

WRITTEN ADVOCACY

LECTURE 1 – GENERAL PRINCIPLES OF GOOD WRITING¹

A. INTRODUCTION

1. Advocacy, whether written or oral, whether of a skilled, articulate and composed lawyer before an irascible or irate judge or of a harried and frustrated parent towering over a petulant child, is, at its core, about persuasion.
2. It is about how you enter the mind of the listener or reader and, through your words, the tone and musicality of your sentences and paragraphs, take the listener or reader gently by the hand and guide them over that bridge you wish to take them across.
3. In his timeless treatise on rhetoric written some 2370 years ago, Aristotle explained that the persuasiveness of any argument depends on its *logos*, *ethos* and *pathos*².
4. The *logos* of any argument is its logic. Nothing persuades better than a well-constructed logical argument founded on a series of seamless and sequential propositions supported by established or provable facts. Any idea put forward must also accord with common sense and daily experience. Arguing that the morning sun rises in the west, no matter how well the argument is seamlessly structured, will not persuade as it simply would not accord with the daily experience of humankind.
5. According to Aristotle, the second pillar of the trinitarian elements of persuasion is *ethos*, which, loosely translated and summarized, refers to the credibility of the person putting forward the argument. In short, it relates to the persona and trustworthiness of the individual canvassing a proposition. A person who has in the past put forward ill-founded, dishonest, or even simply less than forthright contentions, is less likely to be believed than someone known for probity, moderation and honesty.

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² Aristotle. *The Art of Rhetoric*. Penguin Classics, 1992.

6. The *pathos* of an argument is the passion that the proponent imbues into it to generate an emotional pull on the reader or hearer. A skilled advocate carefully chooses words that are pregnant with meaning and conjure vivid mental images, sentence structures that move the narrative forward with action and excitement, and themes that pull at the moral compass to gently bring the reader or hearer to the intended destination.
7. The objective of this course, within the limited time and interactions available, is to convey the essential elements of good written advocacy. The aim is not ambitious. It is not to churn out great writers like Lord Denning or Hemmingway. It is simply to produce competent writers with a reasonable grasp of what makes for compelling and persuasive writing, whether in the form of a letter, a pleading, an affidavit or a submission, whilst taking into account the legal and professional rules that apply.

B. THE STRUCTURE OF THIS COURSE

8. This course will cover the following topics in a series of 5 lectures:-
 - a. General principles of good writing;
 - b. General principles of legal writing;
 - c. Logic and reasoning;
 - d. Drafting correspondence and affidavits; and
 - e. Drafting pleadings and submissions.
9. The lectures will be delivered through pre-recorded online sessions accompanied by lecture notes and PowerPoint slides. From time to time, participants will be asked to submit written work to test their understanding of the concepts conveyed in the lectures and lecture notes.

10. There will also be a series of interactive sessions where participants can discuss the topics covered in the lectures with tutors.
11. As with any learning program, what you get out of and take away from this course will depend greatly on the time and effort you invest in it. We look forward to walking this learning journey with you.

C. GENERAL PRINCIPLES OF GOOD WRITING

12. To write well, an author must have at the very least:
 - a. A good grasp of the elementary rules of usage of the language that he chooses to write in;
 - b. Working knowledge of the principles of effective composition; and
 - c. A style that is easy to read and appropriate for the occasion.
13. We consider each in turn.

D. THE ELEMENTARY RULES OF USAGE

14. Learn and master punctuation.

a. The Oxford Comma

15. Commas are important. Consider the following example:-



16. From the happy picture of Rachel and her delightful canine, it would be obvious that Rachel is neither a cannibal nor has she, as yet, eaten her dog. And yet, that appears to be the unintended message conveyed by the caption of the photograph.

17. A few commas could make all the difference between cannibalism and questionable cuisine.

18. If you are still unconvinced about the importance of the serial comma or the Oxford Comma, consider the following quote from The Times newspaper, commenting about a Peter Ustinov documentary:

"...highlights of his global tour include encounters with Nelson Mandela, an 800-year-old-demigod and a dildo collector".

19. Whilst some might truly consider Nelson Mandela to be an ancient demigod, his alleged propensity for collectibles of a certain nature would no doubt be questioned by all.
20. Poor punctuation can also be costly, as the Oakhurst Dairy, a Maine dairy company, found out to its detriment in its dispute with its drivers who were claiming overtime pay. In his judgement allowing the workers' appeal, Justice Barron, Circuit Judge of the United States Court of Appeals for the First Circuit held:³

"For want of a comma, we have this case. It arises from a dispute between a Maine dairy company and its delivery drivers, and it concerns the scope of an exemption from Maine's overtime law. 26 M.R.S.A. § 664(3). Specifically, if that exemption used a serial comma to mark off the last of the activities that it lists, then the exemption would clearly encompass an activity that the drivers perform. And, in that event, the drivers would plainly fall within the exemption and thus outside the overtime law's protection. But, as it happens, there is no serial comma to be found in the exemption's list of activities, thus leading to this dispute over whether the drivers fall within the exemption from the overtime law or not.

The District Court concluded that, despite the absent comma, the Maine legislature unambiguously intended for the last term in the exemption's list of activities to identify an exempt activity in its own right. The District Court thus granted summary judgment to the dairy company, as there is no dispute that the drivers do perform that activity. But, we conclude that the exemption's scope is actually not so clear in this regard. And because, under Maine law, ambiguities in the state's wage and hour laws must be construed liberally in order to accomplish their remedial purpose, we adopt

³ *Kevin O'Connor; and others v Oakhurst Dairy; Dairy Farmers of America Inc.*, United States Court of Appeals, First Circuit, 13 March 2017, available at: [16-1901-2017-03-13.pdf \(justia.com\)](https://www.justia.com/courts/appellate/first-circuit/kevin-oconnor-and-others-v-oakhurst-dairy-dairy-farmers-of-america-inc-2017-03-13.pdf)

the drivers' narrower reading of the exemption. We therefore reverse the grant of summary judgment and remand for further proceedings."

21. The absence of a single comma cost Oakhurst Dairy US\$5 million in overtime pay.
22. The lesson to be learnt from these stories is that in a series of three or more terms with a single conjunction, use a comma after each term except the last.

b. Possessives, Pronouns and Contractions

23. Form the possessive of singular nouns by adding – 's. For example, write:

John's book

Andrew's stupidity

The dog's bark.

24. The exception to this rule is where words or proper names end with an 's'. The apostrophe in such cases would be placed after the 's' as in the following examples:

for righteousness' sake

Jess' hair

Moses' laws

25. However, when using ancient proper names consider using:

The laws of Moses instead of *Moses' laws*

The temple of Zeus instead of *Zeus' temple*

26. Pronominal possessives have no apostrophe. So do not use an apostrophe with possessives such as "*hers*", "*its*", "*theirs*", "*ours*" and "*yours*".
27. When using indefinite pronouns, however, use the apostrophe to show possession. For example, write:

One's obligations and rights

Someone else's burden

28. Be aware of the difference between contractions and possessives. Know when to use "*it's*" and "*its*". The former is a contraction for "*it is*" and usually considered to be inappropriate in formal writing. The latter is possessive.

"It's too late", she screamed at her crestfallen boyfriend

The dog scratched its left ear with its hind leg

29. Spot the missing apostrophes (and other errors) in the photograph below and consider whether they are contractions or possessives:



30. As this unhappy young man has probably learnt, proofreading is important, especially if you are writing something serious in indelible ink or getting a tattoo.

c. Enclose parenthetic expressions between commas

31. Parenthetic expressions are those phrases or words in a sentence that could fit within brackets without any change in the meaning of the sentence.
32. This rule is difficult to apply. It is often difficult to decide whether a single word such as “however”, or a brief phrase is or is not parenthetic.
33. If the sentence reads well without interruption to the flow of the sentence, you could safely omit the commas. But it is indefensible to omit one comma and leave the other. For example, write:

Ahmad's sister, Noraini, brought him a packet of his favourite biriyani.

But not:

Ahmad's sister, Noraini brought him a packet of his favourite biriyani.

34. Abbreviations such as *etc.*, *i.e.*, and *e.g.*, academic degrees, and titles that follow a name are parenthetical and should be punctuated with commas appropriately:

Small pets such as dogs, cats, hamsters, etc., are permitted in the apartments.

The meeting was chaired by Dr. James Chan, PhD., MSc., the head of the project.⁴

35. A comma, however, should not be used to separate a noun from a restrictive term of identification:

The physicist Albert Einstein.

The artist Salvador Dali.

Alexander the Great.

36. Nonrestrictive clauses, i.e., clauses that do not serve to identify or define the antecedent noun, are parenthetical.

The rugby team, which lost five games in a row, began to gain confidence after winning their last two matches.

⁴ When setting out degrees after your name or in a sentence, the British usage is not to use full stops after the relevant letters whilst American usage is to include them. For e.g., PhD instead of Ph.D., or MA instead of M.A.

37. Clauses introduced by *which*, *when* and *where*, are nonrestrictive as they do not limit or define but merely add to the subject or noun. Such clauses add parenthetically to the narrative by supplementing the main clause and, consequently, should be set off by commas.

In 1965, when Singapore gained its independence, there was limited public housing available for the population.

38. Such sentences are a combination of two or more statements that might have been made independently. Where the sentence cannot be split into two or more statements, the use of a comma would not be necessary.
39. Where a main clause is preceded by a phrase or a subordinate clause, use a comma to set off the different elements.

Partly through exercise, partly by following a strict diet, John managed to bring his weight down to a healthy range and improve his overall fitness.

d. Place a comma before a conjunction introducing an independent clause.

40. A two-part sentence where a conjunction introduces the second part would usually require the use of a comma before the conjunction.

Ah Beng missed the bus, and he was late for detention class.

41. When the subject is the same for both clauses and is expressed only once, a comma is useful but may be omitted if the relationship between the two statements is close.

Shirley has had several years' experience as a corporate lawyer and is highly competent.

e. Do not join independent clauses with a comma; use a semicolon.

42. If two or more sentences are grammatically correct and not joined by a conjunction to form a compound sentence, the proper punctuation mark to use to join them is a semicolon.

Adrian Tan's novel is entertaining; it is full of wit and humour.

43. If, however, a conjunction is used, the proper punctuation mark is a comma.

Adrian Tan's novel is entertaining, for it is full of wit and humour.

44. An exception to the semicolon rule is where the sentence is very short and alike in form, or the tone is conversational:

Man proposes, God disposes.

Here today, gone tomorrow.

f. Know when to use a colon, a semicolon, and a dash.

45. A colon is used to introduce information set up by the previous clause. It is typically used before a list.

To make a cake, you need several ingredients: butter, sugar, eggs, flour, milk, yeast and salt.

46. A colon is also used to introduce a second sentence that explains or clarifies the previous sentence.

There was one way to win the race: we needed a car with a turbocharged engine.

47. In contrast, a semicolon is used to join two sentences that are in some way related to each other.

I love ice cream; vanilla is my favourite flavour.

48. In summary, use a colon to separate a general statement from specifics that follow such as a list or examples. Use a semicolon to connect two complete sentences that are not joined by *and, or, but, yet* or *while*.

49. A semicolon may also be used in separating items in a list that have commas:

Our flight will take us to Delhi, India; Moscow, Russia; and finally, to London, UK.

50. As stated by Strunk, “*A colon tells the reader that what follows is closely related to the preceding clause. The colon has more effect than the comma, less power to separate than the semicolon, and more formality than the dash.*”

51. Use a dash to set off an abrupt break or interruption and to introduce a related clause or summary.

Her first instinct on getting out of the bathroom – if she was even aware of her surroundings – was to get back to bed.

He felt an ache in his stomach – a throbbing, wrenching, numbing pain.

52. Use a dash when a more common mark of punctuation, such as a comma or period, seems inadequate.

g. The number of the subject determines whether the verb is single or plural.

53. A compound subject formed by two or more nouns joined by *and* almost always requires a plural verb.

Jack and Jill were holding hands when they walked up the hill.

54. Sentences which use *each, either, everyone, everybody, neither, nobody, and someone* all require a singular verb.

Everyone wants to be an Elon Musk.

55. Words that intervene between the subject and verb do not alter the verb that is to be used. If the subject is singular, the verb remains singular, and if the subject is plural, the verb remains plural.

The errors of youth, the impulsive rush to decisions, the urge to immediate gratification, the optimism in the face of impossible odds, are forgotten with the onset of grey hairs.

56. One of a group is singular. For example:

One of the lawyers is working on the case.

57. However, when “*one of*” is followed by “*who*”, use a singular or plural verb depending on whether you are referring to one person or to a plural set.

He is one of the few lawyers who have dared to mount constitutional challenges in court.

h. English or American usage and electronic tools

58. Be mindful of the differences between British and American usage of the English language. Given the historical connection with and use of British spelling and forms of usage in Singapore, avoid American usage. Getting rid of some 340 chests of tea in 1773 and even the King in 1776 may all be well and acceptable with the passage of a few centuries, but any respectable grammarian will draw the line at dumping “u” and running amok with “z”.
59. Consider the following examples where British and American spelling differs:

colour vs color

humour vs humor

flavour vs flavor

neighbour vs neighbor

60. Consider also the American use of “z” in place of “s” in the following words:

analyse vs analyze

legalise vs legalize

paralyse vs paralyze

apologise vs apologize

recognise vs recognize

61. The American penchant to abandon letters extends to double letters. Consider the following:

travelling vs traveling

marvellous vs marvelous

modelled vs modeled

62. And even to reverse some letters:

centre vs center

fibre vs fiber

specter vs spectre

63. Be also mindful that there are differences in the use of full stops in abbreviated terms. The British usage is to omit full stops in abbreviations which include the first and last letters of a single word, such as Mr, Mrs, Dr, and St.
64. The American usage, in contrast, is to use the full stops; hence, you get the same abbreviations reflected in American writing as Mr., Mrs., Dr., and St.⁵
65. Whatever usage you adopt, be consistent and do not switch between the two. That would be unpardonable. You either drink or dump tea. Don't do both.
66. Before submitting or issuing any written document, use the spelling and grammar check that is available on virtually all word processing software commonly used in the commercial world today.⁶ If you cannot access such a tool, consider subscribing to and using Grammarly,

⁵ For an excellent website resource on abbreviations and punctuation, see: [Abbreviations : Capital Letters and Abbreviations \(sussex.ac.uk\)](http://www.sussex.ac.uk/abbreviations)

⁶ For example, Microsoft Word has a Spelling and Grammar tool and an Editing tool available at the click of a mouse. Not only will such software check for spelling errors, but it will also correct grammatical errors and offer useful suggestions on rephrasing a sentence to avoid ambiguities.

available at Grammarly.com. Such tools are invaluable in turning out error-free and refined work products. However, note that the default setting for spelling and grammar tools in most word-processing software is American English. Consequently, unless you can specify a British English setting, be mindful of Americanisms creeping unwittingly into your draft.

E. BASIC PRINCIPLES OF COMPOSITION

67. We consider in this section some basic principles of composition that serve as a useful guide to writing effectively.

a. Plan an outline that provides a seamless, sequential and logical narrative of what you wish to say.

68. With any writing, a good place to start would be the end. Begin with the end in mind; that is to say, ask yourself what it is that your piece of writing will conclude with or ask for. When you have the end objective clear, work backwards to reach your beginning.
69. The conclusion of your writing is the end of a rope you need to follow backwards to find its anchor point. And as you follow the rope backwards, you will discover lines that branch out, which may be frayed or likely to give under stress. Abandon those. Choose the strongest that leads to a secure, firm starting point.
70. Then reverse the process to ensure that each point you make from the start to the end follows the preceding issue in a logical, sequential and seamless flow. Remember that the most persuasive arguments are those which are logical and gently but inexorably lead the reader or listener to the intended destination.
71. These points would then form the outline that should guide your writing to fill in the details to give context, content, light, and shade.

b. Make the paragraph the unit of composition.

72. Avoid shoe-horning large chunks of writing into a single paragraph. Not only are long paragraphs difficult on the eye, but they may also create psychological hesitancy in a reader's mind. A long paragraph implies that the reader needs to invest significant effort to understand it. The prospect of undertaking such work, in itself, may lead to a less than sympathetic reading.
73. Make it easy for the reader to read and understand your writing. Some of the techniques for doing so would include:
 - a. Convey no more than one idea in each paragraph;
 - b. Avoid uncommon words when there are appropriate, common alternatives available;
 - c. Keep your sentences short and no longer than is necessary;
 - d. If your sentences are more than three lines on the printed page, they are probably too long. Break up such sentences into two or more shorter sentences;
 - e. Vary the length of your sentences in tandem with the tone and pace you wish to convey; and
 - f. Each paragraph should segue into the next, with the thread of argument sequentially and seamlessly developed.
74. The needs of the reader should dictate your writing. The easier you make it for the reader, the more persuasive you will be.

c. Use the active voice.

75. Wherever possible, use the active use instead of the passive voice. Consider the following example:

Jack pushed Jill down the hill, causing her to fall.

76. The sentence is in the active voice and conveys the events in a concise, direct, and vigorous manner. In contrast, consider the passive version of the sentence:

Jill was pushed by Jack down the hill, causing her to fall.

77. The action described is less lively or immediate. As observed by Strunk;

Many a tame sentence of description or exposition can be made lively and emphatic by substituting a transitive in the active voice for some such perfunctory expression as there is or could be heard.

*There were a great number of
dead leaves lying on the ground.*

Dead leaves covered the ground.

*At dawn, the crowing of a rooster
could be heard.*

The cock's crow came with dawn.

78. Legal writing is often filled with statements and submissions in the passive voice. Guard against this to make your writing livelier and engaging.

d. Put statements in positive form.

79. Where possible, make a positive assertion instead of framing a sentence in the negative:

She was not very polite.

She was rude.

He would not answer her.

He ignored her.

80. The above examples show the weakness inherent in framing a sentence in the negative. A reader is often dissatisfied with being told only what is not. Tell the reader what is.
81. Placing negative and positive in opposition makes for a stronger structure:

Ask not what your country can do for you – ask what you can do for your country.

82. Words such as *would, could, should, may, might* and *can* connote uncertainty. Use such words only when you wish to convey uncertainty. Avoid such words if you want your writing to convey certainty or authority.

e. Use definite, specific, concrete language.

83. Use words that are definite not vague, specific not general, and concrete not abstract.

The weather was terrible.

It rained all day.

The prata was not so nice.

The prata was cold and rubbery.

84. Deal in specific details and particulars that matter. They paint a picture.
85. Consider the following passage from Strunk on writing with vigour:

“To show what happens when strong writing is deprived of its vigor, Goerge Orwell once took a passage from the Bible and drained it of its blood. On the left, below, is Orwell’s translation; on the right, the verse from Ecclesiastes (King James Version).

Objective consideration of

I returned, and saw under the

*contemporary phenomena
compels the conclusion that
success or failure in competitive
activities exhibits no
tendency to be commensurate
with innate capacity, but that a
considerable element of the
unpredictable must inevitably
be taken into account.”*

*the sun, that the race is not to
the swift, nor the battle to the
strong, neither yet bread to
the wise, nor yet riches to men
of understanding, nor yet
favor to men of skill; but time
and chance happeneth to
them all.*

f. Omit needless words.

86. The following wise words from Strunk bears repeating:

“Vigorous writing is concise. A sentence should contain no unnecessary words, a paragraph no unnecessary sentences, for the same reason that a drawing should have no unnecessary lines and a machine no unnecessary parts. This requires not that the writer make all sentences short, or avoid all detail and treat subjects only in outline, but that every word tell.”

g. In summaries, keep to one tense.

87. In summarising a text, keep to one tense. Shifting the tense will lead to uncertainty.
88. Use the present tense unless it seems more natural to use the past tense.

Keep the emphatic words of a sentence at the end.

89. End a sentence strong. Keep the words that you wish to make prominent at the end of the sentence where possible.

90. You could also, where appropriate, start a sentence with such words.
91. The principles of primacy⁷ and recency⁸ in oral advocacy also apply to written advocacy.

F. MATTERS OF STYLE

92. It would be a truism to say that everyone has their own style. No two individuals will write and express themselves in an identical manner. There are, however, certain principles, which if followed, will allow you to engage in clear and persuasive writing with a style that best represents you.
93. Consider and adopt the following principles:
- a. State facts and not opinion when you intend to describe facts. Be mindful that adverbs often contain an opinion;
 - b. When writing, place yourself in the background and let the narrative be the focal point;
 - c. Write in a way that comes naturally to you but is neither flippant, breezy or inappropriate for the intended audience;
 - d. Do not overstate or exaggerate;
 - e. Do not repeat or overwrite. Make the point and move on;
 - f. Write with nouns and verbs. Avoid adverbs;
 - g. Avoid using qualifiers. They weaken the confidence and strength of writing;

⁷ The Rule of Primacy dictates that an audience tends to remember what it hears first.

⁸ The Rule of Recency dictates that an audience tends to remember what it hears last.

- h. Avoid fancy words when simple ones will do;
- i. Use similes and metaphors sparingly and only when necessary to liven up your writing or to make a point clear; and
- j. Revise and rewrite. Leave a little time between your writing and revision. You will be surprised at how unclear or clunky a passage you wrote will appear to you after the passage of a little time.

G. CONCLUSION

- 94. Good writing is an art that is acquired over a lifetime of practice and application. The learning only stops when you cease to breathe.
 - 95. Consider yourself equipped now with the basics to start on your lifelong journey of good writing.
 - 96. Get out there and express yourself with commas and semicolons, directness and action, simplicity and style and dare I hope, a touch of élan.
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