

How to Write Gooder

Improving Your Legal Writing, Top to Bottom



Quiz

- None of Plant's cases [are – *or* – is] controlling.
- Neither of Plant's claims [are – *or* – is] accurate.
- But Page [only cites – *or* – cites only] one case.
- Neither Defendant nor Plaintiffs [is – *or* – are] to blame.
- Is it ever okay to ask a judge, “Why are you talking [”? – *or* – ?” – *or* – ?”?”]
- Bonham recovered his just [deserts – *or* – desserts].
- We await Page's reply with [baited – *or* – bated] breath.

3 Things to Consider for Better Writing

1. Audience

2. Ethics & Professional Responsibility

3. Readability

1. Audience: People and Purpose

We write differently depending on **who** we're writing to and **why**.

Who is your audience?

1. Party People
2. Law People
3. The People

Why are you writing to them? (What is your purpose?)

- To *communicate* and to *persuade*

Same audience, different purpose = different writing

Same purpose, different audience = different writing

Persuasion (Rhetoric)

- *Logos* = logic, sound reasoning
- *Pathos* = emotion, storytelling
- *Ethos* = authority, credibility

Good writers change how they use these tools, depending on their **audience** and **purpose**.

Rhetorical (Persuasive) Exercise: Pathos

- The man struck the girl.
- The parent spanked the child.
- The guard subdued the thief.

2. Ethics & Professional Responsibility

No misrepresentations.

Why? Because ethics = *ethos*.

3. Readability

Good writing is both art (matter of taste) and science (matter of evidence).

Science:

Studies show “readability” affects **comprehension** and **retention**, which in turn affect **persuasion**.

- Shorter words, shorter sentences, shorter paragraphs—shorter documents!
- Fewer words (e.g., change “In light of the fact that” to “Because”).
 - Cut adverbs & adjectives—instead choose better verbs & nouns. (See *pathos* exercise.)
 - Contractions are okay!
- Break into sections; use headings (and numbering)—signposts!
- Better typography! One of the easiest ways to improve readability...

Strategies for Shortening:

- Eliminate false subjects.
 - There are three reasons why this won't work.
 - This won't work for three reasons.
- Eliminate passive voice (unless purposeful).
 - The task was completed by two teams.
 - Two teams completed the task.
- Use shorter/punchier words.
 - The meeting in regards to... (or concerning...)
 - The meeting about...
- Eliminate unnecessary clutter.
 - Don't do this: Plaintiff Amiri Baraka ("Baraka")
 - Don't do this: There were five (5) gallons.
 - Don't cite three cases when one case will do.

| Inflated | | Concise |
|-------------------------------|------------|--------------------|
| along the lines of | SHORTEN TO | like |
| as a matter of fact | SHORTEN TO | in fact |
| at all times | SHORTEN TO | always |
| at the present time | SHORTEN TO | now, currently |
| at this point in time | SHORTEN TO | now, currently |
| because of the fact that | SHORTEN TO | because |
| by means of | SHORTEN TO | by |
| draw to your attention | SHORTEN TO | point out |
| due to the fact that | SHORTEN TO | because |
| for the purpose of | SHORTEN TO | for |
| for the reason that | SHORTEN TO | because |
| have the ability to | SHORTEN TO | be able to, can |
| in light of the fact that | SHORTEN TO | because |
| in order to | SHORTEN TO | to |
| in regards to | SHORTEN TO | on, about |
| in spite of the fact that | SHORTEN TO | although, though |
| in the event that | SHORTEN TO | if |
| in the final analysis | SHORTEN TO | finally |
| in the nature of | SHORTEN TO | like |
| in the neighborhood of | SHORTEN TO | about |
| make decisions about | SHORTEN TO | decide on |
| on the occasion of | SHORTEN TO | when |
| on two separate occasions | SHORTEN TO | twice |
| the level of water rose | SHORTEN TO | the water rose |
| the majority of | SHORTEN TO | most |
| the people who are located in | SHORTEN TO | the people in |
| the pie that is included in | SHORTEN TO | the pie in |
| until such time as | SHORTEN TO | until |
| with reference to | SHORTEN TO | of, on, for, about |

Seriously, contractions are okay!

record or preserve information.” *Ante*, at 1081. The concurring opinion similarly, if more vaguely, contends that “tangible object” should refer to “something similar to records or documents”—and shouldn’t include colonial farmhouses, crocodiles, or fish. *Ante*, at 1089 (ALITO, J., concurring in judgment). In my view, conventional tools of statutory

books, papers, documents or tangible things”).¹ To my knowledge, no court has **1092* ever read any such provision to exclude things that don’t record or preserve data; rather, all courts have adhered to the statutory language’s ordinary (*i.e.*, expansive) meaning.

“tangible.” But who wouldn’t raise an eyebrow if a neighbor, when asked to identify something similar to a “record” or “document,” said “crocodile”?

newspaper then edited by Budenz. At the hearing before the Board, Budenz testified that Childs had asked Weiner if money couldn’t be got from abroad, and that Weiner replied that normally it might, but that the channels of communication had been broken for the time being, that perhaps they might be re-established so that money could come. Budenz testified that although it was not definitely stated what Weiner meant by ‘abroad,’

did not relate any specific conduct of Weiner’s which rendered his status ‘indicative.’ In an interview in 1946, as reported in an office memorandum prepared by an F.B.I. agent, Budenz stated that he ‘could recall only one instance wherein it was indicated that the Soviet Union might be sending money’: this was the Childs-Weiner conversation in New York. Childs had asked Weiner, the memorandum stated, whether he didn’t expect a consignment ‘from across the sea.’

Justice Kagan

Justice Alito

Justice Frankfurter
(1961)

General Typography Tips

- Use more white space.
- Use visuals.

Use more white space (and bold for emphasis).

A no-evidence motion for summary judgment asserts that there is “no evidence of one or more essential elements of a [plaintiff’s] claim.” Tex. R. Civ. P. 166a(i). In contrast, a traditional motion for summary judgment asserts that, even if there is evidence of the elements of the plaintiff’s claim, the defendant is nevertheless “entitled to judgment as a matter of law.” Tex. R. Civ. P. 166a(c).

To support his premises-liability claims against Billingsley, Solis must prove that: (i) Billingsley had actual or constructive knowledge of a condition on the premises; (ii) the condition posed an unreasonable risk of harm; (iii) Billingsley failed to exercise reasonable care to reduce or eliminate this unreasonable risk of harm; and (iv) Billingsley’s failure to do so proximately caused Solis’s injury. LMB, Ltd. v. Moreno, 201 S.W.3d 686, 688 (Tex. 2006). Elements (i) and (ii) are about whether Billingsley had a duty to act; element (iii) is about whether Billingsley breached that duty and therefore acted negligently; and element (iv) is about whether this negligence caused Solis’s alleged injury. See Western Investments, Inc. v. Urena, 162 S.W.3d 547, 550 (Tex. 2005) (listing elements as duty, breach of duty, and an injury proximately caused by the breach).

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Use visuals.

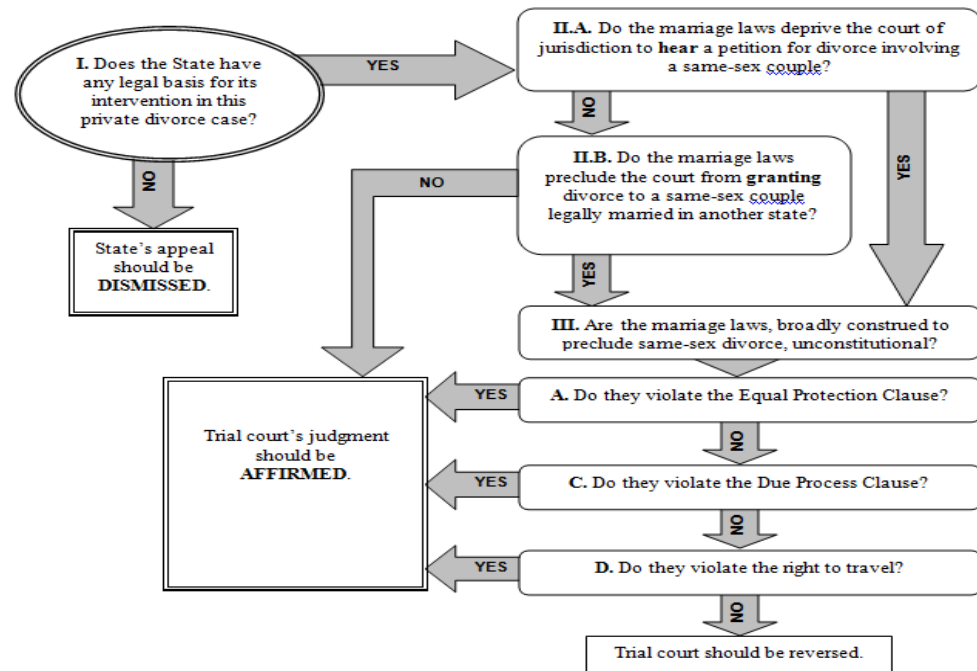
Before:



After:



Massachusetts. This question entwines numerous complicated procedural, jurisdictional, and constitutional issues. The following roadmap demonstrates the analysis:



Questions?



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