

# Minnesota Lawyer

## Solo Practice: Means of expression

By: Dan Heilman, August 28, 2014

Depending on your practice area, you probably spend a lot of your day writing — writing briefs, contracts, memoranda, client correspondence.

In fact, you probably spend so much time writing that you seldom have time to ask yourself an important question: Is this stuff any good?

As a solo, you might think that you don't have the necessary support group nearby to look over the things you write. But there are ways to not only make your writing better, but to develop ways to put a crucial second pair of eyes on it.

"Everyone struggles with the same issues," said Nadia Wood, a St. Paul litigator and legal writer. "Organization, structure, logical flow and brevity."

Writing and coaching teachers interviewed for this story underscored the same point again and again: Keep it simple. Nobody — especially not judges — wants to read an overstuffed, repetitive, jargon-laden brief.

"Always think about your reader," said Matthew Salzwedel, in-house counsel at HomeServices of America and a legal writing editor. "Have empathy for the reader's needs."

"A lot of lawyers write for themselves," continued Salzwedel. "They have phrases and idiosyncrasies that they like to trot out. But the reader is looking for a reason to tune out. If you write a poor introduction, something that just summarizes your caption, you've lost your reader."

"Get to the heart of what you want to say," agrees Karen R. Cole, owner of Premium Legal Writing in St. Paul. "The judge doesn't have time to wade through a lot of redundant material that you thought sounded good."

### **Think ahead**

Simplicity also means sticking to a tried-and-true format. Shaun Redford, a litigator at Olson & Lucas and an adjunct legal writing instructor at the University of Minnesota Law School, instructs his 1L students to obey the "IRAC" formula when writing: present the issue, rule, analysis and conclusion, in that order.

"Legal writing comes in two categories," Redford said. "Predictive writing, such as writing a memo to a client, trying to predict outcome of legal issue; and persuasive writing, such as a brief

to be submitted to a court. In both, you're using that IRAC format, and that's the kind of format that judges' opinions tend to follow."

Part of hewing to simplicity is making sure you're thinking clearly before you write. "A lot of lawyers start writing and figure the thinking is going to come with the writing," said Salzwedel. "Thinking about what you want to say will save you a lot of time in the rewriting and editing process."

Another element of keeping it simple is avoiding jargon and overstuffed language, including unnecessary adverbs and adjectives. Go easy on the to wits and theretos. Don't say at this point in time when you mean now. Don't say walked swiftly when strode works just as well.

### **Another set of eyes**

When looking for examples of how to write that perfect brief, look to the masters: Examine solicitor general briefs to the U.S. Supreme Court. Study the work of a contract lawyer you admire.

Also keep in mind, the best editor in the world can be time. See if there's any way you can let your document marinate overnight before you have to finish.

"Your mind is always working, and you'll see things the next day you're not seeing now," said Salzwedel. "If you don't have time, read it out loud — even a contract."

It might seem that as a solo, you're at a disadvantage when it comes to your writing because you don't have colleagues around to eyeball your work. But being solo does not preclude a team of proofreaders.

"You can create your own network," said Cole. "The solo/small firm listserv is great for coordinating things like that. It's the equivalent of an office water cooler."

"It's easy to fall in love with what you've written," said Redford. "A second set eyes can catch logical flaws as well as mechanical flaws."

According to Wood, working solo can even be an advantage because if nothing else, it will help keep you from adding bad writing habits.

"Solos aren't making bad writing decisions because they're emulating a bad brief that a senior partner wrote 40 years ago — they don't keep recycling the same template," she said. "If you're a solo, you can figure out what really works for you and for your clients. You don't have to do things by committee and follow old rules."