

Thoughts on Persuasive Writing

Convincing yourself that you have the right answer to a legal question is usually no more than 60% of the task—the remaining 40% is convincing the decisionmaker that your answer is the right one. That requires persuasive writing.

Lawyers—and judges even more so—are very busy and impatient people. They want writing that is easy to read, to the point, well supported with authority, and, where helpful, illustrated with case summaries. Legal writing that is easy to read follows seven rules:

1. The writing states a precise question *and* answers the question presented. You would be surprised how often this is not the case.
2. Write from the reader's perspective. What is important is what the reader reads, not what the writer writes.
3. The writing is well-organized with a clear, logically progressing narrative. Ask, if you were the reader, how you would want the writing to be organized. A good way to check the organization of your paper is to write out just the first-level headings and see if they tell a story without any additional text or explanation. Then see if the second-level headings fit together in the context of the first-level heading, and so on.
4. The writing should be linear: each sentence should logically progress from the preceding sentence, each paragraph from the preceding paragraph, each section from the preceding section, and so on. For each sentence, paragraph, and section, ask, if you were the reader, what you would expect to come next? When you do not address what the reader expects, the reader will be confused. You will not be persuasive if the reader is confused.
5. Each paragraph should have a clear topic sentence. Long paragraphs may also need a concluding sentence or at least a sentence that allows a smooth transition to the next paragraph. Sections always need an opening paragraph that explains what the section will address. Most sections of any length will typically need a concluding paragraph. Give the reader signals where you are in the analysis and where you are going so that the reader does not become lost or confused.
6. The analysis needs to be rigorous and precise without being labored. Legal propositions need to be supported with authority or, if no case is on point, an argument predicated by authority.
7. Write in the active voice, make your sentences simple, and cut out all unnecessary words. A wordy document is hard to read and makes your writing less persuasive.
8. Be grammatically hypervigilant. Grammatical errors are distracting at best and, to many readers, signal an inadequately trained writer. When in doubt, check with a style manual. The Internet is an excellent resource for answering even obscure grammar questions.

Also, make sure that your citations to authority are in the proper Bluebook form. Some readers do not care if you Bluebook or not, but you would be surprised at the number that do care—and those that care tend to care a great deal. For the latter group, a failure to Bluebook materially reduces the persuasiveness of the paper. It is easy to learn the basic Bluebook forms. It is a very worthwhile investment.

Finally, I encourage you to find and study briefs and opinions that you think reflect good writing. Try to figure out what made the brief or opinion a model of good writing. When I was in practice, I often suggested to my associates that they subscribe to [Bryan Garner's LawProse blog](#), [Garner's Usage Tip of the Day](#), the [\(New\) Legal Writer](#), and one or more grammar blogs. These are quick to read, and I continuously learn something from them.