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Tips About Written Advocacy From the North Dakota Supreme Court

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Recommended Citation

Douglas E. Abrams, *Tips About Written Advocacy From the North Dakota Supreme Court*, 74 *Journal of the Missouri Bar* 28 (2018).
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Douglas E. Abrams, Tips about Written Advocacy from the
North Dakota Supreme Court, 74 J. Mo. B. 28
(2018) `<script>
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TIPS ABOUT WRITTEN ADVOCACY FROM THE NORTH DAKOTA SUPREME COURT

DOUGLAS E. ABRAMS¹

IN 1940, LEGENDARY SUPREME COURT ADVOCATE JOHN W. DAVIS PUBLISHED “THE ARGUMENT OF AN APPEAL,” AN ARTICLE THAT REMAINS INFLUENTIAL TO LAWYERS AND LAW STUDENTS TODAY.² A FEW YEARS LATER, THE ONE-TIME DEMOCRATIC PRESIDENTIAL CANDIDATE CLOSED HIS CAREER WITH 141 ARGUMENTS BEFORE THE COURT, THE MOST OF ANY 20TH CENTURY LAWYER.³

But Davis began his article by identifying a more reliable source of instruction for advocates. “[A] discourse on the argument of an appeal would come with superior force from a Judge who is in his judicial person the target and the trier of the argument than from a random archer like my self.”⁴

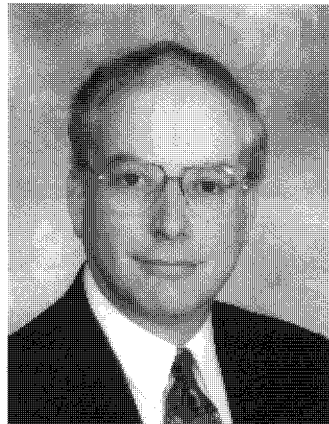
“[S]upposing fishes had the gift of speech,” Davis reasoned, “who would listen to a fisherman’s weary discourse on fly-casting . . . if the fish himself could be induced to give his views on the most effective methods of approach. For after all it is the fish that the angler is after. . . .”⁵

Davis’ article primarily concerned oral argument, with perceptive observations about brief writing. In law journal articles,⁶ books,⁷ continuing legal education programs, and other public forums⁸ over the decades, individual judges have contributed meaningful perspectives about advocacy, written and oral. Judges’ published opinions have sometimes chastised lawyers whose briefs demonstrated especially poor writing.⁹ As the targets (to borrow Davis’ description) of so much legal writing, individual judges are squarely positioned to explain from experience what works and what does not work.

Speaking as a body, the five-justice North Dakota Supreme Court has moved beyond individual judicial explanation by posting on its website a 10-page collection of “Appellate Practice Tips.”¹⁰ Many of the tips concern appellate procedure, either specific to North Dakota practice or applicable generally. But other tips present universal basics of effective written advocacy that remain unconfined by state boundaries.

This article quotes several of the North Dakota Supreme Court’s tips in the “universal basics” category. The tips underscore the four fundamentals of effective legal writing that Professor Henry Weihofen mapped more than a generation ago – conciseness, precision, simplicity, and clarity.¹¹

The North Dakota Supreme Court’s tips appear below in italics, and I have supplemented them with commentary from judges, lawyers, and literary figures who have won recognition for their writing prowess. Literary figures convey lessons for lawyers because public and private law practice depends heavily on quality writing.¹² And because the English language knows only two types of writing – good writing and bad writing. Good legal writing is good writing about a legal subject.¹³ Justice Elena Kagan describes this kinship: “[T]here’s not some special magic about legal writing. To be a good legal writer . . . is to know the law and be a good writer.”¹⁴



Douglas E. Abrams

The Court’s Writing Tips

1) *“Remember, you probably know much more about the case than the Court. This can be dangerous if you do not step back and provide context for your argument. . . . Be a resource to the Court to help it understand the law and the facts.”*

“It is unhelpful,” instructs one federal district court, “when attorneys write briefs that presuppose specialized knowledge on the part of their readers.”¹⁵ Judges hold high stations in the civil and criminal justice systems, but this tip from the North Dakota Supreme Court recognizes that the limits of a judge’s initial knowledge about a case can reach both facts and law.

From having lived with the case, the parties’ counsel may hold familiarity with the factual posture that the judges lack when they first receive the papers. Counsel gain a head start from interviewing clients and witnesses, researching and writing the pleadings,

and engaging in other pretrial give-and-take. Appellate counsel gains an even greater head start if counsel tried the case in the lower court.

In general jurisdiction courts, judges also may not initially be as familiar as counsel with the intricacies of the substantive law that will determine the outcome. As American law has grown increasingly complex and diverse in recent decades, more and more lawyers have pursued specialty practices.¹⁶ Specialization means that judges may come from private or public sector careers that exposed them regularly to only some of the substantive law that now fills their dockets. Relatively few lawyers practice both civil law and criminal law, and statutes and administrative rules and regulations often fashion doctrine that is most familiar to specialists.

Trial and appellate judges describe a “symbiotic”¹⁷ relationship with counsel who, practicing their specialty, “educate the Court”¹⁸ with argument tailored to the judge’s circumstances, needs, and expectations.¹⁹ Judge Richard A. Posner confides that judges, knowing the limits of their familiarity with fact and law, welcome constructive orientation that advocates deliver in a respectful, professional manner.²⁰ The North Dakota Supreme Court’s candid tip confides as much.

2) *“Seek to persuade, not to show how much you know.”*

In this tip, the North Dakota Supreme Court urges professional modesty. Writing in the *Journal of the Missouri Bar* more than 25 years ago, retired New York Court of Appeals Judge Hugh R. Jones explained that “[i]t is not the purpose of either brief writing or oral argument to demonstrate the advocate’s brilliance, learning or professional competence.”²¹ During his 12 years on the state’s highest court, Judge Jones observed “altogether too many counsel who were preoccupied with the impression that their performance would make. The preoccupation may be understandable, but it should be resisted. Individual recognition will almost always be a byproduct of good advocacy; it is never its objective.”²²

3) *“A longer brief is not necessarily a better brief.”*

“I have yet to put down a brief,” reports Chief Justice John G. Roberts, Jr., “and say, ‘I wish that had been longer.’ . . . Almost every brief I’ve read could be shorter.”²³ Justice Robert H. Jackson, one of the most gifted writers ever to sit on the Court, warned that “[l]egal contentions, like the currency, depreciate through over-issue.”²⁴

“Brevity and simplicity,” wrote 19th century British historian and educator Thomas Arnold, “are two of the greatest merits which style can have.”²⁵ British poet Alexander Pope likely never picked up a law text, but he wrote with a lean style because “[w]ords are like leaves; and where they most abound, much fruit of sense beneath is rarely found.”²⁶

Advocacy calls for “measured brevity,” self-discipline to write as efficiently and economically as possible based on the advocate’s perceptions of the intricacies of the case’s facts and law.²⁷ Measurement may require the advocate’s delicate balancing.

On the one hand, federal and state judicial dockets have increased faster than population growth in recent years,²⁸ leaving courts with what Judge Jones called a “great burden of reading”²⁹ that summons disciplined restraint from writers. On the other hand, unwarranted brevity may disserve the client’s cause

where robust argument about complex fact or law requires more extensive discussion within page limits, font restrictions, and similar conventions established by the court. Justice Joseph Story warned that each case brings its own imperatives because sometimes “[b]revity becomes of itself a source of obscurity.”³⁰

Advocates making judgment calls about measured brevity should adapt opera singer and theater actor Dorothy Sarnoff’s advice for success on stage: “Make sure you have finished speaking before your audience has finished listening.”³¹ Advocates should similarly make sure that they finish writing before they expect that their judicial readers will finish reading. Judges may adjust their reading habits when they sense that a brief or other written submission appears too long for its message; adjustment born of impatience seldom benefits the unnecessarily verbose advocate.³²

4) *“The word ‘clearly’ is no substitute for authority or logic.”*

Judge Jones explained that an advocate seeks to “persuade the court,” and to “assist the court to reach a conclusion favorable to the client’s interest.”³³ Advocates risk falling short on both counts when they rely on such adverbs as “clearly” (or “manifestly,” “surely,” or “certainly”) to buttress otherwise scanty argument. These unadorned words are weak surrogates for rigorous analysis about why the facts and law support the client’s position, clearly or otherwise.

“We get hundreds and hundreds of briefs, and they’re all the same,” reports Chief Justice Roberts. “Somebody says, ‘My client clearly deserves to win, the cases clearly do this, the language clearly reads this.’ . . . And you pick up the other side and, lo and behold, they think they clearly deserve to win.”³⁴ Conclusory labels fall flat because “if it was an easy case, we wouldn’t have it.”³⁵

5) *“Avoid footnotes.”*

“Avoidance” here means strongly discouraging use of footnotes but leaving the door slightly ajar to their careful use. The North Dakota Supreme Court defines the metes and bounds: “Never put substantive argument in a footnote. . . . Footnotes in a brief reflect an inability to craft a coherent linear argument. . . . If there is legal authority that actually supports your position, put it in the body of your brief, not in a footnote.”

The court recognizes that advocates, like other writers in various forums, may become so emotionally invested in a drafted, and indeed sometimes polished, passage that they resist hitting the “delete” key during the editorial process, even when deletion would seem the most prudent course because inclusion risks clouding or diverting attention from the heart of the argument. Advocates driven by misplaced pride of authorship may feel tempted instead to salvage the passage by merely “dropping it in a footnote.”

The court urges resistance to temptation. “If something is important enough to be in your brief, put it in the body of the brief, not in a footnote. If it is not important enough to be in the body of your brief, don’t put it in a footnote, leave it out.”

Judge Jones took a similar approach, melding avoidance and strong discouragement: Footnotes, he wrote, “are largely to be deplored in brief writing and should be used sparingly and only when really appropriate. They interrupt the flow of the argument as the reader’s eyes drop to the bottom of the page. Inter-

ruption can be irritating, particularly when your eyes reach the bottom of the page and find nothing worth reading!”³⁶

Judge Jones continued: “If material is pertinent to the understanding of the argument, it should be included in the text. . . . A footnote can become an ostentatious demonstration, and it is not the purpose of a brief to substitute for a textbook exposition or a reference work.”³⁷

6) “Clarity, not complexity, is the key to success. . . . Figure out what is important and then figure out how to explain it in plain English. . . . Clear language – not pompous or ponderous language – is most effective. . . . Simplify your argument without making it simplistic.”

“The power of clear statement,” said Daniel Webster, “is the great power at the bar.”³⁸ “Plain clarity is better than ornate obscurity,” advised Mark Twain.³⁹ Translating these giants’ aspirations into 21st century advocacy depends on many factors, including ones explored below in Tips 7 through 11.

7) “If a one-syllable word means the same thing, use the one-syllable word.”

Clarity and simplicity begin with word choice. Historian Dixon Wecter stated the formula: “The best writing has been defined as the richest thoughts put into the simplest language.”⁴⁰ The North Dakota Supreme Court advises that “[p]retentious words can’t hide the lack of substance.”

“Use the smallest word that does the job,” instructed essayist and journalist E.B. White.⁴¹ “Broadly speaking, the short words are the best, and the old words when short are best of all,” attested former British Prime Minister Winston Churchill, a statesman whose versatility earned him the Nobel Prize in Literature.⁴² “Any word you have to hunt for in a thesaurus,” says novelist Stephen King, “is the wrong word. There are no exceptions to this rule.”⁴³

Will Rogers is most remembered as a humorist, but he also wrote more than 4,000 nationally syndicated newspaper columns.⁴⁴ “[T]here is always a short word for it,” he said. “I love words but I don’t like strange ones. You don’t understand them, and they don’t understand you.”⁴⁵

In a letter to a 12-year-old boy, Mark Twain praised his young correspondent for “us[ing] plain, simple language, short words, and brief sentences. That is the way to write English – it is the modern way and the best way. Stick to it; don’t let fluff and flow-ers and verbosity creep in.”⁴⁶

Abraham Lincoln was perhaps the greatest writer ever to serve in the presidency. A biographer identified a source of Lincoln’s rhetorical greatness. Lincoln “simplified political writing. . . . He wrote in words everyone could understand – simple words that carried immense power and emotion.”⁴⁷

8) “Never use many words when a few will do. . . . Use short sentences.”

“The most valuable of all talents is that of never using two words when one will do,” said lawyer Thomas Jefferson, who found “[n]o stile of writing . . . so delightful as that which is all pith, which never omits a necessary word, nor uses an unnecessary one.”⁴⁸

“Omit needless words,” counsels the North Dakota Supreme Court. An early draft might say, “In my opinion it is not an unjustifiable assumption that. . . .” British novelist George Orwell proposed a simpler substitute: “I think.”⁴⁹

The next step moves from individual words to sentence

structure, and the North Dakota Supreme Court provides these guidelines: “Long sentences are confusing. . . . Limit yourself to one idea per sentence.” “Conciseness is the sister of talent,” said Anton Chekhov, one of the world’s greatest short-story writers.⁵⁰ “Less is more,” reasoned British Victorian poet and playwright Robert Browning.⁵¹

9) “Don’t talk in jargon, whether legal or technical.”

The limits of the judge’s familiarity with and knowledge of a case’s facts and law, discussed above in Tip 1, produce a corollary grounded in rhetorical empathy. Thoughtful brief writers put themselves in the judge’s place, sensitive to vocabulary whose meaning and legal significance the judge might not initially understand. An advocate normally gets only one opportunity to persuade the court in writing, sometimes without opportunity to clarify in oral argument.

In *Indiana Lumbermens Mutual Insurance Co. v. Reinsurance Results, Inc.* (2008), the United States Court of Appeals for the 7th Circuit held that the parties’ contract did not require the plaintiff insurer to pay commissions to the company it had retained to review the insurer’s reinsurance claims.⁵² Writing for the panel, Judge Posner found the parties’ briefs “difficult for us judges to understand because of the density of the reinsurance jargon in them.”⁵³

“There is nothing wrong with a specialized vocabulary – for use by specialists,” he explained. “Federal district and circuit judges, however, . . . are generalists. We hear very few cases involving reinsurance, and cannot possibly achieve expertise in reinsurance practices except by the happenstance of having practiced in that area before becoming a judge, as none of us has. Lawyers should understand the judges’ limited knowledge of specialized fields and choose their vocabulary accordingly. Every esoteric term used by the reinsurance industry has a counterpart in ordinary English.”⁵⁴

10) “Avoid ‘legalese’. . . . Avoid ‘Latinisms.’”

“Bad writers,” said Orwell, “are always nearly haunted by the notion that Latin or Greek words are grander than Saxon ones,” even though “there is no real need for any of the hundreds of foreign phrases now current in English.”⁵⁵ The skillful advocate, said Justice Jackson, “will master the short Saxon word that pierces the mind like a spear and the simple figure that lights the understanding. He will never drive the judge to his dictionary.”⁵⁶

Other than strewing formidable but avoidable roadblocks in the reader’s path, advocates achieve little with such legalistic Latinisms as *inter alia*, *a fortiori*, or *ratio decidendi*. An advocate would be better off writing “among other things,” “with greater reason,” or “the rationale for the court’s decision.” Shuck misplaced efforts at pomposity, and choose plain English instead.

11) “Avoid acronyms. . . . Generally, shortened names are better than acronyms.”

According to Webster’s Dictionary, an acronym is “a word formed from the initial letter or letters of each of the successive parts or major parts of a compound term.”⁵⁷ For example, lawyers are familiar with ABA, shorthand for the American Bar Association. As with footnotes (Tip 5) and Latinisms and legalese (Tip 10), the North Dakota Supreme Court’s approach to acronyms counsels careful avoidance, not outright prohibition.

Skilled brief writers pave the smoothest path to reader comprehension, and careful use of acronyms can sometimes make the judicial reader's job easier. Judges understand, for example, well known acronyms such as FBI. And judges are unlikely to be confused by acronyms that relate directly to the parties or subject matter of the suit, such as FTC in a case involving the Federal Trade Commission. Avoiding acronyms such as these can hinder readers, who would have to slog through the full name each time or else begin skimming.


Largely unrestrained use of acronyms, however, can degenerate into annoying, and frequently perplexing, alphabet soup that two concurring judges of the U.S. Court of Appeals for the D.C. Circuit have called "lousy brief writing."³⁸ In one decision, that court admonished the parties for "littering their briefs" with acronyms, and for "abandon[ing] any attempt to write in plain English, instead abbreviating every conceivable agency and statute involved, whether familiar or not."³⁹

Acronyms familiar to specialist brief writers may disorient generalist judges. With only a few words, perceptive advocates sensing disorientation resolve doubt in favor of avoidance.

12) "Proofread. Then proofread again. . . . Make sure cases and statutes are cited correctly. Make sure cases cited are still good law."

A reputation for competence is one of a lawyer's greatest professional assets. Tips such as the ones presented above enable advocates to approach the finish line, but judges receive only the final submission. Courts expect, and indeed welcome, rigorous advocacy, even from advocates whose positions they reject. But courts can lose confidence in an advocate's competence when a brief or other submission is marked by typographical errors, grammatical miscues, authorities with incorrect cites, or authorities that do not fairly support the propositions upon which the advocate relies.

"You serve your client by maintaining your own credibility," explains the North Dakota Supreme Court. When an advocate appears frequently before a particular court, judges have long memories for the advocate's past stellar performances, but also for the advocate's past shortcomings that evinced negligence or intent. At the bar as elsewhere, a good reputation is difficult to earn but easy to lose.

Perfection in writing style and content is elusive, and typos and inaccurate citations happen, even to the most careful advocates. But striving for perfection remains a worthwhile goal. Even before law school, life experiences enabled future lawyers to grasp the rewards of due care and the perils of carelessness in any enterprise. 

Understanding and Outcome

The North Dakota Supreme Court delivers the last word about advocacy: "If the Court can't understand your argument, you lose."

Endnotes

1 Douglas E. Abrams, a University of Missouri law professor, has written or co-written six books. Four U.S. Supreme Court decisions have cited his law review articles. His latest book is *EFFECTIVE LEGAL WRITING: A GUIDE FOR STUDENTS AND PRACTITIONERS* (West Academic Publishing 2016).

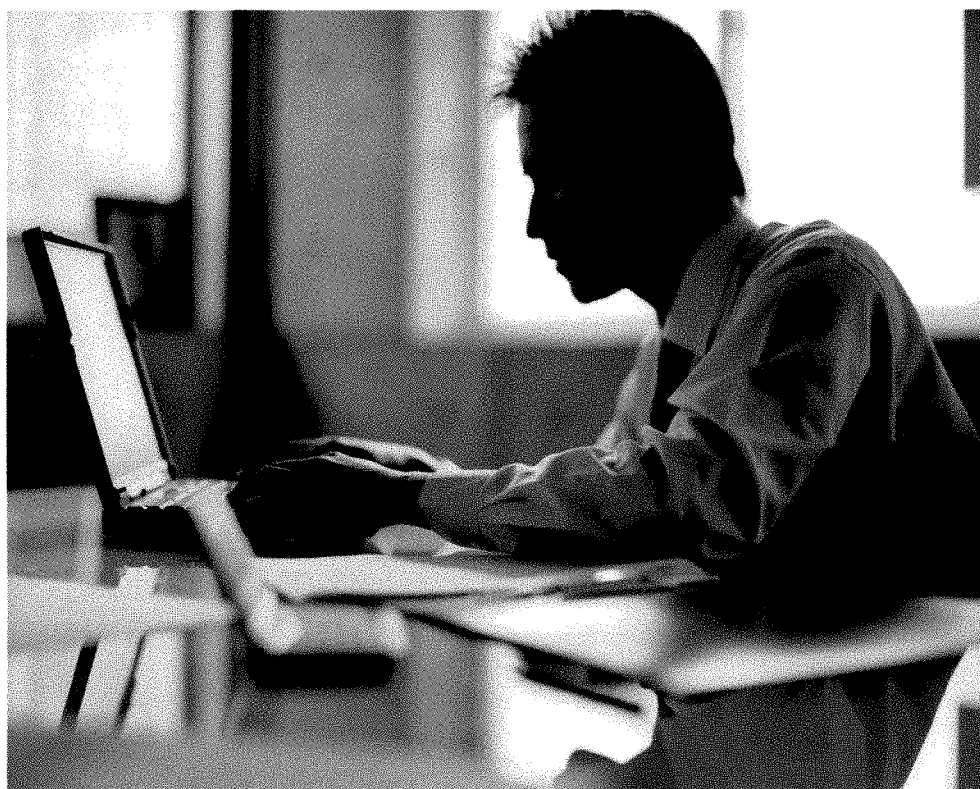
2 John W. Davis, *The Argument of an Appeal*, 26 A.B.A. J. 895 (1940), reprinted in 3 J. APP. PRACTICE & PROCESS 745 (2001).

3 *Listening to John W. Davis*, 3 J. APP. PRACTICE AND PROCESS 743, 744 (2001).

4 John W. Davis, 3 J. APP. PRACTICE AND PROCESS, *supra* note 2 at 745.

5 *Id.*

6 *E.g.*, Alice M. Batchelder, *Some Brief Reflections of a Circuit Judge*, 54 OHIO ST. L.J. 1453, 1456-59 (1993); Edward J. Devitt & James A. Barnum, *10 Tips for Preparing Better Briefs: Practical Pointers from the Bench*, 22 TRIAL 75, 75 (Oct. 1986); John C. Godbold, *Twenty Pages and Twenty Minutes - Effective Advocacy On Appeal*, 30 SW. L.J. 801, 811-17 (1976); Robert H. Jackson, *Advocacy Before the Supreme Court: Suggestions for Effective Case Presentations*, 37 A.B.A. J. 801, 803 (1951).



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7 E.g., RUGGERO J. ALDISERT, WINNING ON APPEAL: BETTER BRIEFS AND ORAL ARGUMENTS (2003); EDWARD D. RE & JOSEPH R. RE, BRIEF WRITING AND ORAL ARGUMENT (1993).

8 E.g., Terrence L. Michael, *Ten Tips for Effective Brief Writing (At Least With Respect to Briefs Submitted to Judge Michael)*, <http://www.oknb.uscourts.gov/sites/default/files/JMFiles/briefwritingtips.pdf> (visited Dec. 11, 2017).

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10 North Dakota Supreme Court, Appellate Practice Tips, <http://www.ndcourts.gov/Court/Filing/Tips.htm> (visited Dec. 11, 2017).

11 HENRY WEIHOFEN, LEGAL WRITING STYLE 8-104 (2d ed. 1980) (discussing the four fundamentals).

12 William L. Prosser, *English As She Is Wrote*, 7 J. LEGAL EDUC. 155, 156 (1954-1955) (calling law “one of the principal literary professions” because “the average lawyer in the course of a lifetime does more writing than a novelist”).

13 DOUGLAS E. ABRAMS, EFFECTIVE LEGAL WRITING: A GUIDE FOR STUDENTS AND PRACTITIONERS 9 (West Academic Publishing 2016); Jay Wishingrad & Douglas E. Abrams, *The Lawyer’s Bookshelf*, N.Y.L.J., Dec. 12, 1980, at 2 (reviewing RICHARD C. WYDICK, PLAIN ENGLISH FOR LAWYERS (1st ed. 1979)).

14 Justice Elena Kagan, *Interview With Bryan A. Garner*, www.lawprose.org (video, part 2) (July 15, 2015).

15 *Waddy v. Globus Medical, Inc.*, No. 407CV075, 2008 WL 3861994 *2 n.4 (S.D. Ga. 2008).

16 SOL LINOWITZ, THE BETRAYED PROFESSION, ch. 5 (1994).

17 *Walter Oil & Gas Corp. v. Teekay Shipping*, 270 F. Supp.2d 855, 865 (S.D. Tex. 2003).

18 *Shoshone-Bannock Tribes v. Shalala*, 988 F. Supp. 1306, 1318 (D. Or. 1997), on reconsideration, 999 F. Supp. 1395 (D. Or. 1998).

19 Douglas E. Abrams, *Effective Written Advocacy Before Generalist Judges: Advice From Recent Decisions*, 5 PRECEDENT 17 (MoBar Spring 2011).

20 RICHARD A. POSNER, DIVERGENT PATHS 188 (2016).

21 Hugh R. Jones, *Appellate Advocacy, Written and Oral*, 47 J. MO. BAR 297, 297 (June 1991).

22 *Id.* at 297-98.

23 Bryan A. Garner, *Interviews with United States Supreme Court Justices: Chief Justice John G. Roberts, Jr.*, 13 SCRIBES J. LEGAL WRITING 35 (2010), quoted in DOUGLAS E. ABRAMS, EFFECTIVE LEGAL WRITING, *supra* note 13 at 45; Douglas E. Abrams, *One Judge’s Top Ten Tips for Effective Brief Writing (Part II)*, 8 PRECEDENT 15, 15 (MoBar Summer 2014); see also, e.g., Bryan A. Garner, *Interviews with United States Supreme Court Justices: Justice Stephen G. Breyer*, *supra* at 167 (most briefs are “[t]oo long. Don’t try to put in everything”).

24 Robert H. Jackson, *supra* note 6 at 803, quoted in DOUGLAS E. ABRAMS, EFFECTIVE LEGAL WRITING, *supra* note 12 at 45; Douglas E. Abrams, *One Judge’s Top Ten Tips (Part II)*, *supra* note 23 at 15.

25 I ARTHUR P. STANLEY, THE LIFE AND CORRESPONDENCE OF THOMAS ARNOLD, D.D. 334-35 (1910) (quoting Arnold).

26 ALEXANDER POPE, AN ESSAY ON CRITICISM, PART II, line 109 (1711), quoted in DOUGLAS E. ABRAMS, EFFECTIVE LEGAL WRITING, *supra* note 13 at 44; Douglas E. Abrams, *What Great Writers Can Teach Lawyers and Judges (Part I)*, 4 PRECEDENT 16-18 (MoBar Fall 2010).

27 Douglas E. Abrams, *The Right to a Reader*, 1 PRECEDENT 38 (MoBar Winter 2007).

28 E.g., Judicial Conf. of the U.S., *Long Range Plan For the Federal Courts* 9-12 (1995); ABA Comm’n on the 21st Century Judiciary, *Justice in Jeopardy* 39 (2003) (state courts).

29 Hugh R. Jones, *Appellate Advocacy*, *supra* note 21 at 297-98.

30 JOSEPH STORY, STORY’S MISCELLANEOUS WRITINGS 153 (1835), quoted in DOUGLAS E. ABRAMS, EFFECTIVE LEGAL WRITING, *supra* note 13 at 48; Douglas E. Abrams, *What Great Writers Can Teach (Part I)*, *supra* note 26 at 19.

31 Western Mail (Cardiff, Wales), May 20, 2008, at 17 (quoting Sarnoff).

32 Patricia M. Wald, *19 Tips From 19 Years On the Appellate Bench*, 1 J. APP. PRACTICE & PROCESS 7, 9-10 (1999).

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34 Robert Barnes, *Chief Justice Counsels Humility*, WASH. POST, at A15 (Feb. 6, 2007), quoted in DOUGLAS E. ABRAMS, EFFECTIVE LEGAL WRITING, *supra* note 13 at 69.

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37 *Id.*

38 *Letter from Daniel Webster to R.M. Blatchford* (1849), in PETER HARVEY, REMINISCENCES AND ANECDOTES OF DANIEL WEBSTER 118 (1877).

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42 Susan Wagner, *Making Your Appeals More Appealing: Appellate Judges Talk About Appellate Practice*, 59 ALA. LAW. 321, 325 (1998) (quoting Churchill).

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46 ROBERT HARTWELL FISKE, THE DICTIONARY OF CONCISE WRITING: 10,000 ALTERNATIVES TO WORDY PHRASES 11 (2002) (quoting Twain), quoted in DOUGLAS E. ABRAMS, EFFECTIVE LEGAL WRITING, *supra* note 13 at 52; Douglas E. Abrams, *George Orwell’s Classic Essay on Writing*, 8 PRECEDENT 29-30 (MoBar Winter 2014).

47 HAROLD HOLZER, LINCOLN – THE WRITER 18 (2000), quoted in DOUGLAS E. ABRAMS, EFFECTIVE LEGAL WRITING, *supra* note 13 at 53.

48 Cindy Skrzycki, *Government Experts Tackle Bad Writing*, WASH. POST, June 26, 1998, at F1 (“most valuable,” quoting Jefferson); THE FAMILY LETTERS OF THOMAS JEFFERSON 369 (E.M. Betts and J.A. Bear, Jr. eds., 1966) (letter of Dec. 7, 1818) (“style of writing”), quoted in DOUGLAS E. ABRAMS, EFFECTIVE LEGAL WRITING, *supra* note 13 at 46; Douglas E. Abrams, *George Orwell’s Classic Essay*, *supra* note 46 at 29-30 (MoBar Winter 2014).

49 George Orwell, *Politics and the English Language*, in ESSAYS ON LANGUAGE AND USAGE 331 (Leonard F. Dean & Kenneth G. Wilson eds., 2d ed. 1963).

50 ANTON CHEKHOV, THE DUEL AND OTHER SHORT STORIES, Note, at vi (2003).

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52 513 F.3d 652 (7th Cir. 2008), quoted in DOUGLAS E. ABRAMS, EFFECTIVE LEGAL WRITING, *supra* note 13 at 97-98; Douglas E. Abrams, *Generalist Judges*, *supra* note 19 at 18.

53 513 F.3d at 658.

54 *Id.*

55 George Orwell, *Politics and the English Language*, *supra* note 49 at 328.

56 Robert H. Jackson, *supra* note 6 at 863-64, quoted in DOUGLAS E. ABRAMS, EFFECTIVE LEGAL WRITING, *supra* note 15 at 59.

57 *Acronym*, Merriam-Webster, <http://www.merriam-webster.com/dictionary/acronym> (visited Dec. 5, 2015). See generally DOUGLAS E. ABRAMS, EFFECTIVE LEGAL WRITING, *supra* note 13 at ch.12 (“Acronyms”); Douglas E. Abrams, *Acronyms*, 6 PRECEDENT 44 (MoBar Fall 2012).

58 *Delaware Riverkeeper Network, Inc. v. Federal Energy Regulatory Comm’n*, 753 F.3d 1304, 1321 (D.C. Cir. 2014).

59 *National Ass’n of Regulatory Utility Comm’rs v. United States Dep’t of Energy*, 680 F.3d 819, 820 n.1 (D.C. Cir. 2012).

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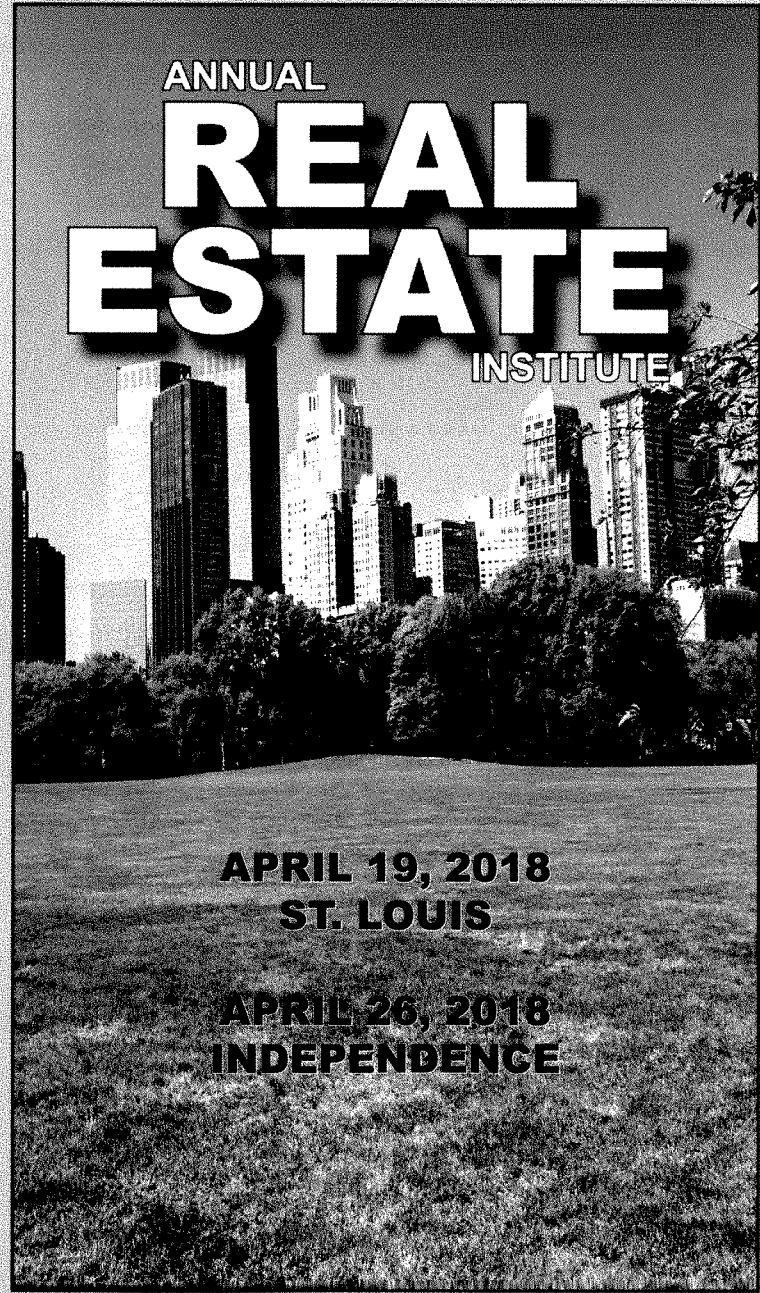
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