestern-colloquy.typepad.com/> (last visited Apr. 25, 2007).

<sup>12</sup> See Also, <http://www.texaslrev.com/seealso/> (last visited Apr. 26, 2007).

<sup>13</sup> PENNumbra, <http://www.pennumbra.com/> (last visited Apr. 26, 2007).

<sup>14</sup> In Brief, <http://virginialawreview.org/index.php> (last visited Apr. 26, 2007).

<sup>15</sup> The Pocket Part, *supra* note 6.

<sup>16</sup> *Michigan Law Review's First Impressions* seems to be the only exception to this.

<sup>17</sup> PENNumbra, Debates, <http://www.pennumbra.com/debates/> (last visited Apr. 26, 2007).

<sup>18</sup> First Impressions, <http://www.michiganlawreview.org/index-fi.htm> (last visited Apr. 26, 2007) (“This extension of our printed pages aims to provide a forum for quicker dissemination of the legal community’s first impressions of recent changes in the law.”).

<sup>19</sup> New York University Journal of Law & Liberty, Blog, <http://www.law.nyu.edu/journals/lawliberty/blog.htm> (last visited Apr. 27, 2007).

web.<sup>20</sup> However, I wish to focus exclusively on the online law review “companion” since it can be categorized based on the simple grounds of nomenclature. Why have these law reviews all created websites called “companions,” in a relatively short burst of activity?

The companions themselves discuss several goals as the motivating factors behind their creation. First, several cite to the need to be more current. Given the lag time between submission of a law review article and publication, a scholarly work in a print law review will not appear until months after its initial creation.<sup>21</sup> One benefit of online media is the near-instantaneous publication such media afford. Second, the companion offers the opportunity to add additional content without taking up additional print-journal space. The cost of printed law review pages renders additional published content quite expensive.<sup>22</sup> An online companion site can offer additional content without taking up space in the journal proper. Finally, some of the sites specifically mention the rise of blogs as a motivating factor behind the online companion. For example, *First Impressions* states that its purpose is “to fill the gap between the blogosphere and the traditional law review article.”<sup>23</sup> Given the extensive number of law professor blogs, as well as the growth of practitioner blogs, the online companion offers a site with which bloggers can interact in a dynamic fashion.

Timeliness, cyberspace, and the blogosphere are the influences, but they dictate very little about the form or content on the companion. Why then is there such similarity, at least to this point? Almost all online companions have an “article-and-response” section. Stand-alone online content is, to this point, fairly sparse. These patterns are completely understandable. The companion is intended to be an add-on to the parent law review, not a font of new material. The title *Pocket Part* is revealing, as it “refers to the pockets attached to the back covers of legal publications that hold updates to, and commentaries on, those texts.”<sup>24</sup> The companion is intended to derive its substance from the review itself. Response essays are not only quick to write—they also draw additional attention to the

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<sup>20</sup> Hofstra Law Review, Ideas, [http://law.hofstra.edu/Academics/Journals/-LawReview/lrv\\_ideas.html](http://law.hofstra.edu/Academics/Journals/-LawReview/lrv_ideas.html) (last visited Apr. 27, 2007).

<sup>21</sup> Tim McCarten, *Legal Scholarship Goes Online*, 59 VA. L. WLY., Feb. 9, 2007, [http://www.lawweekly.org/?module=displaystory&story\\_id=1503&edition\\_id=53&format=html](http://www.lawweekly.org/?module=displaystory&story_id=1503&edition_id=53&format=html) (noting that “online companions can truncate the publication process, which may take as much as a year from the point of an article’s submission to its publication.”).

<sup>22</sup> See Jessica Litman, *The Economics of Open Access Law Publishing*, 10 LEWIS & CLARK L. REV. 779, 785–86 (2006), available at [http://www.lclark.edu/org/lclr/objects/LCB\\_10\\_4\\_Litman.pdf](http://www.lclark.edu/org/lclr/objects/LCB_10_4_Litman.pdf) (“The only significant expense noted in the budget document [of law reviews] is the cost of printing and mailing issues, which is contracted out to either Darby or Hein, who calculate the charge on a per-page per-subscriber basis.”).

<sup>23</sup> First Impressions, *supra* note 10.

<sup>24</sup> News Release, *supra* note 4.

original article. It is no surprise that companions have used the article-and-response format for their primary content.

Why not simply include the responses in the print journal? Space is one answer; the responses would take up additional and precious room. However, the typically brief responses would not necessarily take up that many printed pages. Instead, I believe that companions are primarily efforts to draw attention to the review from online players such as bloggers, media, and other online institutions.<sup>25</sup> The article-and-response format has several factors that make it more attractive to the online crowd. First, the articles themselves are now online and available. Second, the responses provide easier “entry” into the article by providing a brief synopsis and highlighting areas of controversy. Third, the responses provide some degree of conflict—a necessary component in creating dramatic interest. Finally, several of the companion sites allow comments from readers. The traditional print medium does not afford readers the opportunity to participate directly and immediately in the online conversation.

Figure 1 represents an illustration of this model.<sup>26</sup> The online companion draws its primary content from the traditional print review, and it draws its primary readership from blogs, the media, and other online institutions. However, as I note in the diagram, it is possible that the model is more dynamic than that. Because the companions rely on bloggers and other online players to drive their audience, it makes sense for the reviews to reach out to those players for content as well. Many of those providing responses or other original content to these companions have law-related blogs—including many of the writers in this inaugural edition of *CONNtemplations*.<sup>27</sup> In addition, interest in the print content should ultimately drive readers to the online edition. A short responsive piece will often be a useful interpretive aid in reading an article, and savvy readers will know that the companion is a place to look for such insights. Thus, the more dynamic model involves interactions between the review,

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<sup>25</sup> The Concurring Opinions blog recently solidified this relationship by announcing that it would carry content from several law review online companions at its site. Posting of Daniel J. Solove, Announcing the Law Review Forum Project, to Concurring Opinions, [http://www.concurringopinions.com/archives/2007/04/announcing\\_the.html](http://www.concurringopinions.com/archives/2007/04/announcing_the.html) (April 24, 2007, 1:04 AM).

<sup>26</sup> Table 1 is available on p.10 of this Essay.

<sup>27</sup> Stephen Vladeck, Paul Horwitz, and I all blog at PrawfsBlawg (<http://prawfsblawg.blogs.com/prawfsblawg/>); Steve also blogs at National Security Advisors (<http://www.natseclaw.com/>) and Paul blogs at Dorf on Law (<http://www.michaeldorf.org/>). Al Brophy is a blogger at PropertyProf Blog (<http://lawprofessors.typepad.com/property/>) and at MoneyLaw blog (<http://money-law.blogspot.com/>) and has guest-blogged numerous times. Ronen Perry also blogs at MoneyLaw blog as well as the Haifa Faculty of Law blog (<http://haifalawfaculty.blogspot.com/>). John Doyle has pioneered the tremendously influential online citation rankings for law reviews. See Washington & Lee Law School, Law Journals: Submissions and Rankings, <http://lawlib.wlu.edu/LJ/> (last visited Apr. 26, 2007).

the companion, and online institutions that are more complicated than one might initially expect.

Like blogging, I believe the online companion will not be a long-term equilibrium state. There is so much inherent flexibility in the online experience that the online companions will continue to experiment and develop as time moves forward. However, there is a value to continuity, or at least to predictability of content. One of the great values of the law review is its stability: its substance has been cite-checked; its content will remain available in libraries and online; and it will follow a particular convention in style and structure that makes the information more accessible to those familiar with its form. This stability is important. Continual experimentation imposes information costs. Deviation too far from the form could cause confusion and may drive readers away.

### III. SUGGESTIONS FOR THE COMPANION'S FUTURE

Online companions have the capacity to develop into a formidable online presence. They carry the name of a law review—and judging by the thousands of submissions, authors want to publish in law reviews. At the same time, they have much greater flexibility than the print journal when it comes to form and even substance. The online companion could publish a variety of different content types all under the same website and institutional supervision.

However, the online companion also has several weaknesses. Publishing in the companion is not nearly as prestigious as publishing in the print journal. Response articles are useful and can be provocative, but they are somewhat limited in form and audience. Although law review staff could publish content from their own members, such content is time-consuming and would not offer as much prestige as publishing a note in the traditional review. And unlike blogs, online companions in their current configuration are unlikely to draw a community of readers on their own. Blogs retain a core audience because of their narrower focus and their frequent (generally daily) updates with fresh content. Online companions are updated much less often and have “thicker” content requiring more time and interest to digest. Perhaps some professors will take the time to check out each companion site on a regular basis. But in the main, online companions will need other online players to drive the audience to their sites.

With these strengths and weaknesses in mind, the following are some suggestions for the near future of online companions.

*Develop the “companion essay”—original content that combines certification with snappiness.* Although it may sound like a strange notion, I believe there is room for a new form of scholarly writing that combines traditional review values with the new world of the legal blogosphere. One

might call it the “companion essay.” It is a short piece designed for a legal audience that presents one opinion, one narrative, or one bit of empirical investigation quickly and succinctly. It is accessible without being facile. It is shorter than a traditional essay, but more sophisticated than an op-ed and more scholarly than a blog post.

The companion essay would fit nicely within the current constellation of legal writing. Some blog posts come close to what the “companion essay” achieves. However, blog posts generally have a short shelf life, and they are not constructed with the care that is put into a companion essay. Blog posts are written by individuals and are generally not run through any formal editing process. A companion essay would give bloggers the opportunity to turn a particularly thoughtful or important post into something more—something that will receive more care in the editing and more attention once it has come out. It would be a way for bloggers to differentiate particularly thoughtful or important content from the ongoing accumulation of blog postings.

The companion essay would also be a different animal than the op-ed piece, as it would generally be a bit longer and aimed at a narrower audience. It would be an op-ed for the legal world—or more specifically, the world of legal scholarship. That is not to say that only professors would write such pieces. In fact, as some online companion editors have expressed, such essays offer the opportunity for practitioners and other legal professionals to participate in the world of legal scholarship. But such pieces would be more sophisticated than a traditional op-ed, as the audience would be more sophisticated. Instead of rounding out the legal edges in the piece, the companion essay could focus on the edges themselves and highlight complicated issues for discussion amongst experts.

The companion essay is not a new idea; in fact, some of the most popular content from online companions has been these “tweeners.”<sup>28</sup> But developing this format more explicitly and more directly would help the new format take hold. The companion essay would allow for more substantive discussions than most blogging allows and would give the author the imprimatur that would get more attention than a simple blog post. And if the submission and editing process were handled correctly, these articles would be much more timely and accessible than most law

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<sup>28</sup> For example, Ellen Podgor’s piece in *The Pocket Part* on white collar crime received extensive play in the blogosphere. Ellen S. Podgor, *Throwing Away the Key*, 116 YALE L.J. POCKET PART 279 (2007), <http://thepocketpart.org/2007/02/21/podgor.html>. For discussions of Podgor’s article, see Posting of Jeralyn Merritt, *Rethinking Draconian White Collar Sentences*, to TalkLeft, <http://www.talkleft.com/story/2007/2/23/23560/2562> (Feb. 23, 2007, 22:56 EST); Thinking about the criminalization of business, Houston’s Clear Thinkers, [http://blog.kir.com/archives/2007/03/thinking\\_about\\_19.asp](http://blog.kir.com/archives/2007/03/thinking_about_19.asp) (Mar. 6, 2007, 4:41 AM); *Yale LJ Pocket Part* explores white-collar sentencing, Sentencing Law & Policy, [http://sentencing.typepad.com/sentencing\\_law\\_and\\_policy/2007/02/yale\\_lj\\_pocket.html](http://sentencing.typepad.com/sentencing_law_and_policy/2007/02/yale_lj_pocket.html) (Feb. 22, 2007, 7:39 AM).

review articles.<sup>29</sup> They would be a way for legal scholars to disseminate their ideas more quickly and to a broader audience.<sup>30</sup> And it might also be a way for practitioners, judges, government officials, and business leaders to get involved in the conversation with scholars and students. The trickiest part would be sorting through to get the best and most appropriate content. But if the online companions clearly indicate the type of format they are looking for, the content will surely follow.<sup>31</sup>

*Make the companion's content available and searchable.* Although some have argued that online companion content should also be included in the journal's print edition,<sup>32</sup> the cost of journal pages makes online publishing a more attractive alternative. However, excluding companion content from the print edition does not mean that the content should be excluded from the Westlaw and Lexis/Nexis online databases. These databases remain the primary source for online content searches. If the content is not there, many legal readers will not find it. Thus far, it seems that reviews are doing this, but it is important to keep on this course. In addition, companion editors should take steps to ensure that their content is searchable as well as ranked highly by internet search engines. Perhaps a "Google Law Search" or even "Google Law Review Search" may be in the future. Until then, companion sites may need to configure their content so that it is searchable by the relevant search tools available on the web.

*Reach out to the broader online community.* Online companions were created in part to provide a way for law reviews to interact with the legal blogosphere. Companions have a symbiotic relationship with legal bloggers, as bloggers route readers to the companions' content and, in turn, bloggers have often provided that content. The relationship between

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<sup>29</sup> One question to be resolved would be the citation format used in companion essays. Law review editors might prefer traditional Bluebook formatting. However, *The Pocket Part* posts both the traditional format (with footnotes and Bluebook formatting) as well as an online version in .html with hyperlinks to web sites. See Podgor, *supra* note 28 (.html and .pdf versions). Although more time consuming, posting both versions would give readers a choice of their preferred format. Consistency among the journals on submission style would also be helpful, as it would give potential authors the opportunity to submit their piece to a number of online companions without significant changes between different versions.

<sup>30</sup> Adam Liptak recently fed the fire of anxiety over the relevance of law reviews to the rest of the legal world. Adam Liptak, *When Rendering Decisions, Judges Are Finding Law Reviews Irrelevant*, N.Y. TIMES, Mar. 19, 2007, at A8, available at LEXIS, News File, NYT Library.

<sup>31</sup> One important proviso should be noted. Law professors are still grappling with the extent to which blogs and other shorter works should be considered "scholarship." In my view, it is short-sighted to view the label as determinative of how the work is treated. A companion essay would be something more than a blog post, but something less than a traditional law review essay. Whether this "counts," and for what, is something to be determined. The companion piece may be a way for law professors to get more recognition for their online presence, since such pieces receive the certification of the law review. But the question is a tricky one, and law reviews should handle this process with an eye towards the prestige afforded to the content.

<sup>32</sup> Posting of Anthony Ciolli, *Five Tips for Law Review Online Supplements*, to First Movers, <http://firstmovers.blogspot.com/2007/01/five-tips-for-law-review-online.html> (Jan. 24, 2007, 10:10 AM).

companions and bloggers is critical. Without blogs, the online companions would have a much more difficult time getting out word of mouth on the content they provide. At this point, online companions have not developed enough of a unique readership to stand on their own.

However, editors of the online companions would be short-sighted to end their horizon at the law professor blogosphere. Companions should cultivate other institutional players on the web that also have an interest in their content. Practitioners are one example. The “companion essay” is more accessible for practitioners, and online companion sites could solicit essays that would show how the print review’s content is relevant outside the academy walls. Along with practicing lawyers, however, online companions could also court judges, government officials, non-profit advocacy groups, and others who work in the law. Drawing these folks into the conversation might be a way to bridge the “gap” between the law reviews and the rest of the legal world. But online companions cannot simply hang out their shingle and wait for the world to arrive. These relationships must be pursued actively and creatively. Solicitations are a place to start. But reviews should endeavor to establish lasting relationships with other institutional players—relationships that extend beyond this year’s masthead. Professors at the home institution may prove instrumental in making some of these connections. However, student editors should also consider establishing some permanent ways for the review to interact with various online constituencies. As just one example, an online companion could enlist the Federalist Society and the American Constitution Society in an annual online debate/symposium on the highlights from the year’s Supreme Court term.

In closing, I would like to thank the inaugural editors of *CONNtemplations* for the opportunity to participate in this symposium. I applaud them for taking the leap into this new and uncertain world of the online law review. Online law review companions may be the start of a new revolution in legal scholarship – or they may not. It is hard to predict what the online legal world will look like in two years, let alone ten. But I hope that law review editors realize that they are not in this alone. There are many institutional resources to draw on, at their home institution and far beyond. By working with others in this new world of accessibility and collaboration, law reviews will find that not only is their influence magnified manifold, but they have also brought a whole new level of depth and deliberation to the ongoing legal discourse.

Figure 1.

