

“After the sixth suicide in his old battalion, Manny Bojorquez sank onto his bed. With a half-empty bottle of Jim Beam beside him and a pistol in his hand, he began to cry.”

*Dave Phillips – New York Times*

1. What do we know about Manny Bojorquez?
2. How do you feel about Manny Bojorquez?

Writing

(1) Speaking

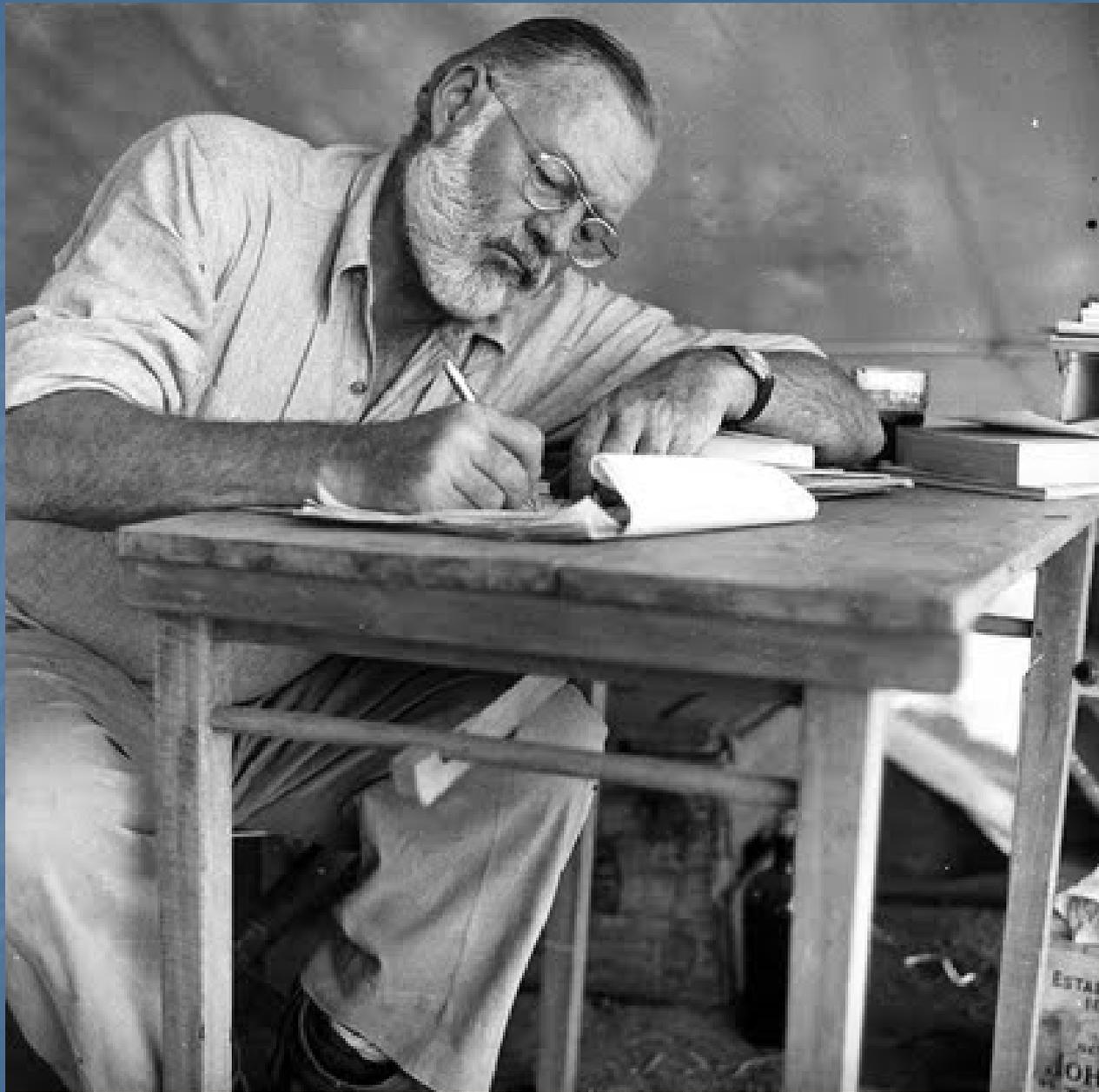
(2) Writing

# To Persuade

(1) Speaking.

(2) Writing.







# Short Cuts to Good Writing?



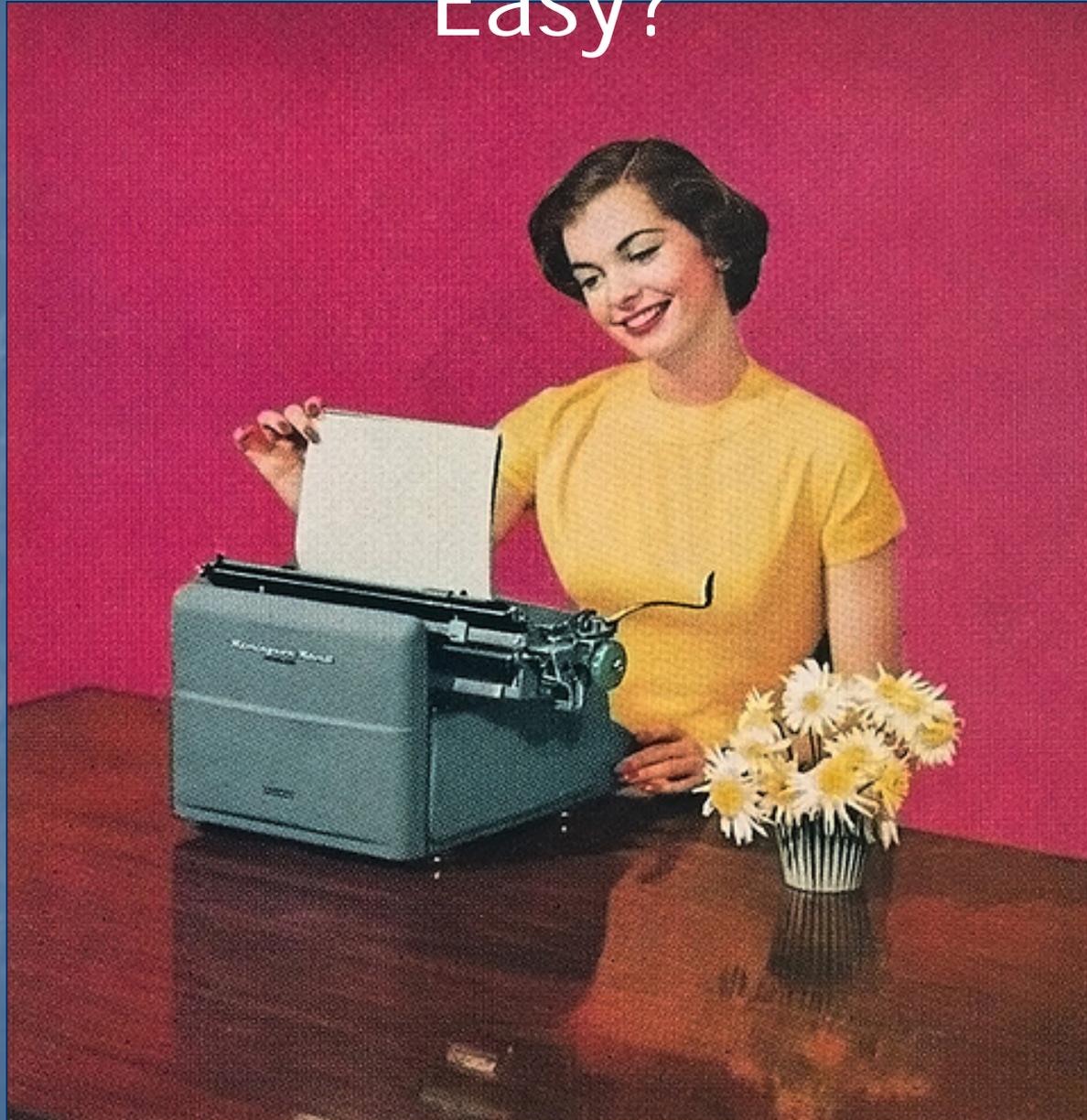
Sure – And it will look like this!



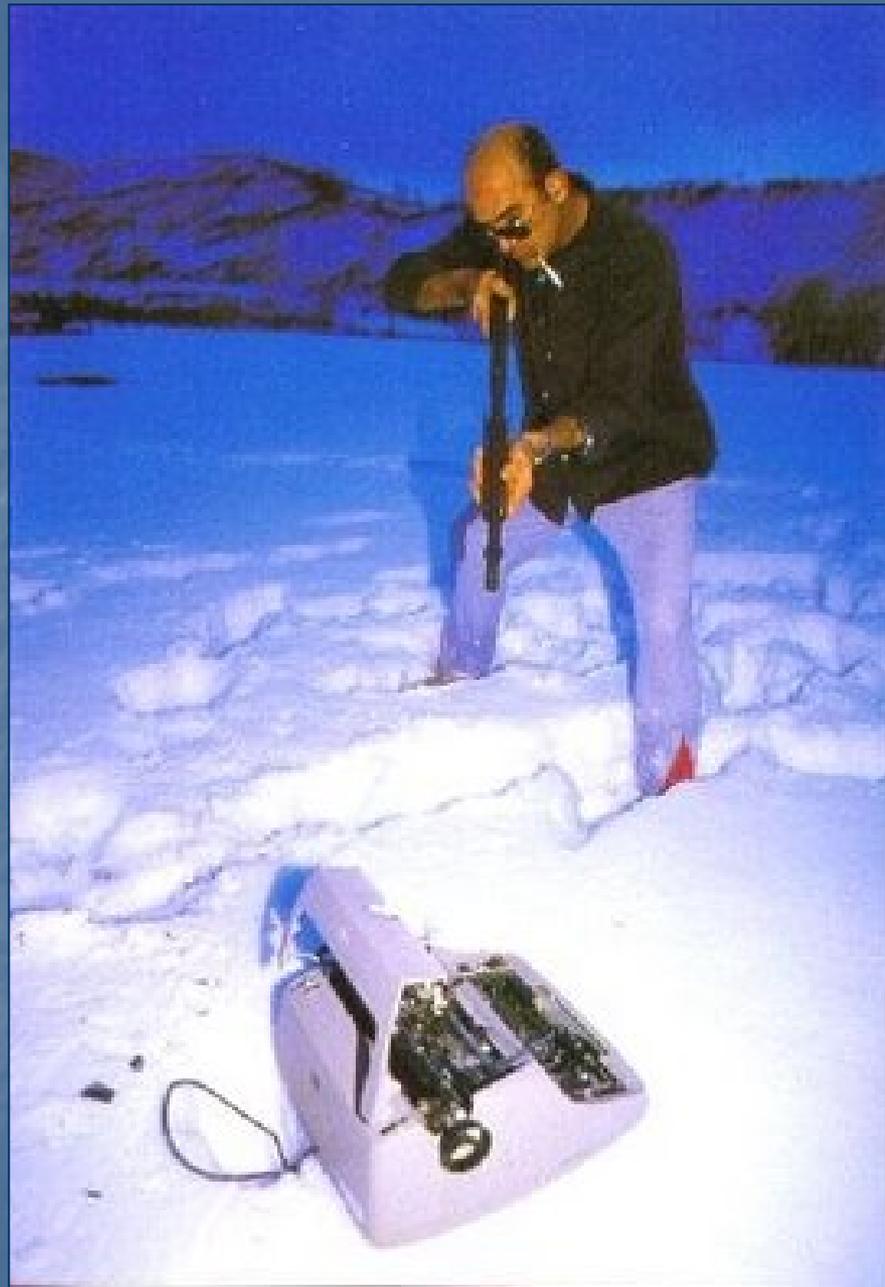
Or this!



Easy?



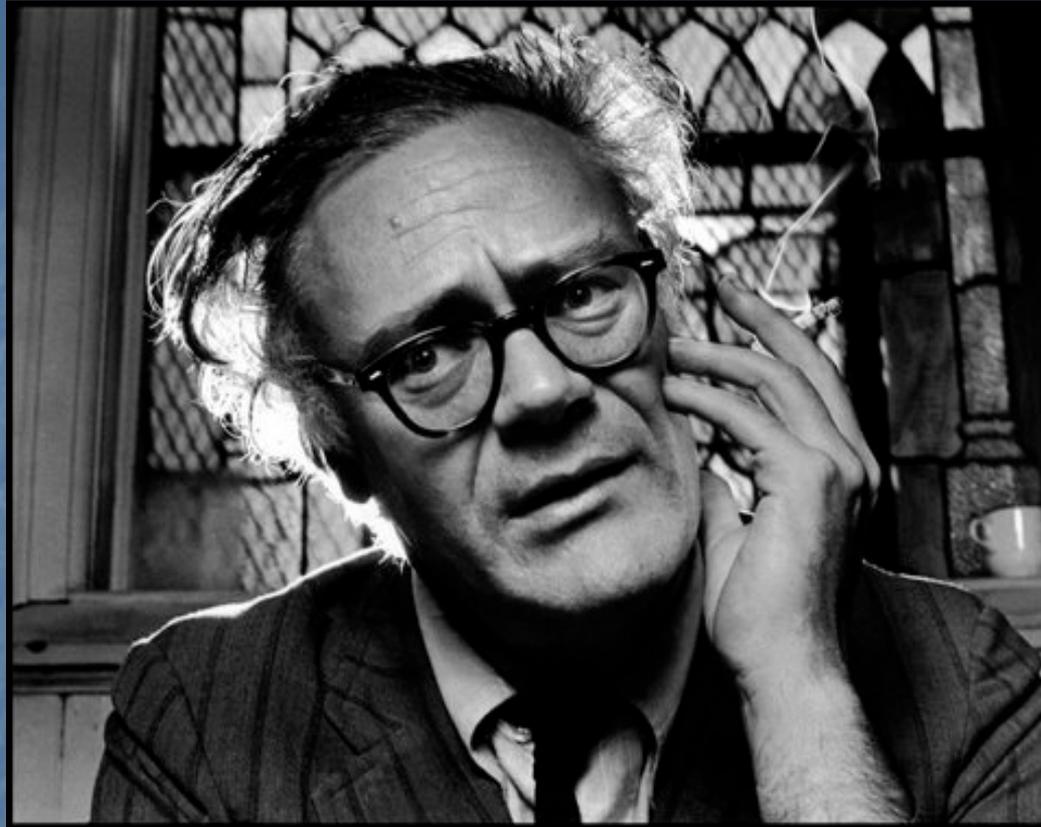






“There's nothing to writing. All you do is sit down at a typewriter and open a vein.”

*"Red" Smith*



“We asked to be obsessed with writing,  
and we were.”

*Robert Lowell*

# Effective Legal Writing

It is hard



So we must care

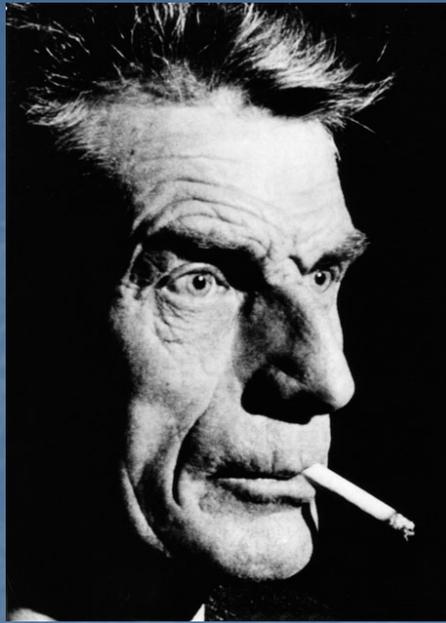


Passionately



“What is written without effort  
is read without pleasure.”

*Samuel Johnson*



Ever tried. Ever failed. No  
matter. Try again. Fail again.  
Fail better.

*Samuel Beckett*

"He had gone to Afghanistan at 19 as a machine-gunner in the Marine Corps. In the 18 months since leaving the military, he had grown long hair and a bushy mustache. It was 2012. He was working part time in a store selling baseball caps and living with his parents in the suburbs of Phoenix."

"He rarely mentioned the war to friends and family, and he never mentioned his nightmares."

"He thought he was getting used to suicides in his old infantry unit, but the latest one had hit him like a brick. Joshua Merkel had seemed unshakable. In Afghanistan, Corporal Merkel volunteered for extra patrols and joked during firefights."

"Back home, Mr. Markel appeared solid: a job with a sheriff's office, a new truck, a wife and time to hunt deer with his father. But that week, while watching TV with friends, he had wordlessly gone into his room, picked up a pistol and killed himself. He was 25."

“Still reeling from the news, Mr. Bojorquez surveyed the old baseball posters on the walls of his childhood bedroom. Then he took a long pull from the bottle.

“If he couldn’t make it,” he recalled thinking to himself, “what chance do I have?”

“He pressed the loaded pistol  
to his brow and pulled the  
trigger.”

# Chief Justice Roberts & Bryan Garner



# Introductions

# Introductions

- ✓ Proclaim immediately why you must win.

# Introductions

- ✓ Proclaim immediately why you must win.
- ✓ Convey what the case is about.
- ✓ Create context for facts.
- ✓ Engage the reader.

# Introduction - Example

- "Insured, seeking a bargain when premiums were on the rise, got exactly what it bargained for – reduced coverage. Now that it has incurred a loss, Insured wants the coverage it opted not to buy."

# Introductions

- ✓ Be specific in describing people & actions, not abstractions.
- ✓ Appeal to sense of right & wrong.
- ✓ Focus on opponent's wrongful conduct and not your client's innocence.

- "In 2005, a group of men burst into a house, ordered the occupants to lie down on the floor, and opened fire; five people were killed. Petitioner was the only person brought to trial. He was tried in Orleans Parish, Louisiana, a jurisdiction whose district attorney's office has a long and disturbing history of failing to produce exculpatory evidence to criminal defendants."

# Context

Readers absorb information best if they understand its significance as soon as they receive it.

# Context Before Details

# Engage the Reader

- Write the “story” of the case. It should read more like a newspaper than a law review. Immerse yourself in the facts. And then order the facts in such a way that the conclusion – a ruling for your client - is inevitable. This story directs the legal analysis as a gun barrel directs a bullet’s path.

Alice Munro  
*Nobel Prize for  
Literature*

Lionel told them how his mother had died.

She had asked for her makeup. Lionel held the mirror.

“This will take about an hour,” she said.

Foundation cream, face powder, eyebrow pencil, mascara, lip-liner, lipstick, blusher. She was slow and shaky, but it wasn't a bad job.

“That didn't take you an hour,” Lionel said.

She said, no, she hadn't meant that.

She had meant, to die.

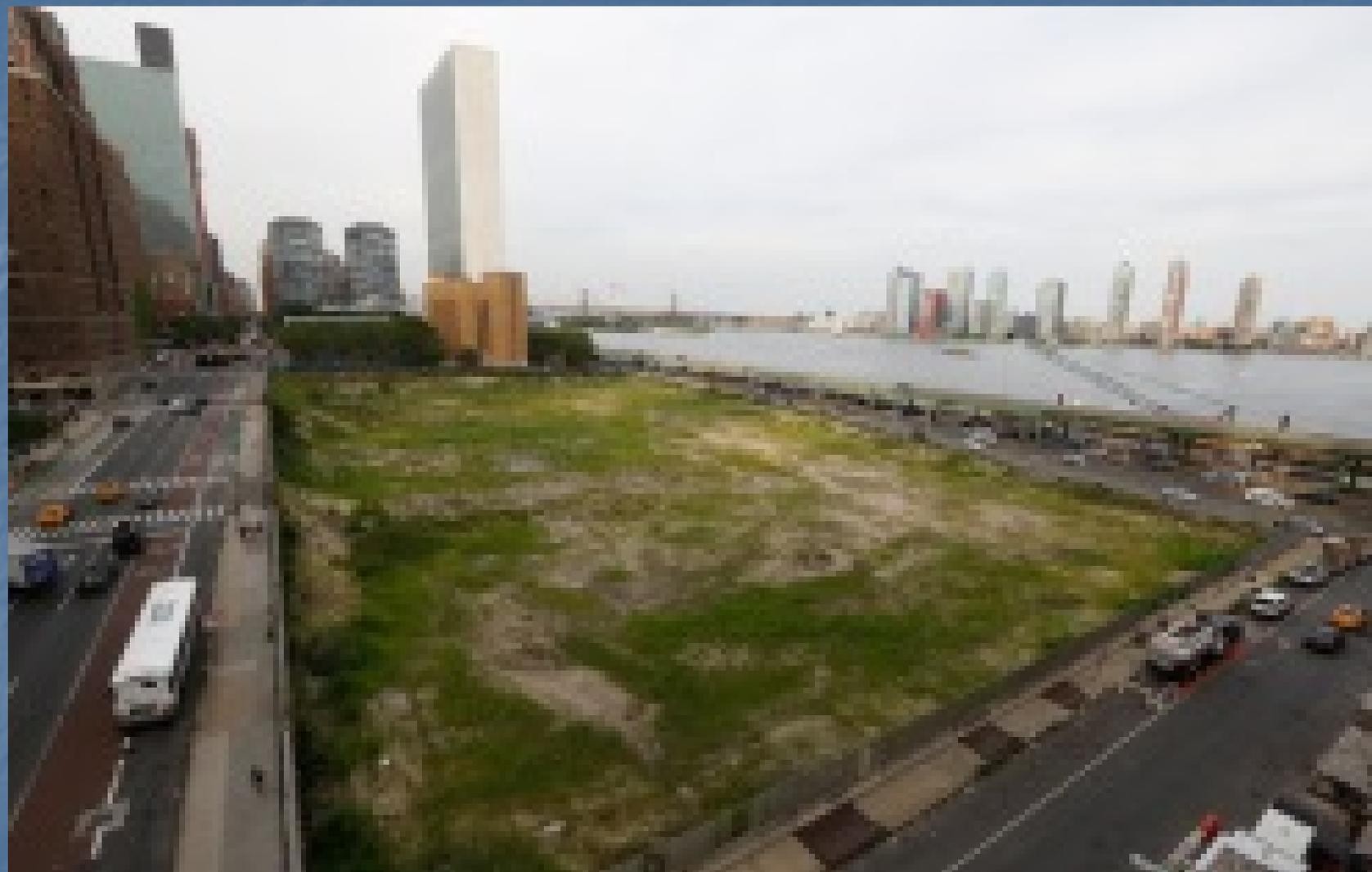
He had asked her if she wanted him to call his father. His father, her husband, her minister.

She said, What for.

She was only about five minutes out, in her prediction.

COMES NOW, Defendant-Intervenors, by and through their undersigned attorneys of record and submit this memorandum: (1) in support of Defendant's Cross-Motion for Partial Summary Judgment; (2) in support of the Federal Defendants' Cross-Motion for Partial Summary Judgment (Docket #241); and (3) in opposition to the Plaintiff's Motion for Partial Summary Judgment (Docket # 227), as related to the "Third Claim for Relief" in the Plaintiff's Third Amended Complaint, Docket #118, ¶¶ 102-108. See also Docket #121, ¶¶ 102-108 (Defendants' Answer to Third Amended Complaint); Docket #125, ¶¶ 55-58 (Defendant's Answer to Third Amended Complaint). Defendant takes no position as to Plaintiff's motion for partial summary judgment (Docket #227), and as the Federal -Defendants' cross-motion for partial summary judgment (Docket #241), as related to the "Seventh Claim for Relief" in the Plaintiff's Third Amended Complaint (Docket #118, ¶¶ 121-124).

In June 2004, the United States of America brought a False Claims Act action against Dr. Eugene Chen ("Chen"). (United States v. Chen, 2:04–CV–00859–PMP–PAL ("Chen I"), Compl. (Doc. # 1).) A jury trial resulted in a verdict on February 19, 2009, against Chen in the amount of \$420,695.56. (Chen I, Mins. of Proceedings (Doc. # 117), Verdict (Doc. # 121).) Following the verdict, the Court set a hearing for April 14, 2009, regarding treble damages. (Chen I, Mins. of Proceedings (Doc. # 117).) Chen moved for post-trial relief and for a mistrial, which the Court denied. (Chen I, Order (Doc. # 127).)



# Prime Real Estate



No. 11-345

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IN THE  
**Supreme Court of the United States**

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ABIGAIL NOEL FISHER,

*Petitioner,*

v.

UNIVERSITY OF TEXAS AT AUSTIN, *et al.*,

*Respondents.*

---

ON WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

---

BRIEF *AMICUS CURIAE* OF THE PRESIDENT  
AND CHANCELLORS OF THE UNIVERSITY OF  
CALIFORNIA IN SUPPORT OF RESPONDENTS

---



# WARNING



THE BRIEF DESCRIBED  
BELOW SHOULD NOT  
BE VIEWED BY MINORS,  
PREGNANT WOMEN, OR  
ANYONE SUFFERING FROM  
A HEART CONDITION.

"Mr. Bojorquez, 27, served in one of the hardest hit military units in Afghanistan, the 2<sup>nd</sup> Battalion, Seventh Marine Regiment. In 2008, the 2/7 deployed to a wild swath of Helmand Province."

“Well beyond reliable supply lines, the battalion regularly ran low on water and ammunition while coming under fire almost daily.”

"During 8 months of combat, the unit killed hundreds of enemy fighters and suffered more casualties than any other Marine battalion that year."

“Almost 7 years after the deployment, suicide is spreading through the old unit like a virus. Of about 1300 Marines who deployed with the 2/7 in 2008, at least 13 have killed themselves.”

The morning after Manny Bojorquez tried to shoot himself in 2012, he opened his eyes to sunlight streaming in his window and found the loaded gun on the floor. Through his whiskey headache, he pieced together that his gun had jammed and that he had passed out drunk."

Be Concise!

NEW  
EDITION

---

WILLIAM  
**STRUNK** JR.  
AND  
E.B. **WHITE**

---

*"...still a little book, small enough and important enough  
to carry in your pocket, as I carry mine."  
— Charles Osgood*

---

*The*  
**ELEMENTS**  
*of*  
**STYLE**

---

FOURTH EDITION

FOREWORD BY ROGER ANGELL



## Chapter II

### *Elementary Principals of Composition*

• • • •

17. *Omit Needless Words*

*"Vigorous writing is concise. A sentence should contain no unnecessary words, a paragraph no unnecessary sentences, for the same reason that a drawing should have no unnecessary lines and a machine no unnecessary parts. This requires not that the writer make all his sentences short, or that he avoid all detail and treat his subjects only in outline, but that every word tell."*

Let thy words be few. . . .  
[A] fool's voice is known by  
a multitude of words."

*Ecclesiastes 5:3*

# Test:

Summarize all that  
science knows about  
nutrition – in 3 sentences  
(7 words!!)

“Eat food. Not too much.  
Mostly plants.”

*Michael Pollen, In Defense of Food*





# Gettysburg Address

Executive Mansion,

Washington, 1863

Four score and seven years ago our fathers brought forth, upon this continent, a new nation, conceived in liberty, and dedicated to the proposition that "all men are created equal"

Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived, and so dedicated, can long endure. We are met on a great battle field of that war. We have come to dedicate a portion of it, as a final resting place for those who died here, that the nation might live. This we may, in all propriety, do. But, in a larger sense, we can not dedicate—we can not consecrate—we can not hallow, this ground—the brave men, living and dead, who struggled here, have hallowed it, far above our poor power to add or detract. The world will little note, nor long remember what we say here; while it can never forget what they did here.

It is rather for us, the living, to stand here,

dedicated to the great task remaining before us—that, from these honored dead we take increased devotion to that cause for which they here gave the last full measure of our selves—that we here highly resolve that these dead shall not have died in vain, that this nation, shall have a new birth of freedom, and that government of the people by the people for the people, shall not perish from the earth.

# Gettysburg Address

Executive Mansion,  
Washington, 1863

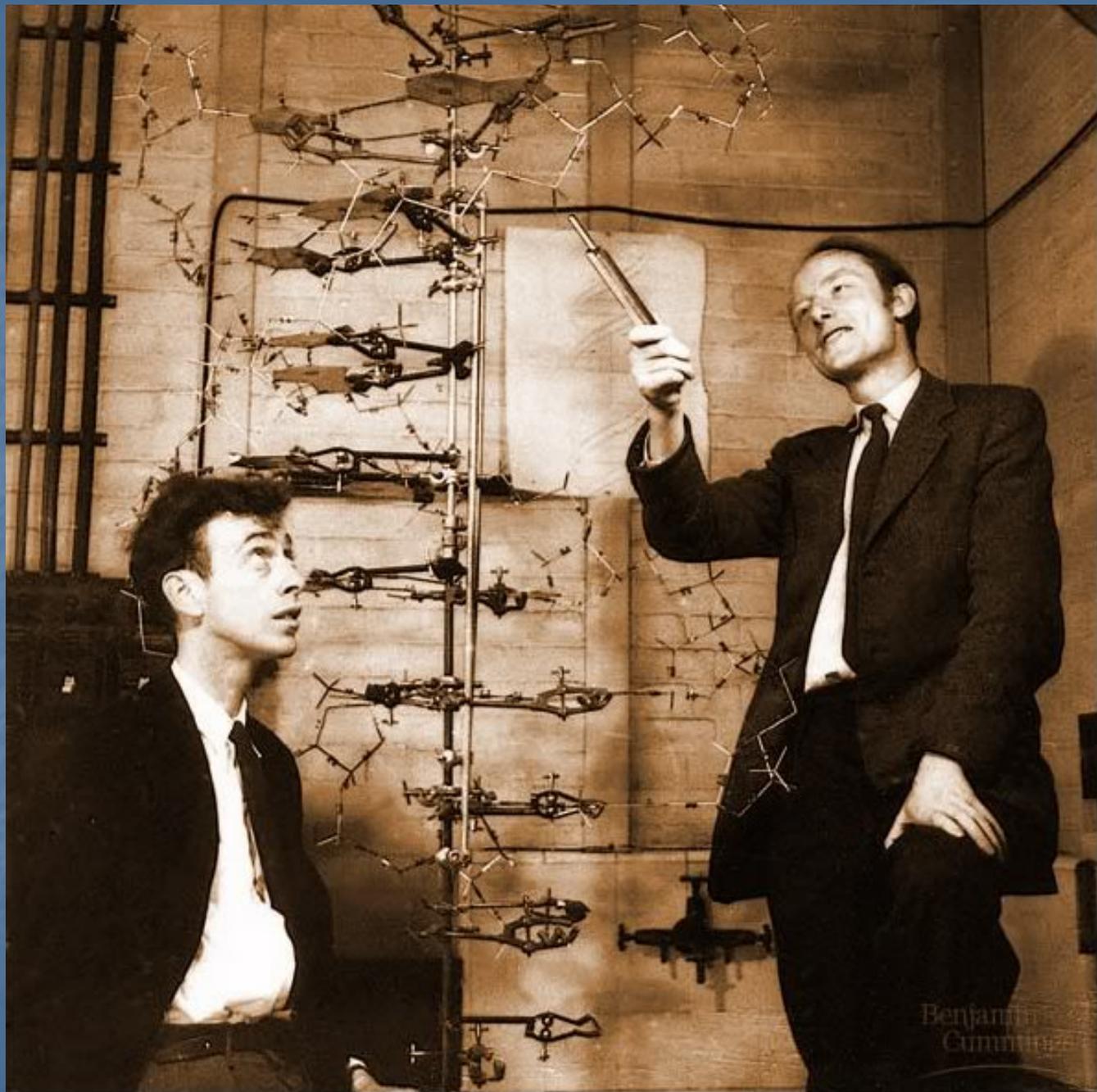
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Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived, and so dedicated, can long endure. We have met on a great battlefield that we here have come to dedicate a portion of it, as a final resting place for those who here gave their lives that that nation might live. This we do, in all propriety. But, in a larger sense, we can not dedicate—we can not consecrate—we can not hallow, this ground—the brave men, living and dead, who struggled here, have hallowed it, far above our poor power to add or detract. The world will little note, nor long remember what we say here; but it can never forget what they did here.

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dedicated to the great task remaining before us—that, from these honored dead we take increased devotion to that cause for which they here gave the last full measure of our selves—that we here highly resolve that these dead shall not have died in vain; that the nation shall remain united and free; that the government of the people, by the people, for the people, shall not perish from the earth.

272 words



# DNA Discovery

No. 4356 April 25, 1953

NATURE

737

equipment, and to Dr. G. E. R. Deacon and the captain and officers of R.R.S. *Discovery II* for their part in making the observations.

<sup>1</sup> Young, F. E., Gerrard, H., and Jevons, W., *Phil. Mag.*, **40**, 149 (1920).

<sup>2</sup> Longuet-Higgins, M. S., *Mon. Not. Roy. Astro. Soc., Geophys. Supp.*, **5**, 285 (1949).

<sup>3</sup> Von Arx, W. S., Woods Hole Papers in Phys. Océanogr. Meteor., **11** (9) (1950).

<sup>4</sup> Ekman, V. W., *Arkiv. Mat. Astron. Fysik. (Stockholm)*, **2** (11) (1905).

## MOLECULAR STRUCTURE OF NUCLEIC ACIDS

### A Structure for Deoxyribose Nucleic Acid

WE wish to suggest a structure for the salt of deoxyribose nucleic acid (D.N.A.). This structure has novel features which are of considerable biological interest.

A structure for nucleic acid has already been proposed by Pauling and Corey<sup>1</sup>. They kindly made their manuscript available to us in advance of publication. Their model consists of three intertwined chains, with the phosphates near the fibre axis, and the bases on the outside. In our opinion, this structure is unsatisfactory for two reasons: (1) We believe that the material which gives the X-ray diagrams is the salt, not the free acid. Without the acidic hydrogen atoms it is not clear what forces would hold the structure together, especially as the negatively charged phosphates near the axis will repel each other. (2) Some of the van der Waals distances appear to be too small.

Another three-chain structure has also been suggested by Fraser (in the press). In his model the phosphates are on the outside and the bases on the inside, linked together by hydrogen bonds. This structure as described is rather ill-defined, and for this reason we shall not comment on it.



This figure is purely diagrammatic. The two ribbons symbolize the two phosphate-sugar chains, and the horizontal rods the pairs of bases holding the chains together. The vertical line marks the fibre axis.

We wish to put forward a radically different structure for the salt of deoxyribose nucleic acid. This structure has two helical chains each coiled round the same axis (see diagram). We have made the usual chemical assumptions, namely, that each chain consists of phosphate diester groups joining  $\beta$ -D-deoxy-ribofuranose residues with 3',5' linkages. The two chains (but not their bases) are related by a dyad perpendicular to the fibre axis. Both chains follow right-handed helices, but owing to the dyad the sequences of the atoms in the two chains run in opposite directions. Each chain loosely resembles Furbert's<sup>2</sup> model No. 1; that is, the bases are on the inside of the helix and the phosphates on the outside. The configuration of the sugar and the atoms near it is close to Furbert's 'standard configuration', the sugar being roughly perpendicular to the attached base. There

is a residue on each chain every 3.4 Å. in the z-direction. We have assumed an angle of 36° between adjacent residues in the same chain, so that the structure repeats after 10 residues on each chain, that is, after 34 Å. The distance of a phosphorus atom from the fibre axis is 10 Å. As the phosphates are on the outside, cations have easy access to them.

The structure, as an open one, and its water content is rather high. At lower water contents we would expect the bases to tilt so that the structure could become more compact.

The novel feature of the structure is the manner in which the two chains are held together by the purine and pyrimidine bases. The planes of the bases are perpendicular to the fibre axis. They are joined together in pairs, a single base from one chain being hydrogen-bonded to a single base from the other chain, so that the two lie side by side with identical z-coordinates. One of the pair must be a purine and the other a pyrimidine for bonding to occur. The hydrogen bonds are made as follows: purine position 1 to pyrimidine position 1; purine position 6 to pyrimidine position 6.

If it is assumed that the bases only occur in the structure in the most plausible tautomeric forms (that is, with the keto rather than the enol configurations) it is found that only specific pairs of bases can bond together. These pairs are: adenine (purine) with thymine (pyrimidine), and guanine (purine) with cytosine (pyrimidine).

In other words, if an adenine forms one member of a pair, on either chain, then on these assumptions the other member must be thymine; similarly for guanine and cytosine. The sequence of bases on a single chain does not appear to be restricted in any way. However, if only specific pairs of bases can be formed, it follows that if the sequence of bases on one chain is given, then the sequence on the other chain is automatically determined.

It has been found experimentally<sup>3,4</sup> that the ratio of the amounts of adenine to thymine, and the ratio of guanine to cytosine, are always very close to unity for deoxyribose nucleic acid.

It is probably impossible to build this structure with a ribose sugar in place of the deoxyribose, as the extra oxygen atom would make too close a van der Waals contact.

The previously published X-ray data<sup>5,6</sup> on deoxyribose nucleic acid are insufficient for a rigorous test of our structure. So far as we can tell, it is roughly compatible with the experimental data, but it must be regarded as unproved until it has been checked against more exact results. Some of these are given in the following communications. We were not aware of the details of the results presented there when we devised our structure, which rests mainly though not entirely on published experimental data and stereochemical arguments.

It has not escaped our notice that the specific pairing we have postulated immediately suggests a possible copying mechanism for the genetic material.

Full details of the structure, including the conditions assumed in building it, together with a set of co-ordinates for the atoms, will be published elsewhere.

We are much indebted to Dr. Jerry Donohue for constant advice and criticism, especially on interatomic distances. We have also been stimulated by a knowledge of the general nature of the unpublished experimental results and ideas of Dr. M. H. F. Wilkins, Dr. R. E. Franklin and their co-workers at

# DNA Discovery

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If it is assumed that purines only occur in the structure in two tautomeric forms (that is, with the keto rather than the enol group in the 6-position) it is found that the purine bases can bond to either thymine or adenine (purine) with cytosine, uracil, and guanine (pyrimidine).

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# Francine Prose

- “Writing requires putting each word on trial for its life.”

December 7, 1941.

PROPOSED MESSAGE TO THE CONGRESS

Yesterday, December 7, 1941, a date which will live in ~~infamy~~ <sup>infamy</sup>  
 the United States of America was ~~suddenly~~ <sup>suddenly</sup> and deliberately attacked  
 by naval and air forces of the Empire of Japan, ~~with out warning~~.

The United States was at the moment at peace with that nation and was  
~~still in~~ <sup>still in</sup> conversation with its Government and its Emperor looking  
 toward the maintenance of peace in the Pacific. Indeed, one hour after  
 Japanese air squadrons had commenced bombing in ~~the Philippines~~ <sup>Dahu</sup>

the Japanese Ambassador to the United States and his colleague delivered  
 to the Secretary of State a formal reply to a ~~recent~~ <sup>recent</sup> message, ~~in which~~ <sup>in which</sup>

~~While~~ <sup>While</sup> ~~stated~~ <sup>stated</sup> ~~it seemed unlikely~~ <sup>it seemed unlikely</sup>  
~~that diplomatic negotiations~~ <sup>that diplomatic negotiations</sup>  
~~must be considered at an end,~~ <sup>it</sup> contained no threat ~~or~~ <sup>or</sup> hint of ~~an~~ <sup>an</sup>  
 armed attack.

It will be recorded that the distance ~~of~~ <sup>of</sup>  
 Hawaii from Japan make it obvious that the ~~attack~~ <sup>attack</sup> ~~was~~ <sup>was</sup> deliberately  
 planned many days ~~ago~~ <sup>or 7000 weeks</sup> ago. During the intervening time the Japanese Govern-  
 ment has deliberately sought to deceive the United States by false  
 statements and expressions of hope for continued peace.

at the solicitation of Japan  
 to maintain the system

# The Very First Sentence

# Average Word Count First Sentence

Time Magazine –	24
Wall Street Journal –	27
Gary Wills –	18

Word Count

One paragraph

Supreme Court case

40

39

26

9

44

# Word Count

Case

Gary Wills (*"Lincoln at Gettysburg"*)

40

14

39

11

26

21

9

6 (end 1<sup>st</sup> ¶)

44

11

27

25

24

5 (end 2<sup>nd</sup> ¶)

"Not all the gallantry of General Lee can redeem, quite, his foolhardiness at Gettysburg. When in doubt, he charged into the cannon's mouth – by proxy. Ordered afterward to assemble the remains of that doomed assault, George Pickett told Lee that he had no force to reassemble. Lee offered Jefferson Davis his resignation."

Nor did General Meade, Lee's opposite number, leave Gettysburg in glory. Though he lost as many troops as Lee, he still had men and ammunition to pursue a foe who was running, at the moment, out of both. For a week, while Lincoln urged him on in an agony of oblitative hope, Meade let the desperate Lee lie trapped by a flooded Potomac. When at last Lee ghosted himself over the river, Lincoln feared the North would not persevere with the war through the next year's election. Meade, too, offered his resignation.

Norman Maclean  
*Young Men and Fire*

4 sentences

11

11

16

11

Norman Maclean  
*Young Men and Fire*

"This is as far as we are able to accompany them. When the fire struck their bodies, it blew their watches away. The two hands of a recovered watch had melted together at about four minutes to six. For them, that may be taken as the end of time."

# Words on Trial for their Life

- "Pursuant to our recent conversation . . . ."

# Words on Trial for their Life

- "Pursuant to our recent conversation . . . ."
- "As we discussed . . . ."

# Words on Trial for their Life

- "He consulted a lawyer with regard to the accident."

# Words on Trial for their Life

- "He consulted a lawyer *with regard to* the accident."
- "He consulted a lawyer *about* the accident."

# Words on Trial for their Life

- "I hired him due to the fact that he spoke Spanish."

# Words on Trial for their Life

- "I hired him *due to the fact that* he spoke Spanish."
- "I hired him *because* he spoke Spanish."

# Words on Trial for their Life

- "I had no recollection at that point in time."

# Words on Trial for their Life

- "I had no recollection *at that point in time.*"
- "I had no recollection *then.*"

# Words on Trial for their Life

- "The fact that he was strong meant nothing."

# Words on Trial for their Life

- “*The fact that* he was strong meant nothing.”
- “That he was strong meant nothing.”

# Words on Trial for their Life

- “*The fact that* he was strong meant nothing.”
- “His strength meant nothing.”

# Words on Trial for their Life

- The summary of a case – the discussion of its facts and holdings – is typically full of dense overgrowth, crying out for some slash & burn editing.

# Words on Trial for their Life

- But                      or                      However
- And                      or                      Furthermore
- So                      or                      Consequently

# Words on Trial for their Life

- But                      or                      However
- And                      or                      Furthermore
- So                      or                      Consequently

But wait! Begin a  
sentence with a  
conjunction?



# Bryan Garner

- "Expert writers begin 10% to 20% of their sentences with conjunctions."
- "There are 10 sentences in the U.S. Constitution starting with conjunctions."

# Bryan Garner

- “For the mortar words in the language, the monosyllables can't be equaled.”

# Passive Voice

*Active Voice*: Subject performs the action

*Passive Voice*: Subject is unknown or is acted upon.

“Mistakes were made”



**Mistakes were made.**



**Mistakes were made.**

[www.foxnews.com](http://www.foxnews.com)





"The great enemy of clear language is insincerity. When there is a gap between one's real and one's declared aims, one turns as it were instinctively to long words and exhausted idioms, like a cuttlefish spurting out ink."

*George Orwell*

# What's wrong with passive voice?

- It adds unnecessary words.
  - Smith filed the complaint.
  - The complaint was filed by Smith.
- If it doesn't add words, it hides the actor.
- It reverses the normal word order for a sentence, making it harder for the reader to process the information.

1. "I shall always remember my first visit to Boston."

2. "My first visit to Boston will always be remembered by me."

# Transitions



"Just as sentences should follow one another in harmonious sequence, so the paragraphs must fit onto one another like the automatic couplings of railway carriages."

*□ Winston Churchill, My Early Life: A Roving Commission 211-12 (1930).*

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"The award of child support is within the discretion of the court, and its decision will not be reversed unless it abused its discretion. **An abuse occurs** when the court fails to consider relevant factors.

# Bridge Between Sentences

This is where briefs fall short;

Think of each sentence as  
containing both old information  
and new information.

Sentence 1

point a point b

Sentence 2

point b point c

Sentence 3

point c point d

The plaintiff was a mortgage lender to two debtors. Three parcels of real estate comprised the collateral that secured the note and mortgage.

The plaintiff was a mortgage lender to two debtors. **The debt** was secured by three parcels of real estate.

A. The Court should deny the motion because the PUC was not a party to the Essex County litigation, nor was it in privity with a party in that case.

Judicial estoppel prevents parties from assuming “inconsistent or mutually contradictory positions with respect to the same matter in the same or a successive series of suits.” *Scarano v. Central R.R. Co.*, 203 F.2d 510, 513 (3d Cir. 1953). Unlike equitable estoppel, which concerns the relationship between the parties, “[j]udicial estoppel looks to the connection between the litigant and the judicial system.” *Oneida Motor Freight, Inc. v. United Jersey Bank*, 848 F.2d 414, 419 (3d Cir.), cert. denied, 488 U.S. 967 (1988). The central purpose of **judicial estoppel** is to preserve the integrity of the judicial system “by preventing parties from ‘playing fast and loose with the courts.’” *Fleck v. KDI Sylvan Pools, Inc.*, 981 F.2d 107, 121 (3d Cir. 1992) (citations omitted), cert. denied sub nom., *Doughboy Recreational, Inc. Div. of Hoffinger Ind., Inc. v. Fleck*, 507 U.S. 1005 (1993).

At least one important boundary limits **this doctrine** in a way that is dispositive here. Simply put, a party may not assert judicial estoppel if he had no involvement in the earlier matter. The Third Circuit has held that judicial estoppel is appropriate only “where the same parties are involved.” *Gleason v. United States*, 458 F.2d 171, 175 (3d Cir. 1972). This limitation arises from the Third Circuit’s earliest and most significant cases on judicial estoppel. In the seminal *Scarano* case, for example, the Third Circuit built this **important limitation** into the basic rule itself: a plaintiff who successfully asserts a position in one case may not contradict himself “in an effort to establish *against the same adversary* a second claim inconsistent with his earlier contention.” 203 F.2d at 513 (emphasis added).

The Western District of Pennsylvania—speaking through Judge D. Brooks Valentino—recently reaffirmed **this limitation** in the recent case of *Mellon Bank, N.A. v.*

“Insured, seeking a bargain when premiums were on the rise, got exactly what it bargained for – reduced coverage. Now that it has incurred a loss, Insured wants the coverage it opted not to buy.”

"Under Idaho law, it is not necessary for the defendant to foresee either the mechanism by which the harm occurs or the nature of the harm. It is said to be "the cardinal negligence law principle that only the general risk of harm need be foreseen, not the specific mechanism of injury." *Sharp*, 796 P.2d at 510; *Orthman* 944 P.2d at 1364. Thus, in *Sharp* it was not necessary for a building owner or security service to foresee that a defective door lock might result in a rape. *Sharp*, 796 P.2d at 510-11. Similarly, in *Orthman* it was not necessary for an electric utility that disconnected power service to a customer for nonpayment to foresee that the customer might try to reconnect the power with a metal pole, thus suffering injury. *Orthman*, 944 P.2d at 1364

# Appearance

"His approach to writing borders on obsessive. He fixates on the shapes of letter and words, and judges each phrase **for its visual appearance** as well as its rhythm and clarity. He often types up a single paragraph at a time, using a clean sheet of paper for each paragraph, so that he can study **the architecture of each passage** in isolation."

*Don DeLillo*

Is Delillo's obsession  
with appearance a bad  
thing?

*See Following Examples*

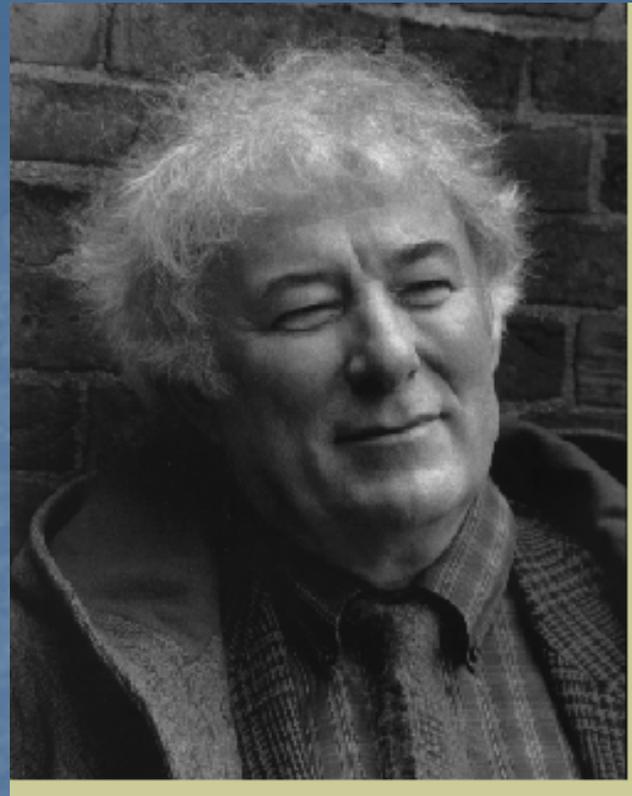
# Case Citations

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My house burned down.  
Now I can better see  
the rising moon.

*Matsuo Basho*



Between my finger and my thumb  
The squat pen rests.  
I'll dig with it.

*Seamus Heaney*



“Ink, the most fecund of liquids.”

*David Mitchell*

LEGAL  
WRITING  
IN  
PLAIN  
ENGLISH

*A Text with Exercises*

Bryan A. Garner

NEW YORK TIMES BESTSELLER

# FRANCINE PROSE



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*"...still a little book, small enough and important enough  
to carry in your pocket, as I carry mine."*

*— Charles Osgood*

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*The*  
**ELEMENTS**  
*of*  
**STYLE**

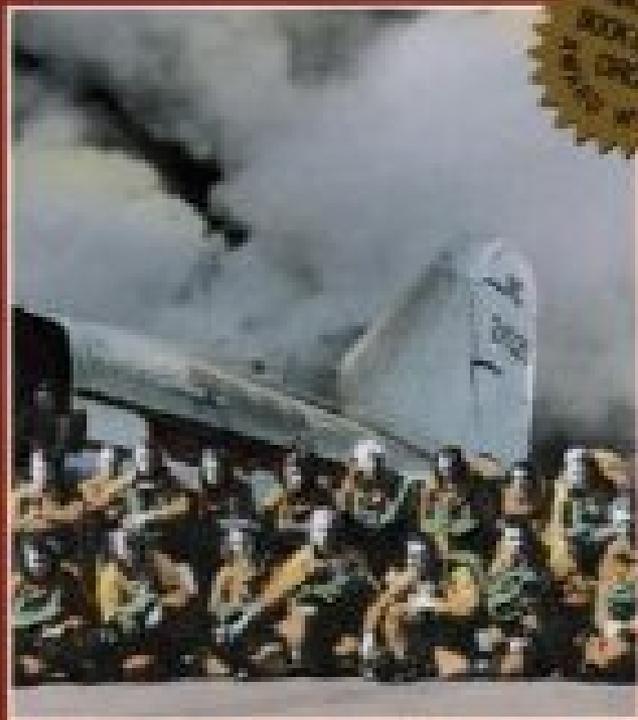
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FOURTH EDITION

FOREWORD BY ROGER ANGELL

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YOUNG MEN AND FIRE

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"A magnificent drama of writing . . . a classic."  
—The New York Times Book Review Editor's Choice,  
Best Books of the Year

THE NATIONAL BESTSELLER by the author of *A RIVER RUNS THROUGH IT*

“The morning after his suicide attempt, Manny stood among a dozen other Marine veterans at Mr. Markel’s funeral. The crack of rifles echoed off the headstones as an honor guard fired a salute.”

"As he offered his condolences to Mr. Markel's mother, she pressed something into his palm, a spent brass shell casing from the honor guard. Promise me, she said, that you will never put your mother through this. Mr. Bojoquez promised."

“In November, Mr. Bojorquez got a text from his best friend in the battalion – Noel Guerrero: ‘I don’t think I can do this life anymore’ it said.”

“Mr. Bojorquez called immediately. Mr. Guerrero picked up, sobbing, but after a few words hung up. Manny knew he should call 911 but hesitated. The call might land Mr. Guerrero in a psychiatric ward or ruin his marriage. But what choice was there?”

"The police pounded on the door just as Mr. Guerrero put a handful of pills into his mouth. He spent the next few weeks in a private hospital treatment program for PTSD. It was far from a cure. But he was alive."