



Don't Write Like a Loser!

My name is Susie, and I'm an adjective addict.

Yep. It's true. Eliminating unhelpful adjectives—and, I must confess, adverbs—tops my revision checklist. Why? I want to be accurate, brief, clear, and precise, of course. But I also don't want to sound like a loser.

Effective legal writers know that adjective and adverb abuse clutters their prose and undermines their credibility.

Adjectives and Adverbs Add Bulk

Lawyers often write under word limits and page limits. But even when no such limits apply, good legal writers strive to be brief. Concise prose communicates more clearly. What's more, we don't want to waste our reader's time with surplus verbiage.

Sometimes, adjectives and adverbs add bulk without enhancing clarity. Be wary of redundant adjectives or adverbs (think *whispered quietly* or *happy smile*). And a well-chosen verb or noun can do the job of a verb/adverb or noun/adjective combination more evocatively and efficiently (think *smirk* instead of *snide smile* or *sauntered* instead of *walked slowly*).

Adjectives and Adverbs May Lack Precision

Some adjectives can mean different things to different people. To me, my alleged Husky¹ mix, Jakie the Mop, who weighs in at just over 20 pounds, is a "small" dog. To my friend, who lives with four Chihuahuas, Jakie qualifies as a medium-sized dog, at least.² And my "fast" running pace would be a stroll for many of my runner friends.

Instead of relying on an adjective or adverb, consider a more precise modifier. Jakie is a 20-pound dog. I average a 10-minute mile on training runs. I mention dogs or running in two-thirds of my columns.³

Don't Sound Like a Loser!

Legal-writing experts warn against intensifiers like *obviously*, *wholly*, and *clearly*. Far from reassuring the reader that a proposition is, indeed, clear or obvious, these intensifiers may instead cause readers to question assertions they otherwise may have accepted. In criticizing pervasive use of the intensifier "clearly" in SCOTUS briefs, Chief Justice Roberts snarked that, if the case were that clear, it would not be before the Court. And in a survey of judges, every responding judge found the use of intensifiers in legal briefs mildly to strongly irritating. In fact, good writers in any genre shun intensifiers; Mark Twain famously counseled writers to "substitute 'damn' every time you're inclined to write 'very'; your editor will delete it and the writing will be just as it should be."⁴

In light of this apparent consensus, Professor Lance Long formulated a theory: Appellate briefs that used more intensifiers would be less persuasive—and less likely to succeed—than those that used fewer intensifiers.⁵ With statistics professor William Christensen, he conducted two studies examining the correlation between intensifier use and success, one using civil cases in Utah and one using 400 randomly selected state and federal appellate

cases. In both studies, Long was able to conclude that increased intensifier use was associated with losing arguments, whether in appellate briefs or dissenting opinions.

As the maxim holds, correlation is not causation. It may be that, as Long posits, "The degree of intensifier use by the writer of a legal brief is a function of the writer's perception of the strength of his or her own argument, relative to the opposing side's argument."⁶ In other words, perhaps writers overuse intensifiers when they feel defensive.

At any rate, the fact that intensifier use correlates with losing arguments should give the thoughtful legal writer pause. If that is true, legal readers may well subconsciously—or consciously—associate intensifier overuse with a losing argument. And no legal writer wants to sound defensive. Moreover, decades of social-science research demonstrate that intensifier use is a form of "powerless language"—language associated with individuals with less agency, status, and credibility. Add these considerations to the reality that intensifiers often add little meaning, and legal writers are wise to think twice before dropping a *so* or *very* (or, heaven forbid, a *clearly* or *obviously*) into their next brief.

Of course, adjectives and adverbs are not inherently bad. Effective legal writers deploy them selectively to enhance the clarity, vividness, and precision of their fact statements and legal arguments. Indeed, writing experts generously season their own writing with carefully chosen modifiers. But effective legal writers also know that adjective and adverb abuse clutters their prose and undermines their credibility. Communication that substitutes stacks of generic adjectives and adverbs for substance reeks of spin and puffery⁷—and that's not a fragrance you want wafting from your next appellate brief. **AF**

endnotes

1. #allegedhusky #Jakiethesledmop #doggie DNAtestsmightnotbesuperaccurate
2. When he steps on my ear at 4:30 a.m., he's a behemoth.
3. Hey, I haven't mentioned *Hamilton* yet!
4. Is this true, Tim? [Editor's Note: ~~Damn~~ correct.]
5. See Lance N. Long & William F. Christensen, *Clearly, Using Intensifiers Is Very Bad—or Is It?* 1. 45 IDAHO L. REV. 171, 180 (2008).
6. *Id.* at 186.
7. Hugely. Tremendously.



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