



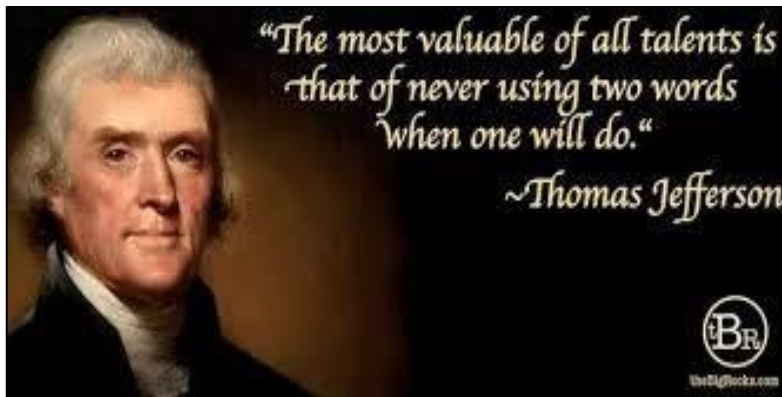
## MARTINE LAW TRAINING UPDATE



### JUDICIAL & LEGAL WRITING

#### The Number One Rule for Improvement = CUTTING

There are many books and articles dedicated to the improvement of legal writing. Unfortunately, in many of these materials, you need an English degree to understand anything past the first paragraph. There is, however, a simple way to dramatically improve any style of legal writing that has nothing to do with dangling participles or misuse of pronouns, etc. Cutting unnecessary words is the key to making your writing better.



Cutting unnecessary words is the key to improving your legal writing. Cutting does not require any knowledge of grammar or writing style.

#### COMMON COMPLAINT BY JUDGES:

One of the most common complaints raised by judges regarding written submissions filed by attorneys is that they are VERBOSE. VERBOSITY is defined as “speech or writing which is deemed to use an excess of words.” The only way to avoid VERBOSITY is by CUTTING out unnecessary words. Of course, the opposite of verbosity is [succinctness](#), which is the key component to [plain language](#). Plain language strives to be easy to read, understand, and use. The secret to achieving succinctness is not to shorten original material by cutting out relevant information, but rather by omitting (cutting) redundant material and unnecessary words.

**TWO EXAMPLES – POOR vs. BETTER LEGAL WRITING**

**Poor Legal Writing - Verbose:** The court in *Chester v. Morris*, a case involving a similar traffic accident, held that a person riding a bicycle must adhere to the same standards as a person driving a car, although it limited its holding to the facts of that case, which included the fact that the bicyclist was intoxicated. [57 words – 25% more words used than below].

**Better Legal Writing – Succinct:** *Chester v. Morris* involved a similar traffic accident. The court held that a bicyclist must adhere to the same standards as a person driving a car. The opinion is limited to situations in which the bicyclist is intoxicated. [42 words – 25% fewer words used than above].

**THREE SIMPLE STEPS TO ACHIEVE SUCCINCTNESS AND AVOID VERBOSITY**

**I. THE SENTENCE:** You need to write short, crisp sentences (4 rules):

1. Use more periods, fewer commas;
2. Cut gratuitous descriptive language;
3. Use a simple sentence structure;
4. Tighten language at every opportunity. What do I mean by tightening your language?
  - a) Do not use multiple words when one will do (instead of “filed a motion” write “moved”);
  - b) Question prepositional phrases (instead of “the docket of the court” write “the court’s docket”).

Note: You do not need to know what a “prepositional phrase” is to apply this rule. Most of this is common sense. What sounds better?

- c) Use Active (direct) Voice - Avoid passive (indirect) voice. This rule is very important. Active voice is usually preferred in legal writing. Active voice is direct and to the point. Passive voice is indirect and usually verbose. Telling the difference is mostly common sense. For example,

1. “Steve loves Amy” (active voice) vs “Steve is loved by Amy” (passive voice);  
or
2. “The Bar suspended the lawyer” (active voice) vs “The lawyer was suspended by the Bar” (passive voice).

**Note:** Microsoft Word includes a “readability” report that will provide you with a score for reading ease, grade level, and an evaluation of the use of “passive voice” throughout your document. (See File, Options, Proofing, click on “Show Readability Statistics.”) The report appears after you run spell-check.

## **II. THE PARAGRAPH:** Keep each paragraph short & organized around a single point:

1. Following that one rule makes the writing visually more accessible. As with an appetizer or entrée, if your writing does not look inviting, the consumer is less likely to eat it (or read it, as the case may be).
2. Short paragraphs give the reader a chance to pause and digest. Remember that feeling of dread when you turn a page or open an email and all you see is one LONG paragraph that seemingly goes on forever with no pauses or breaks.
3. Short and organized paragraphs make content clearer to understand.

## **III. FINAL STEP:** Once you think you are finished, look at the entire submission. Read it again, drop your ego, and delete more of your words:

1. Include only the necessary and material facts – delete any unnecessary words;
2. Do not over-chronicle; cut unimportant dates;
3. Minimize the procedural history, include only what is necessary.

Less really is more when it comes to legal writing. Like carving a sculpture from a slab of marble, you need to cut away all the unnecessary bits to reveal the exquisite legal arguments hidden inside.

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