



This month, we are pleased to re-introduce a favorite former feature—on good legal writing. “The Last Word” will return to this space next month.

The Legal Writer’s Checklist

Most attorneys think they are good writers. Most attorneys think other attorneys are terrible writers.

Sense a disconnect? So do I. Nonetheless, I suspect that most attorneys probably once were better-than-average writers. Some of them certainly still are. After all, most of us are essentially professional writers, logging tens of thousands of words a week writing correspondence, agreements, and motions and briefs of all varieties. But, like most things

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worth doing, good legal writing is not a momentary feat but a lifelong effort. You may have earned the top legal-writing grade in law school, but if you have not improved since then—or even if you just haven’t thought about your legal writing in, say, the last five or 10 years—you probably are not the writer you could be.

Whatever kind of writer you believe yourself to be now—good, bad or indifferent—you can be better.

You can and should become a better writer every day and week and year until the day you stop writing forever.

I always considered myself a pretty good writer and a very good legal writer. But my legal writing improved dramatically when I started teaching at Arizona Law as an adjunct. By that time, I had been in practice for about seven years, doing primarily big corporate litigation at big corporate law firms. I wrote frequently, I wrote prolifically, and, for the most part, I wrote effectively.

So why did my writing improve so much when I started teaching? First, I found myself thinking about writing—and, in particular, about the characteristics of good, persuasive legal writing—every day. I constantly pondered what worked well in my students’ papers, what didn’t work well, and why. I found myself scrutinizing my own writing the same way.

Second, I became more conscious of the rules of grammar and style, and of the reasons for those rules. Having entered elementary school after formal instruction in English grammar had fallen out of fashion, I could identify when a piece of writing was grammatically or stylistically incorrect or just ineffective, but I could not always name the problem. As I consulted a legal-style guide to diagnose issues with my students’ writing, I found myself learning the vocabulary of good grammar, style and punctuation.

Most important, I expanded the mental checklist that I use

to review and revise my own writing.

Maybe you’ve read Atul Gawande’s *The Checklist Manifesto*. Inspired by his experiences as a surgeon, Gawande’s thesis is that checklists improve outcomes, whether in the emergency room or the cockpit. And a well-designed checklist can improve your legal writing.

My modest mission for this column is to help you become a more mindful—and thus, I hope, a better—legal writer. Perhaps the change will be as small as daring to deploy a semicolon now and then. Or maybe you will double-check the structure of your legal arguments to make sure you faithfully follow IRAC. Maybe you’ll dust off and open that style guide that’s been sitting on your shelf. Even just subscribing to (and actually listening to or reading) a writing podcast or email can make you a more thoughtful and effective legal writer.

My best advice, though, is to make and maintain your own personal legal-writing checklist. Take inventory: What are your biggest challenges as a writer? Ask others—supervising attorneys, former professors, trusted colleagues or family members—for an honest assessment of your written work. What do you do well? What can you improve?

As you start thinking and reading more about writing, add to your checklist. Do you need to guard against passive voice? Would your legal arguments be clearer and more compelling if you explained the law completely before you began applying it to your facts? Have you abandoned topic sentences? Do you have grammar, style or punctuation blind spots, like misplaced modifiers, comma confusion or overuse of nominalizations? Would you like to experiment with a new persuasive strategy or writing technique?

I hope this column identifies a few new checklist items. But I also hope it offers a few moments each month to reflect on writing and how we can continue to grow in this crucial art of our profession. **BT**



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