

# New Jersey Law Journal

VOL. CXCVII - NO.2 - INDEX 199

JULY 13, 2009

ESTABLISHED 1878

## Saving Words Pays Many Dividends

Trim words, sentences, paragraphs, and even arguments to tighten a brief

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**M**ost briefs are too long and take too long to get to the point. They address too many issues, discuss too many cases, and beat around the bush. They repeat themselves, as if the writer had no confidence that the point was getting across, and they use 20 words where 10 will do. Briefs can be leaner, cleaner, and — without resort to ad hominem arguments — meaner.

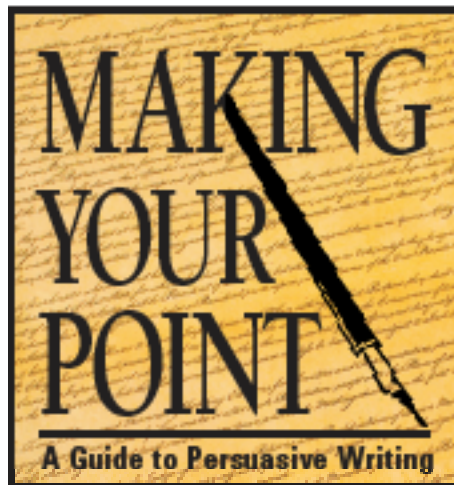
But writers have trouble editing, even when they allow time for it. They lack distance, and they are afraid of cutting muscle along with the fat. To the writer, everything seems like muscle because the writer pumped mental iron to create the draft.

If you are looking to streamline a brief, consider doing the following:

**Let it sit.** Put the brief aside for a day and come back to it. The fresh view that results is the closest thing to magic in the writing process.

**Reconfirm your central thesis, your “point.”** A lengthy, wandering brief characterized by naked conclusions, circuitous reasoning and unhelpful repetition is usually a function of not knowing your point

or lacking support for it. You go down blind alleys because you don’t know the



way out of the maze.

**Delete arguments that aren’t persuasive.** Not only is a weak argument useless, but it reflects poorly on you. If you are willing to vouch for a weak argument, can the rest of your brief be trusted?

To be sure, obtaining permission to delete an argument isn’t easy. You will get pushback. Assigning attorneys are reluctant to omit any argument they can conceive because, they believe, one never knows what a court is willing to hang its hat on. Worse, a court may say you waived an issue that you didn’t address. Be politic in suggesting that an argument be dropped, but don’t be timid.

Making weak arguments isn’t totally irrational — they are, after all, a form

of insurance — but their downside far outweighs their upside. They irritate the court, and they undermine your credibility. This is a steep price to pay for guarding against the remote possibility that a weak argument, which you will surely lose, might somehow make a difference.

**Cut to the chase.** In every paragraph, get right to the point. Save the words you would spend leading up to it. For example:

**Original:** As a condition of being allowed to submit loan applications to the bank for possible funding, the bank requires each mortgage broker to enter into a Broker Agreement that includes the broker’s representation and warranty that it will not knowingly submit fraudulent loan applications.

**Revision:** Mortgage brokers warrant in a Broker Agreement that they will not submit fraudulent loan applications.

**Cite cases sparingly.** Cull from string cites, especially cases for which you haven’t provided parentheticals. Eliminate cases that are factually alike, and where appropriate, use the parenthetical “same.” For hallowed principles such as the test for summary judgment, cite only one or two appellate cases, preferably from the state’s highest court.

**Curtail case discussions.** If you feel you need volume, you may be inclined to summarize judicial opinions at length.

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Don't do it. Unless a case is so important that close analysis is necessary, limit your case discussion to the holding, key facts, and maybe a short quotation. Don't include the back-and-forth of the argument or the court's analysis. For each case you plan to cite, ask yourself whether you can shorten the summary to a parenthetical.

**Quote lightly.** Quotations should be a garnish rather than the main dish. The longer the quotation, the harder it is to read, and the greater is the suggestion that you included it because you otherwise don't have much to say.

**Limit conclusory statements.** Look for conclusory statements such as "Plaintiff's argument defies logic and common sense" or "There is no basis in law or fact for defendant's motion." Use these declarations sparingly, if at all, and never until you have already persuaded the reader. If you find more than one conclusory statement in a paragraph, you are probably puffing to cover a gap in your reasoning, to create bulk, or to create the appearance that you are a vigorous advocate.

**Eliminate intensifiers and other editorials.** Like conclusory statements, adverbs tell the reader what to think. Readers don't like to be told what to think (and neither do you). Root out intensifiers such as clearly, obviously, certainly, absolutely, utterly, egregiously, simply, any, ever and never, and while you're at it, strike introductory editorials like "It is important to note."

**Regulate your repetition.** If you have only a few good facts, you may repeat them to create the illusion that you have more support than you actually do. Like conclusory statements and editorials, excessive

repetition reveals gaps in your reasoning or your factual support. Stripping the camouflage can reveal where you need to buttress your argument.

**Eliminate the implicit.** Delete phrases that are implicit, such as the oft-used "In its opinion [the court held]," "In his brief [plaintiff argued]," and "[The court entered a protective order] *in this case.*" Similarly, "They agreed to the terms of the contract" can become "They agreed to terms."

**Minimize use of the "to be" verb.** Delete the warm-up phrases "there is" and "there are," which are helpful in speech but nearly useless in expository writing. "There are several facts that support the court's reasoning" should be "Several facts support the court's reasoning." Whenever you can, replace is, are, was and were. For example, "No exceptions are applicable" becomes "No exceptions apply." "An order was issued by the court" (the classic passive construction) becomes "The court issued an order."

**Minimize use of words ending in "-ion" and "-ment."** Turn these nouns into verbs. For example, "made a motion" becomes "moved." "Reached an agreement" becomes "agreed."

**Disfavor prepositional phrases that begin with "of."** For example, "the motion of the plaintiff" becomes "plaintiff's motion"; "books of the corporation" becomes "corporate books"; and "They continued the collection of information" becomes "They continued collecting information."

After re-thinking, sorting and trimming, you will be pleased with the flow of the shorter product, and you may be

surprised at the number of words you can cut without losing meaning or flow. When you have done the best you can, show your draft to someone else. It's a risk, but the fresh perspective is likely to provide ample reward.

## Puzzler

How would you tighten and sharpen the following sentence?

Plaintiff was the purchaser of defendant's entire interest in the company and had the ability to afford it.

Inexperienced writers are susceptible to the idea that lengthier word sequences carry more persuasive weight. They have an uncertain notion of quality, so they load up on quantity.

Phrases built around forms of the verb "to be," like "is" and "was," are heavier, but they merely drag down the prose. They don't add persuasive value. Therefore, change "was the purchaser of" to "bought."

"Had the ability," being multi-part, is slow-developing and less punchy than "could."

The revised version: Plaintiff bought defendant's entire interest in the company and could afford it. ■