

# Strategies for Effective Legal Writing

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# Three Basic Strategies

1. KNOW YOUR JOB
2. DO IT
3. MAKE SURE YOU DID IT

# Step 1: Know Your Job!

## Assignment/Audience

- Memoranda
  - Partner/Senior Associate
- Pleadings
  - Court/Opposing Side
- Briefing
  - Court/Opposing Side
  - Client?
- Discovery Responses
  - Opposing Side
  - Client?

## Your Job

- Educate/Explain/Inform
- Educate/Inform
- Persuade/Advocate/Warn
- Explain/Object/Identify

# Helpful Hints

1. Do you know **and understand** the rules?
  - a) Rules
  - b) Local rules
  - c) Local, local rules
2. Do you know **and understand** the facts?
  - a) All the facts?
  - b) Favorable and unfavorable?
3. Do you know **and understand** the law?
  - a) Seminal cases?
  - b) Favorable law?
  - c) Unfavorable law?
4. Do you know **and understand** your client's litigation position/strategy?

# Step 2: Do It. (Outlining & Drafting)

## Outlining

- Creating Your Outline
  - What points must be included in your draft?
  - What points, although not essential, will aid your presentation?
  - What points will your opponent almost certainly make, and what is your rebuttal?
- Organizational structure that will most effectively accomplish your task?

## Drafting

- Focus on Briefing
  - Effective Use of Headings
  - Word Choice
  - Imagery

# Helpful Hints: Effective Use of Headings

## Summary Judgment

- “Argument”
- “Defendants’ Motion for Summary Judgment Should Be Granted”
- “Plaintiff’s Claim Is Barred By The Statute Of Limitations”
- “The Four-Year Statute Of Limitations Completely Bars Plaintiff’s Claim For Breach Of Contract”

## Demurrer

- “Argument”
- “This Demurrer Should Be Granted”
- “Plaintiff Fails To State A Claim Upon Which Relief Can Be Granted”
- “Because Plaintiff Filed This Complaint 32 Days After The Four-Year Statute Of Limitations Had Run, He Cannot State A Claim For Breach Of Contract”

# Helpful Hints: Word Choice.

## Employment Litigation:

Sam Supervisor \_\_\_\_\_ into his subordinate's office and \_\_\_\_\_ at her.

Sam Supervisor **walked** into his subordinate's office and **looked** at her.

Sam Supervisor **burst** into his subordinate's office and **stared** at her.

Sam Supervisor **slid** into his subordinate's office and **leered** at her.

## Word Choices

- walked/looked
- burst/stared
- slid/leered

# Helpful Hints contd.

## Property Damage

Debbie Driver \_\_\_\_\_ onto 5<sup>th</sup> Street and \_\_\_\_\_ the fire hydrant.

Debbie Driver **turned** onto 5<sup>th</sup> Street and **nipped** the fire hydrant.

Debbie Driver **veered** onto 5<sup>th</sup> Street and **hit** the fire hydrant.

Debbie Driver **skidded** onto 5<sup>th</sup> Street and **destroyed** the fire hydrant.

## Word Choices

- turned/nipped
- veered/hit
- skidded/destroyed



# By The Way...

- Don't forget to ask for something!
- Don't waste the notice!
  - No page limit here...
- Don't waste the conclusion!
  - "For the foregoing reasons..."
  - Conclusion is an excellent place for quotes and policy arguments.
- Don't waste the introduction/summary of the argument.
  - Outline the broad issues
  - Introduce the applicable rules of law
  - Explain **in brief** how the interpretation of these rules mandate a favorable result for your client.

## Step 3: Make Sure You Did It. (Editing)

“The first draft of anything is shit.”

*Ernest Hemingway*

“I believe more in the scissors that I do the pencil.”

*Truman Capote*

“Inside every fat book is a thin one trying to get out.”

*Unknown*

“Easy reading is damn hard writing.”

*Nathaniel Hawthorne*

# Helpful Hints on Editing:

- Review the parameters of your assignment
- Be relentless
- Step away
- When in doubt, cut it out
- Read aloud
- Read it backwards
- Role play
- Second pair of eyes

# 10 Steps to Becoming A Better Writer:

- Write
- Write more
- Write even more
- Write even more than that
- Write when you don't want to
- Write when you do
- Write when you have something to say
- Write when you don't
- Write every day
- Keep writing.

As Ernest Hemingway explained:

*“We are all apprentices in a craft where no one ever becomes a master.”*