

# **Antitrust Law: Case Development and Litigation Strategy**

Dale Collins

Georgetown University Law Center, Spring 2024

Tuesdays, 3:30 pm – 5:30 pm

[wdc30@georgetown.edu](mailto:wdc30@georgetown.edu)

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

## **WRITING THE INTRODUCTION TO A LAW REVIEW ARTICLE**

The introduction plays a critical role as the first opportunity to engage readers on the paper's central issues and thesis. An effective introduction should provide the necessary background on the paper's topic to establish its broader context and significance. It should then clearly state the specific issue(s) addressed and concisely summarize the article's conclusions. Finally, it should outline the paper's structure to orient readers. The goals are to interest readers and motivate them to continue reading.

The introduction should be easy to read. The introduction should use clear, concise, and grammatically correct writing, using the active voice and maintaining a straightforward tone. The narrative flow should be "linear," logically progressing from paragraph to paragraph and sentence to sentence. This linear build enhances cohesion, comprehension, and persuasiveness.

A law review article's introduction generally contains four key elements: (1) a title framing the central issue; (2) an initial paragraph giving the essential background necessary for the reader to understand the issue and its importance; (3) a concise statement of the issue analyzed together with a concise summary of the article's conclusions; and (4) a "roadmap" briefly previewing the structure of the analysis that follows.

A strong working title is essential when developing a law review article. First, the title delineates the scope of inquiry and will help to focus the analysis. Second, it positions the article within the broader academic literature, helping readers evaluate its contribution and significance. Third, it sparks reader interest. Investing time in crafting an accurate, descriptive title will provide immense benefits.

The title should be clear and concise, ideally condensed to one line. When formulating a title, consider:

- a. Does it accurately convey the content addressed within the article? Readers must understand what to expect.
- b. Can readers interested in the article's subject matter easily find the article using the usual search tools and recognize its relevance? A poorly worded or imprecise title can make the article hard for researchers to discover.
- c. When cited in a Supreme Court opinion, will the title reflect well on you and your institution? Optics count.

Some pursue "catchy" titles with clever wordplay. I strongly discourage you from doing this. A catchy title often fails to inform readers, complicates discoverability, undermines scholarly gravity, and can seem flippant. Moreover, witty wordplay does not aid the author in remaining

focused on the core issue being analyzed. Accuracy and clarity should take precedence over entertainment.

*The background.* The first section should provide the background necessary to establish the context of the article and its legal or policy importance. Assume the reader is legally sophisticated but lacks specific subject-matter knowledge. An experienced Article III judge or senior litigator unfamiliar with the area is a good model for the target audience.

The challenge here is to make the background section complete but concise.<sup>1</sup> To keep the section short, flowing, and easy to read, avoid footnotes unless absolutely necessary and waste no words. Ideally, summarize the background in one paragraph. However, if adequately introducing the context requires addressing two distinct topics or the paragraph grows excessively long, use two paragraphs.<sup>2</sup> The objectives are brevity, readability, and supplying the reader just enough context to comprehend the issue without getting bogged down in specifics. Carefully evaluate whether one paragraph will suffice before expanding to two.

*Statement of the issue and conclusions.* The second section of the introduction has two parts: the opening sentence should clearly state the general issue the paper addresses, and the remainder of the section should summarize the paper's major conclusions. Craft the opening sentence and conclusions to work in tandem: keep the initial statement general and allow the conclusions section to detail the specific issues the paper addresses.<sup>3</sup> Summarize conclusions concisely without legal support or analysis; the reasoning and support will follow in the remaining sections of the memorandum. Avoid footnotes unless absolutely necessary. Never utilize cross-references to direct readers where conclusions are discussed; the roadmap section serves that purpose.

**IMPORTANT:** In many cases when writing the early drafts of the introduction, you will not yet have a clear idea of your final conclusions. If you have tentative conclusions, consider including them to help crystallize thinking when writing the remainder of the article. Everything in the paper—most importantly, the conclusions—remains open to change until the paper is finalized. If you do not want to state even tentative conclusions, use a placeholder in the text (e.g., “[CONCLUSIONS PENDING]”). Doing so lets the introduction take shape while conclusions develop through subsequent drafts of the paper.

*The roadmap.* The final paragraph of the introduction should be the roadmap. The roadmap guides the reader through the analysis in the remainder of the paper. It should be written in the active present voice, dedicating a sentence or two to explain what each section covers. After reading the roadmap, the structure and progression of the analysis should be clear. The initial section of the analysis should provide the background and relevant facts necessary to understand and provide context for the question presented. Subsequent sections should logically build up the major steps in the analysis. The concluding section should summarize the complete analysis to reiterate the article's conclusions.

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<sup>1</sup> Remember Pascal's apology: “I am sorry that this was such a long letter, but I did not have the time to write you a short one.” Here, Blaise Pascal apologizes for the length of his letter. He did not have time, he explains, to make the letter concise. On the surface, this seems counterintuitive—a longer letter naturally takes more time to write than a shorter one. Yet Pascal astutely observed in his now iconic quote that meaningful brevity does not come easily. To condense thoughts precisely requires careful editing, removal of clutter, and much revision.

<sup>2</sup> A fairly good rule of thumb is that once the first paragraph is 200 to 250 words long, it is time to be thinking of breaking it into two paragraphs.

<sup>3</sup> This is in contrast to the statement of the question presented in a reasoned memorandum of law, which should be precise.

The roadmap is critical in a law review article, serving as a navigational aid to clarify the paper's structure and logical flow. This transparency assists readers in comprehending the analysis, rendering the overall argument more persuasive and coherent.

*Final thoughts.* Introductions are hard to write. Expect to go through several drafts as you work through your memorandum.

Be careful with your word choices and your grammar. Poor word choices and grammatical errors are distracting at best and, to many readers, signal an inadequately trained writer. When in doubt, consult a style manual. The Internet is an excellent resource for answering even obscure grammar questions. At your level, there is no excuse for grammatical errors.

Use the present active voice. The passive voice often leaves important questions unanswered.

Use the active voice unless using the passive voice is absolutely necessary. BlueBook everything.<sup>4</sup>

First drafts of the introduction, along with the identification of key cases and an outline, are due Wednesday, February 7. You should not start writing the body of the paper unless you have a good outline. That said, I do not intend to spend much time on your outline, and I would not ask for it except that submitting an outline is necessary to fulfill the upperclass writing requirement. Instead, I will be looking much more closely at your roadmap.

Good luck with your writing. I look forward to seeing the first draft of your introduction. If you have any questions, email me.

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<sup>4</sup> One detail to note: If you have to cite a case in the introduction (or elsewhere in the paper), keep in mind the BlueBook typeface rules. In non-academic legal documents (including court documents), case names in full citations are italicized. BlueBook Rule B2. By contrast, law review articles and other academic legal documents use ordinary Roman type for case names in full citations (except for procedural phrases, which are italicized). *Id.* Rule R2.1(a). However, case names alone in textual material (without citations) and short form case names are italicized. *Id.*; Rules 2.2(a)(i); 2.2(b)(i). REMEMBER: BlueBooking is part of the upperclass legal writing requirement. *All* submissions, starting with the introduction, should be BlueBooked. Failure to BlueBook will be detrimental to your grade.