



# Top 10 Writing Tips from Our Top Writers

BY JOHN HISKI RIDGE

Most of us are not great legal writers. That can be hard to hear, but it's true. We're not terrible writers, although those lawyers also exist. Most of us are just ordinary, adequate, maybe even good.

The upside is that most of us want to be better at our craft. So, we do things like read this column, study grammar books, and take writing classes year after year. We keep working hard to improve our skills.

In trying to figure out how to move from a good legal writer to a great legal writer, I interviewed several judges and lawyers who are well-recognized for their writing skills.<sup>1</sup> I queried them about how to improve and asked them for their top writing tips. Some of the advice was

commonly agreed upon. I pulled that advice together for this article.

Here are the key writing tips.

## 1. Practice, Practice, Practice

For the most part, we know how to write. We know the rules of grammar and punctuation; we know how to research and outline our briefs; and we know how to draft, edit, and proofread. Our knowledge is more than sufficient to lead to excellent writing.

It's not the "knowing" that's the problem: it's the "doing." Becoming an excellent writer involves the same level of commitment and dedication required to become an excellent swimmer or biker or speaker or runner or baseball player. It requires practice, and lots of it.

There's no right way to practice writing. Each of us should develop a program that fits our individual needs and skill level. But the program should include consistent and regular practice.

Some writing teachers suggest we practice by journaling or responding to writing prompts. Others suggest we incorporate practice into our daily work, such as by taking extra time to perfect our letters, briefs, and other daily writings. For instance, when writing emails to clients or colleagues we can focus on the form of the email, in addition to the content, making sure that the tone is appropriate, the word choice is suitable, the punctuation and grammar are accurate, the sentence and paragraph structure are correct, and the greeting and signature block are complete. Whatever type of program we develop, however, we need to engage in daily practice to enhance our skills.

## 2. Read, Read, Read

Great writers read great writing. They do so for the same reason that aspiring baseball players watch clips of Edgar Martinez, who is regarded as one of the greatest hitters in baseball history. They copy his grip, stance, and swing, and they become better hitters.

Similarly, when we read the works of talented writers, we improve our familiarity with language and words. By absorbing and engaging with the sentence structure of Ernest Hemingway, the reasoning of Plato, the phrasing of J. D. Salinger, and the clarity of *International New York Times* journalists, we grow as writers.

## 3. Know Your Material

Great writers get to know their material. They investigate the facts; they read every relevant case, statute, and rule; and they carefully consider how the law applies to the facts. And they do all of this before ever picking up a pen or tapping on a key. This is the first step in writing well.

When we take time to first master the material, we are rewarded with writing that's more coherent, cohesive, and substantive. One judge mentioned that it's obvious when lawyers know the material well. Their writings are more readable and their reasoning is better.

In the end, knowing our material improves our writing and increases our credibility.

#### 4. Write, Rewrite, and Edit Your Work

Procrastinators beware! Every person I interviewed said that great writers reserve enough time to rewrite and edit their work. After finishing a near-to-final draft, great writers set their work aside for one or more days before going back to rewrite and edit.

A time-out gives our brains time to reset, allowing us to see errors and inconsistencies previously passed over without noticing. It also gives us time to rethink the organization and structure of the writing, along with its clarity and tone. Only after letting our work sit for a few days should we then set about improving it.

This practice can be hard for lawyers who wait until the last minute to begin drafting their briefs and letters. Taking steps to prevent procrastination will help us become much better writers.

#### 5. Make It Shorter, and Then Shorter Again

Attention spans are getting shorter. We can blame the Internet, social media, or any host of reasons. Whatever the cause, experts now recognize that the average adult has a maximum attention span of about 20 minutes. This has three implications for writers.

First, we need to grab the reader's attention, and fast. A good opening paragraph, and a good opening sentence, can make or break a brief, memo, or writing. The opening should summarize the content, provide a roadmap, and convey a good story. If it does, the reader will be interested in learning more.

Second, we need to maintain the reader's attention, or even recapture it if the writing lags or gets too heavy in the middle. One lawyer I interviewed actively uses graphics to re-grab her readers' attention. A visual image that summarizes the preceding or proceeding information can be a good way to refocus a reader.

Lastly, we need to edit our writings, eliminating every unnecessary word. One judge I interviewed said she is on a mission to get rid of adverbs, which generally add nothing

meaningful to a brief. Our reasoning should speak for itself, and we don't need adverbs to scream about it. Another lawyer suggested getting rid of all "throat-clearing" words and phrases, such as "it is important to note that," "the facts plainly show that," or "it is clear that." There are many other ways to tighten up and shorten a brief, and given the waning attention spans of readers, we should employ all of them.

#### 6. Know Your Audience

Lawyers write for a broad range of audiences—clients, politicians, opposing parties, opposing counsel, mediators, arbitrators, administrative law judges, trial court judges, court clerks, appellate court judges, and supreme court justices, to name a few. Before writing, we should consider the individuals who will be reading our work product. If we're writing for a particular judge, for example, we can read her

previous opinions and observe her in court. If we're involved in a mediation, we can call and talk to the mediator before beginning the writing process. We can meet with clients to ascertain their expectations. When we get to know our readers and their individual backgrounds, we're better able to judge what to include in any writing, what tone to take, and how to organize the writing.

One lawyer I talked to—who is widely recognized as a talented writer—reads all the opinions published by the state supreme court. This practice not only keeps her up to date on the law but also helps her learn each justice's writing style. For her, this is a vital method for improving the way she writes for the court.

#### 7. Write in Standard English

Avoid legalese and use plain English. Archaic and formulaic language (such as "comes now,"

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“heretofore,” and “thereinafter”) only complicates our writing. Just like we learn to write well by reading good writing, we learn these antiquated words in law school while reading casebooks for our classes. They become part of our vocabulary. We need to unlearn these words and reverse the habit of using them. One judge put it best: “Simple language is almost always better!”

We also need to avoid initialisms and acronyms, unless they are universally understood and generally used in place of the actual name, like EPA. Instead, we should pick simple references (names, terms, or phrases) and use them consistently (e.g., the Colorado Division of Property Taxation becomes the Division).

### 8. Maintain Credibility

We should always strive to maintain credibility with our readers. Once trust is lost, it is difficult to regain.

Certain writing tactics destroy our credibility and have no place in our writing. For example, we should never misquote a case or suggest that a case stands for a proposition outside the case discussion. When we attempt to mislead, we appear untrustworthy. Similarly, we shouldn’t make outlandish arguments, suggest that the conscience of the court should be “shocked” when the other side makes a reasonable argument, or engage in personal attacks. These tactics show a lack of integrity.

Even little writing errors can impact our credibility if they are continual and pervasive. Before hitting send on a writing, we should make sure that citations are correct, typos and misspellings have been eliminated, and our tone is balanced.

Our credibility matters more than our writing skill. We need to work hard to preserve it beyond all else.

### 9. Work on Architecture

Good architecture leads to good writing. One judge put it this way: “If we have good architecture, we can write a decent brief even if we are not a great writer.”

This idea led to several delightful analogies about structuring our thoughts and writing prior to engaging in the writing process. One

judge used a boating analogy: “When we are going down a stream, we must find a channel; we have to pick our way through the rocks and find our line. In writing, we need to know what our line is before we even get our keyboards out.” Another person put it this way: “Information is like water. If we immediately start pouring out information, it won’t take shape for the reader. Instead, we should first build a vessel for our readers by telling them the idea we’re about to prove. Then, as we pour out the information, it easily takes the shape of the idea (vessel) to prove our point.”

For example, when crafting a brief, we should first arrange the parts to follow the same logic the court will need to decide the case in our favor. This includes determining which facts to include and in what order, which arguments to emphasize, the order in which we place the arguments, and how we intend to connect the legal authorities to the facts. We should omit information that the court doesn’t need to decide the matter. Every bit of information requires some effort for the reader to remember. Including information that isn’t necessary requires readers to exert more effort, especially when they are required to figure out where that information fits.

### 10. Minor Things We Know but Need to Be Reminded About

Several small but mighty points were brought up in my discussions, some of which gave me a chuckle.

- Stop using words like shockingly, surprisingly, or importantly. Whatever is being said probably is not that shocking or surprising. And everything we say should be important, not just what we point out as important.
- Stop using the word “impactful.” Just stop. (This is one judge’s opinion, but I agree with it.)
- Sometimes violating grammar rules can improve a brief, but we need to master the rules before we do so. Violating them because we are ignorant decreases our credibility.
- Here’s one of my favorite comments, although it’s likely to cause some writers fits: “If the bluebook rule results in a citation that is too long and cumbersome, shorten it.”
- Don’t try to be overly clever. Cleverness often backfires, causing the writer to look foolish.
- Did I mention that “brevity is the key”? Not a single interviewee mentioned that we need to make our briefs longer. Not one!

### Conclusion

Learning to write well requires dedication and practice. It also helps to have a community of skilled beta-readers and editors. While it can be humbling to review their redlines and critiques, they help us see our inadequacies and errors. By practicing daily—and listening to our editors’ advice—we can all improve our writing. CL



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### NOTE

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