

Writing Tips for New Practitioners

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TOPICS



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Editing: Techniques & Tactics

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Editing: Techniques & Tactics

- Review your work closely and systematically to improve the style. Before you begin to edit your work you should read and understand the entire piece. Consider the full context and structure of your draft.
- **Then:**
 - (1) Big-Picture Edits;
 - (2) Micro Edits and Polishing; and
 - (3) Distanced Editing

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Editing: Techniques & Tactics

- Big-Picture Edits
 - Does this document have all the necessary components?
 - Is the logic explicit and sound?
 - Do the arguments fit together and flow one into the next?

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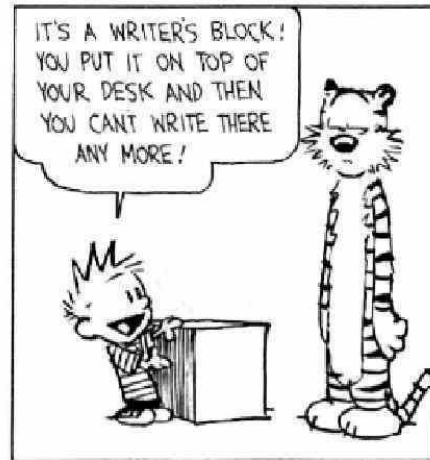
Editing: Techniques & Tactics

- Micro Edits & Polishing:
 - Remove unnecessary words and shorten sentences
 - Improve the flow from paragraph to paragraph
 - Correct word choices and punctuation
 - Review your citations
 - Check for common problems in **your** writing

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Editing: Techniques & Tactics

- Distanced editing:
 - Give yourself time away from the document before performing a final edit. You will catch more errors when you read your writing with fresh eyes



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Editing: Techniques & Tactics

- On computers
 - Use big fonts
 - Use “search” functions
- On the hard copy
 - Start in the middle
 - Plan to print out, review, and print out again
 - Ruler read
 - Read backwards

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Audience & Tone

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Audience

- Primary: Judge & Law Clerks
- Secondary (but also important):
 - Opposing counsel
 - Your client
- Sometimes: External parties (media)

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Persuading Your Audience: Tone

- Your ability to persuade depends on your credibility.
- Your credibility depends on a number of obvious/concrete things like:
 - Competently explaining/knowing the law and how it applies to your case to reach your desired outcome
 - Following ethical principles and rules.
- Your credibility also depends on more implicit/intangible concerns – like tone.

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Tone

- Reflects understanding of your serious responsibility
- Avoids lecturing and imperative sentences
- Sounds objective (utilize other tools to evoke emotion, highlighting specific facts etc..)
- Exhibit candor, conviction, & intelligence

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Parenthetical Citations

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Parentheticals

- Three ways to use cases in legal writing:
 - Citation only
 - Citation plus parenthetical
 - In-text case illustration

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Parentheticals

- Threshold question you should ask when deciding how to use a case:
 - Is the general rule so vague or complex as to require a case illustration?



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Parentheticals

- Other considerations when deciding how to use a case:
 - How important is the rule to the overall discussion?
 - Can an illustration be explained effectively in a single sentence?
 - The length of the document?

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Parentheticals

- Explanatory Parentheticals typically begin with the present participle form of a verb (ends in –ing).
 - For example: finding, holding, explaining, interpreting, rejecting

The possession of a key demonstrates control over a particular location. *See United States v. Smith*, 22 F.3d 877, 879 (7th Cir. 2012) (concluding that the defendant had a connection to the residence based solely on his possession of a key to the residence).

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Parentheticals

When don't parentheticals start with past participle verb?

(1) When the context makes it unnecessary:

- The corroboration of an accomplice's testimony in cases of crimes for hire may consist primarily of the defendant's statements tending to connect the defendant to the crime. *Ex Parte Bullock*, 770 So. 2d 1062, 1068 (Ala. 2000) (arson for hire); *Prewitt v. State*, 460 So. 2d 296 (Ala. Crim. App. 1984) (murder for hire).

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Parentheticals

When don't parentheticals start with past participle verb?

(2) When the parenthetical quotes a full sentence:

- A determination of whether a waiver is valid is based on whether the university had the authority to waive Eleventh Amendment immunity. *In re Innes*, 184 F.3d 1275, 1284 (10th Cir. 1999) (“Nothing in the statute itself makes entering into a contract waiving immunity an ultra vires act.”).

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Common Writing Issues

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Common Grammar/Writing Issues

- Passive voice
- Nominalizations
- Long sentences

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Minimizing passive voice

- Passive voice = actor not identified
 - Most of the time want to eliminate
 - Some exceptions (if strategic and intentional)
- Reasonable suspicion to stop a defendant is found if specific, articulable facts connect the defendant to the crime.
- A court will find that a police officer has reasonable suspicion to stop a defendant if the officer can articulate specific facts that connect the defendant to a crime.

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Minimizing nominalizations



- Making a verb a noun
 - “supervision” instead of “supervised” or “to supervise”
 - use ctrl + F to find “ion”
- Most of the time, a verb is preferable
 - Clearer language
 - Stronger stance

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Nominalizations

- The police conducted an investigation of the crime.

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Nominalizations

- ~~The police conducted an investigation of the crime.~~
- The police *investigated* the crime.

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Nominalizations

- ~~The police conducted an investigation of the crime.~~
- The police *investigated* the crime.
- The handwriting expert did an analysis of the letter.

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Nominalizations

- ~~The police conducted an investigation of the crime.~~
- The police *investigated* the crime.
- ~~The handwriting expert did an analysis of the letter.~~
- The handwriting expert *analyzed* the letter.

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Minimizing wordiness

- Long unwieldy sentences
 - Contains too many ideas
 - Contains too many “empty” words
 - not adding anything to your point (glue words vs. working words)
 - filler/throat clearing
- Minimizing wordiness
 - With respect to the issue of intent, the court admitted the said evidence previously offered by the plaintiff.
 - The court admitted the plaintiff's evidence of intent.

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Long sentences – eliminate “throat clearing”

- **It is important to emphasize that plaintiff contends that** the landlord caused young Ms. Hayne’s injury by leaving an excavated pile of dirt on the property.
- The landlord caused Ms. Hayne’s injuries by leaving an excavated pile of dirt on the property.

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Thank you! Questions?



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