

# NEW JERSEY LAWYER

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## WRITER'S CORNER

### Effective Communication and How Not to Write Like A Lawyer

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Remember the first year of law school and seeking to join the ranks of legal scholars on *Law Review*. If you were like me, you searched the greatest opinions by the greatest legal minds. Trying to copy their style, I crafted sentences so immense and selected words so lethal that surely my tidal wave of English language would leave no reader a path to escape my logic, reasoning, and skills of persuasion.

Though unsuccessful in my *Law Review* quest, I was undeterred. I continued to deploy these tactics as a young lawyer seeking to overwhelm my adversaries and persuade courts. Yet, my writing seemed no less nor more compelling than my adversaries' and I began to wonder why.

My epiphany came when I ran what I thought was an especially brilliant piece by my spouse. I expected confirmation of my self-impressed opinion. Instead, she responded in an underwhelmed tone that she supposed I knew what I was trying to say. I realized then that the only one I was impressing was myself.

I began to wonder whether legal writing an oxymoron. Did law school teach us only to write to impress ourselves? Was legal scholarship literary scholarship? Was it the most effective way to persuade? Really, how many of those legal scholars won a Pulitzer prize or made a *New York Times* bestseller list? In the end, why is a court different from any other audience?

In these questions, I began to consider whether I should unlearn to be like Learned Hand. And so, I turned my focus away from legal scholarship to journalism as a guidepost.

For journalists, no sentence structures exist that befuddle the mind. There is no use of five words when one suffices. And they use no cascade of adjectives to describe someone.

Instead, the facts placed in cold, logical, and precise fashion lead the reader to the point of the article or reinforce that point. Each sentence rewards the reader for the effort to read more. Significantly, journalists state the point once, while redundancy in legal writing seems to be a stylistic rule.

These observations lead me to believe that good writing is simply effective communication. It is placing your objective in the mind of the reader, whether it is to question, to dream or persuade.

There should be no difference whether the forum is a court and the subject legal.

Unfortunately, sometimes "legal writing" is an excuse for poor writing or obtuse communication because of a belief that the legal subject matter requires this.

Take statutes. Designed for breadth and flexibility they may necessarily convert the English language into an indecipherable maze. However, lawyers often recreate that maze when explaining why the statute is the basis for what the court must do. Frequently underutilized in the effort to explain are the tools of simplification, clarification, and relevancy.

While my writing remains a work in progress, my focus and approach have changed. Because of the improved response those changes have brought, I wish to share them here.

I believe the ABCs of effective communication are Audience, Brevity and Clarity.

Focus on your audience. Education is important. Do not assume it is familiar with the subject matter or the point you are trying to make.

Condense the point and make it clear. Take the guesswork out of what you are trying to say. Remember, you are trying to make a point so make it.

To persuade, lead the reader to where you want them to go. Give comfort to them in the support you provide for reaching your "correct" destination. Command of the facts, a good outline and editing are essential in achieving these goals.

Write as you speak and not as you would speak as a lawyer. What is easier for the reader, the question: Did you have the occasion to view the other vehicle prior to the happening of the occurrence? Or: Did you see the other car before the accident? A lawyer may love the former, the reader will appreciate the latter.

Finally, run what you wrote by someone who is not a lawyer and knows nothing about the subject. Find out what they do not get and rework it until they do.

Remember, it is about the audience. Seek empathy to connect with them and have sympathy for what you ask them to endure.