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The Writing Issue

Stand Out by Getting Published



By Ari Kaplan

Good lawyers are well respected, but great lawyers also are well known. They have strong reputations that are supported by lasting impressions, demonstrated knowledge of the law, and positive name recognition. Many of them have crafted this status over time by getting published.

Writing for publication is particularly powerful in professional services. It shapes your standing in the community, organically helps to expand your network, and inspires your day. Writers tend to meet more interesting people, develop stronger relationships with them, and find continued reasons to interact. They master the fundamental techniques that are associated with business development by concen-

trating on a few key points that contribute to their publishing success.

Craft an appealing story. Although everyone has an idea for an article, few can articulate it well enough to share

it with an editor. Start by reviewing your most interesting work and identifying areas of the law where you can provide clarity. If you are unsure of where to start, visit Web sites that are related to your practice and read trade

publications that focus on your field. Most importantly, discuss your ideas with colleagues, particularly those with more experience and insight. Use the writing process as an opportunity to meet others and enhance business relationships. Also, consider how your interaction will affect your reputation within your peer group and in the wider community.

Find the right publication. To properly manage your reputation, methodically select the right home for your idea. Consider what your target audience is reading and why. Is your idea regionally focused or practice specific? Are you trying to reach other lawyers or non-legal business professionals? The easiest way to identify an ideal publication is to ask clients or prospects what they read. This will again provide a great opportunity to connect or reconnect, while demonstrating your sincere enthusiasm for answering a pressing question in the industry.

Use the writing process as an opportunity to meet others and enhance business relationships.



Craft a persuasive pitch. Despite that enthusiasm, you should not write the article and then try to find a home. Rather, draft a pitch describing your idea in one or two sentences. Explain how your background is relevant and why the timing is appropriate for a piece of this type. Remember

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“Can You Just Give Me a Better Draft?” WHAT SUPERVISORS SAY AND WHAT THEY REALLY MEAN



By Ross Guberman

As a lawyer, you want to believe that your writing is as above average as the children of Garrison Keillor’s Lake Wobegon. So it can be a shock to hear a supervisor gripe that a draft is “unclear” or “unpersuasive”—generalities so frustrating that they’re all too easy to ignore. If you’re smart, though, you’ll find ways to translate this mushy partner-speak into a hard-core writing battle plan.

Let’s tick off the most common criticisms and then

consider what you can do to avoid them.

1. “You need to be more concise.” All lawyers endorse this advice in theory, but few do much about it in practice. Cutting just doesn’t seem worth the time: “Are twelve pages really so much better than fourteen?”

Such thinking is as dangerous as it is tempting. The point isn’t to shorten for shortening’s sake: a two-paragraph e-mail can be wordier than a 40-page memo. What matters is your

bang-per-buck-per-line-of-text: If you gut every needless word and phrase, your prose will gain that rare tight, light quality that grabs the reader’s attention from the first lines of your draft.

Action plan: When editing, don’t just “look for things to cut” in the abstract. Instead, trim at least one word from every sentence.

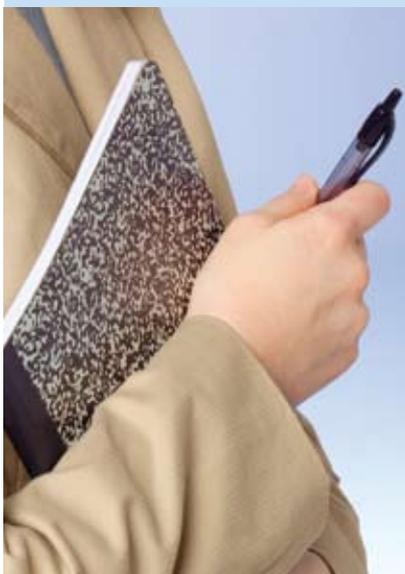
2. “You need to write more clearly.” Great legal writers learn to abandon their worst law-school writing traits—intellectualizing, pontificating, navel-gazing—and adopt the style of a talented journalist who writes for a smart but impatient audience. That’s the quality associates sense when they tell me that certain

partners have a great “style” or “voice” even when writing about dull or complex issues.

Yet when those associates face their own computer screens, they forget what they admire in their bosses’ writing. A morbid fear of “dumbing things down” trumps any fear of clumsy, convoluted prose. That’s backwards: As one judge put it, “If neither you nor anyone you know would ever utter a sentence like the one you have written, head back to the drawing board.”

Action plan: The popular “Would a twelve-year-old understand it?” test goes too far. But you should read your draft aloud and recast anything you wouldn’t say in a meeting with a colleague or client.

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Lawyers in Love with the Literary Life



By Ellen Byerrum

Despite the accoutrements of success, the pinstriped suit, leather briefcase, and iPhone, many lawyers dream of doing something else—of writing the great American legal thriller where the good guys win in the end. Other lawyers have different writing goals. I once met a divorce attorney who at night penned romance novels with happy endings as an antidote to dealing with angry spouses fighting over the spoils of their broken marriages. Romance won. She now writes romances for a living.

John Grisham, Linda Fairstein, and Scott Turow are just few of the more notable examples of lawyers who have risen to the top of the writing game. Their books have been described as crime novels, mysteries, and legal thrillers. They all called on their legal backgrounds to give their books the taste, touch, and feel of what it really means to be a lawyer. And they have one thing in common: they can tell a great story. Maybe you can too. Here are a few suggestions on how to start.

Write the book first. Keep in mind that in the publishing industry fiction is treated differently from nonfiction. While publishers may purchase a nonfiction book on the basis of an outline and a few chapters, this is not the case for a novel. To sell a book to a publisher, it must be as polished and perfect as you can make it. Publishers want to see how you've shaped the story, developed the plot, and wrapped it up.

If your novel reads like a brief, it won't be published. Your great American legal thriller has to rely on great characters and plot to entice the reader, so ease up on the jargon. Legal terms should be used judiciously so the reader accepts that you are the legal expert behind the book, but they should not be used as a bludgeon to show off your clever vocabulary. You don't have to use

all your research. In fact, don't.

Find a jury of your peers to critique your book. Even though your prose may impress judges and make juries (and your opponents) weep, you still need an objective opinion of your literary work, whether it is from a trusted friend or professional editor. If you're looking for a critique group, try local writing classes, book stores, or libraries for leads. Remember, those who refuse to rewrite, do not get published.

Join a like-minded club. There are writing groups, such as Mystery Writers of America, Sisters in Crime, and Romance Writers of America, which have local chapters around the country. They can be invaluable resources, especially when you're feeling adrift with your novel. They often offer events with speakers and a chance to network with other writers in your genre.

You can read a contract, but you still need an agent. When your major opus is rewritten, polished and proofed, and ready to be launched into the literary jungle, you need an agent. Trust me. An agent is not there just to vet the contract, but to sell your product. A good agent is up-to-date on what publishers and editors are interested in and what they are buying. Agents are interested in making the best deal for you and for themselves.

Find the authors who write your kind of novel and learn who represents them. See who your favorite writers thank in acknowledgment pages—they often include their agents and editors. Check the agents' Web sites for information on how they receive queries and what kind of books interest them. The process of writing and publishing a book isn't easy; however, you've already got the basics. Every time you make a case for your client, you are framing a story—a narrative intended to persuade and convince. Take pleasure in the story you feel compelled to tell, learn how to sell it, and some day you may see your name on a cover at your local bookstore.

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Edit Your Own Work in 5 Steps



By Rachel DuFault

You're finally done writing your brief for your court case, letter to a client, or article to be published in a legal publication. What's next? Before filing that brief with the court, sending the letter to the client, or submitting that article to the publication, you should take some time to edit your document to ensure that it contains the appropriate content and reflects proper style. Taking this extra step also is a matter of professionalism.

Editing is a thorough review of the overall structure and content of your writing and style issues, such as grammar and punctuation. But what does it mean to edit your own work? The following are some guidelines and tips to help you begin and work through the process.

Step 1: Put it away! As tempting as it is to review your work the moment you print it off the printer or lay down your pen, the first step in the editing process is to set it aside and do something else. You probably spent considerable time working on the document, and the words and their meanings will likely blur together if you start editing right away.

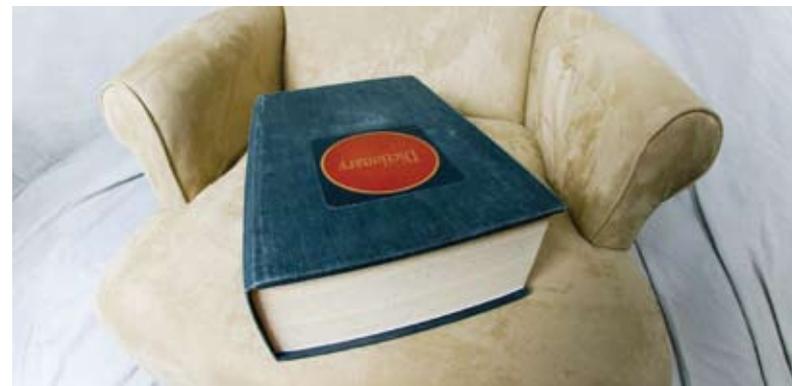
If you edit your document with fresh eyes, you stand a better chance of catching and correcting errors. With a renewed focus, you can tackle challenges that might appear in a first draft, such as an incorrect portion of a statute that is highlighted in the text or a wrong case supporting an important contention. So take a break from your work before editing your material, whether it is for a day, an afternoon, an hour, or even ten minutes (if you're under a tight deadline).

Step 2: Edit for content. When you first approach your document, you should read it just for the content. (Don't worry about grammar yet!) In

this edit, make sure that you covered all the areas that you intended and that your thought process can be clearly followed. Look for places where information is lacking, possibly misleading, or unclear and correct these errors.

When editing your work, always keep in mind who your audience is and make sure they will understand the legal words and phrases you use. For example, if you are writing a letter to a client, consider reducing the legal tone of the letter and explaining legal words and phrases. While terms like *equitable relief* or *tortious interference* might be acceptable in a memo to your colleagues, such words in a client letter might leave your client confused.

Step 3: Edit for style. After focusing on your content, edit your document for style. Are you writing a memo, a brief to the superior court, or a scholarly article? Your document should reflect the appropriate format that is set out by your firm, courts, public agencies, or publications.



Whenever possible, you should acquire the style manual or guidelines established by the entity for which you are writing. As you go through this edit, review and apply the appropriate style guidelines (e.g., Are roman numerals required for new sections in briefs or can you use footnotes in articles?). Also, be sure to follow appropriate Bluebook style guidelines.

Step 4: Don't forget spelling and grammar! Brush off your college English grammar books and drag out your dictionary. The next step in editing your document is to check for spelling and grammar errors. Nothing can be worse

than receiving written work that is riddled with misspelled words and incorrect grammar! Review each of your paragraphs line-by-line for common spelling and grammatical errors: for example, if you find that a sentence has too many "ands" and "ors," you might have a run-on sentence.

Even if you run the spell check or grammar check on your computer, print out your document and read it again for spelling and grammar errors as you might have selected the wrong word or phrase in using those tools ("an" can easily become "and").

Step 5: Find a second pair of eyes. A final step in editing your document is to find a colleague or friend to review your document (if you're under a tight deadline, this step can be optional). While you might feel confident that you've caught all your errors through your own edits, a second pair of eyes reading your document can give you a fresh perspective on any subtle or glaring errors and help polish your finished work.

While editing your document may seem daunting or tedious, it's the most important part of your written work. Taking time to review your brief, client letter, or article can save you from embarrassing errors and costly mistakes (For example, you meant to settle a case at \$500,000, but the settlement document reads \$50,000). Editing also will improve the quality of your overall work and make a positive impression on those who read it.

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From Law to Lyrics

SKILLS THAT TRANSCEND



By Emeka Onyejekwe aka Mekka Don

After working for a year as an associate at a law firm, I made what many would consider a drastic career and lifestyle change—I left the law to become a hip-hop musician. Why? I love law, but music is my passion. Also, I believe that my background and accomplishments in practicing law can be positive influences and inspire many in the hip-hop community. I want to be a role model for young minority youth who otherwise may never know about the opportunities that I have had. I am signed to M.O.V.E. Records, have a lot of underground “buzz,” and have major record labels contacting me for meetings. I love music, and I love to write.

At first I thought my transition from law to music would be difficult. It seems like writing briefs and writing lyrics would be completely different tasks; however, recently I realized that the two are more similar than one would think. The main premises are the same: (1) know your audience, (2) be persuasive, and (3) be able to support your claims.

In both music and law, knowing your audience is critical to your success. In music, knowing your target market is crucial. Who are your listeners? What do they typically like to hear? Are they willing to hear something new or more traditional? In law, you must know your judges. What type of arguments do they tend to favor? Are they straightforward

or do they entertain crafty, novel arguments? The answers to these questions should determine how you write in these situations.

The musician may have an advantage over the brief-writer in the art of persuasion because the musician not only writes but presents his case orally. This isn’t always the case for the brief-writer, who must make sure the document itself is persuasive. In either case, the writer has to be careful not to “oversell” and should focus on the strongest arguments. Additionally, the audience must believe that the writer believes what she is saying, which is not easy. In fact, acting classes are often helpful for both musicians and litigators who argue orally.

Finally, in both the law and hip-hop music, you must appear credible. In law, you *must* cite your authority to present arguments. The judge must be able to look at or find support for the presented arguments. In hip-hop music, listeners like to believe that the rapper can back up his lyrics. 50 Cent became so popular in part because people could verify his story about being a gangster and getting shot, and they were intrigued by it. Conversely, Rick Ross has faced major criticism from fans and music critics for portraying himself as a gangster when he allegedly at one time served as a correctional officer. In law and in hip-hop, you must be sure that your arguments can be independently verified.

There are definitely differences in writing briefs and writing music, but in my life, there have been certain similarities. In the end, the transition from law to hip-hop music has not been rough for me, not only because I’ve been writing music for a long time, but because the primary goals of the two are the same—win!

Emeka Onyejekwe aka “Mekka Don” can be contacted at mekkadonmusic@gmail.com.





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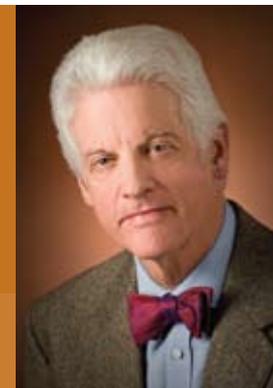


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Former ABA Young Lawyers Division Chair and the ABA's Immediate Past President Bill Neukom is now general managing partner and CEO of the San Francisco Giants.



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Getting Published

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that editors, particularly those responsible for producing trade-related publications, are genuinely interested in your ideas. Pitching your idea first also manages your time more effectively so that you can make the investment once you are guaranteed a return.

Make it relevant. You can secure that guarantee by understanding that timing is a critical factor in getting published. Your proposal needs to address an issue on the minds of the publication's readers. For that reason, writers who review editorial calendars have a tremendous advantage over their peers when pitching article ideas to publications.

An editorial calendar outlines the general coverage a magazine or newspaper will provide on a particular subject over the course of an entire year. They are often available on the publication's Web site and typically list the submission guidelines as well (e.g., length and editorial style).

Understanding editors' calendars also demonstrates to them that you have conducted the necessary background research and are serious about your interest in writing.

Once your idea has been accepted, use the process as a chance to connect with mentors, colleagues, clients, and prospects by calling to interview them or co-author with them. Identifying a specific date for an article will provide you with the ability to calendar its development and completion.

Getting published is more about motivation than mechanics. People do not write just to see their names in a byline or to send their articles to others. They write to inspire. Ironically, in the process, they are the ones who become inspired.

Ari Kaplan is an attorney and writer who teaches professionals the mechanics of getting published and the art of promoting their work in New York City. He can be contacted at ari@arikaplanadvisors.com.

A Better Draft

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3. "You need to be more persuasive." For many lawyers, persuasive writing has two ingredients. First, load your draft with trite, self-serving rhetoric ("The Plaintiff Is Egregiously Wrong Beyond Any Shred of Legal or Factual Doubt"). Second, for each authority, summarize as many facts as you can and copy as much of the original language as possible.

Here's the problem: Name-calling and copying require no skill. If that's all it took to be persuasive, we'd all be equally wonderful writers.

So what distinguishes the prose of the nation's top advocates? Here's a thought: The best writers rarely discuss a fact, case, or statute for its own sake. Instead, what they write reflects nothing less—or more—than how the authority proves that their client or analysis is right.

Action plan: List every authority you want to cite. Don't proclaim that the author-

ity is "relevant," "instructive," or "distinguishable." And don't allow yourself to summarize the facts or to copy a single word. Instead, write whatever you need to prove why the authority supports a point you want the reader to endorse.

4. "Your writing doesn't flow." According to Fred Rodell, once called "the bad boy of American legal academia," there are two things wrong with legal writing: its style and its content. To those two enduring challenges, let me add a third: because the sentences in our paragraphs often stem from different sources, choppy prose is almost guaranteed.

That's the main reason many of us are criticized for lack of "flow" in our writing.

Such a complaint can have an irritating I-know-it-when-I-see-it feel. Yet while "flow" may

be hard to define in a novel or a poem, it's easier to spot in a lawyer's letter or brief. In documents such as those, well-chosen transition words and phrases—about one per sentence—should be your weapon of choice.

Action plan: The most abrupt breaks in lawyers' prose occur between paragraphs. Use something from the end of each paragraph—a word, a phrase, a thought—as a link to the beginning of the next.

So there you have it. Is writing better easy? No. But are the solutions more science than art? Yes. Apply this four-step action plan to your next project, and you might get less red ink and even see a crack of a smile.

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