



## The Elements of Legal Style

*Bryan A. Garner*

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## **The Elements of Legal Style** Bryan A. Garner

With expanded coverage in this new edition, *The Elements of Legal Style* features additional sections, many more examples, and a thoroughly researched appendix that contains 80 major statements on prose style--what it is and how to attain it.

Inspired by Strunk and White's *The Elements of Style*, this book clearly (often wittily) explains the full range of what legal writers need to know: mechanics, word choice, structure, and rhetoric, as well as all the special conventions that legal writers should follow in using headings, defined terms, quotations, and many other devices. Garner also provides abundant examples from the best legal writers of yesterday and today, including Oliver Wendell Holmes, Clarence Darrow, Frank Easterbrook, and Antonin Scalia.

If you want to make your writing clearer, more precise, more persuasive, and above all more stylish, *The Elements of Legal Style* offers the surest--and the most enjoyable--means to that end.

## **The Elements of Legal Style Details**

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### **Migs Sagayadan says**

A must-read for all lawyers and lawyers-to-be!

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### **sologdin says**

douche contribution, preferring the "attic" over the "asiatic" style, i.e., the simple over the complex, i.e., the monosyllabic and monolingual over the smart, i.e., least common denominator bullshit, suitable for insurance defense attorneys and certain court personnel.

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### **Frank says**

A must-have for any legal writer. An excellent addition to the author's Dictionary of Legal Usage (former called Dictionary of Modern Legal Usage).

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### **Vincent says**

Great reference book to have with you if you are building your legal intelligence on writing.

"The fundamental thing...is not technique, useful though that may be; if a writer's personality repels, it will not avail him to eschew split infinitives, to master the difference between 'that' and 'which,' to have Fowler's "Modern English Usage" by heart. Soul is more than syntax. If your readers dislike you, they will dislike what you say. Indeed, such is human nature [that], unless they like you, they will mostly deny you even justice." F.L. Lucas, Style 49 (1955)

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### **Toe says**

Easy reading follows difficult writing. Good writing takes talent and time—but mostly time. It is a learned skill that everyone can improve, if not master, with effort. Bryan Garner developed his skill over his lifetime. He writes well. The aim of his book is to help lawyers do the same.

Garner based his "The Elements of Legal Style" on Strunk and White's "The Elements of Style." The latter is for the general writer, which may include journalists, novelists, or screenwriters; the former is for the attorney writing to inform and persuade. The guidelines for all good writing should be known, generally followed, but ignored when warranted. Garner's book provides guidelines and rules for style. It includes advice on word choice, punctuation, rhetorical devices, and more.

Writing is an art. A writer may employ an unlimited combination of words to express his ideas. Thus,

perfection is unattainable. But we experience poor writing like we do headaches: an unpleasantness to be avoided. Self-respecting writers should never inflict careless writing on readers. Do not steal their time by failing to put in your own.

Effective legal communication requires energy from writer and reader in an inverse relationship. The energy required of the reader increases when writers succumb to laziness: haphazard, undeveloped arguments; superfluous words; and ambiguities. Your aim as an attorney should be to minimize the effort required of the judge deciding your case (or the partner reading your memo).

The single best way to improve legal writing is to shorten it. Use fewer words. Use simpler words. This does not necessarily mean saying less. But eliminate anything that does not further your argument. Cut your first draft in half. Then, the hard part: reduce it by another 10-25%. Readers have limited energy. Giving them less material to sift through means they are more likely to apply that energy to your arguments in a positive way. Never distract or bore your reader. If you were a judge, would you rather read a 50 page brief or a 200 page brief? Even the most dedicated decider will fall off after enough pages. The only way to use fewer words is to mercilessly remove every possible paragraph, sentence, word, and syllable. (E.g., Write “use” rather than “utilize.” They mean the exact same thing, but the former is two syllables shorter.) Following this one guideline will lead to more active voice, shorter sentences, fewer unnecessary adverbs and adjectives, and prioritized arguments. Don’t hide the ball. Avoid repetition. Get to the point. Less is more.

“The Elements of Legal Style” is a useful reference book to keep on the shelf when writing. It will quell grammatical, syntactical, and definitional doubts. But it was also surprisingly interesting when read from cover-to-cover, as I did. It is filled with valuable information and reminders. Here are some:

- Legal writing is about brevity and clarity. This is not high school where you’re trying to stretch an essay into ten pages to be done with the assignment. Do not use a thesaurus to find the longer, unfamiliar word; use the shorter, more common word whenever possible.
- Spell out numbers smaller than 11. Though there are six exceptions to this rule.
- Garner recommends the deep issue. Explain the issue in the memo or brief in 75 words or less. Use multiple sentences. Interweave key facts in chronological order. Last sentence is a question that flows from what preceded it. Follow the deep issue with an answer and high-level summary of reasoning. Use a deep issue for each unique issue in a brief or memo.
- Lie, lay, lain = to recline, be situated. It is intransitive and doesn’t take a direct object. E.g., He lies on his bed. Lay, laid, laid = to put down, arrange. It is transitive and demands a direct object. E.g., He laid his hand on her shoulder.
- Avoid jargon, and use plain language. E.g., Avoid “at the present time.” Say “now.” Avoid “sufficient number of.” Say “enough.”
- With very few exceptions avoid Latin and French phrases. Just use the English alternatives. Avoid “ab initio.” Say “from the beginning.” Avoid “inter alia.” Say “among others.” It will clarify your thinking.
- Put the action into verbs, not nouns. Avoid “enter into a settlement agreement.” Say “settle.” Avoid “take into consideration.” Say “consider.” Avoid “be in agreement.” Say “agree.”
- Write as you would speak. Don’t stretch. Be yourself and your voice will shine through in a refreshing manner.

There was one dry part of the book: a 50-page middle section of misused and confused words. It felt tedious. But it helped. How many misconceptions of mine did it reveal? A lot, unfortunately. How do I fix them? One at a time.

Memorable quotes:

“I cannot say that I know much about the law, having been far more interested in justice.” – William Temple (former Archbishop of Canterbury)

“[O]ur dead brother seemed to me too modest to be ambitious for reputation, and to regard his place mainly as an opportunity and a duty. He would have been most pleased, too, I dare say, to slip from it and from life, when his hour came without remark. He would have preferred not to be celebrated with guns and bells and pealing requiems, the flutter of flags and the gleam of steel in the streets, and all the pomp which properly is spent on those who have held power in their right hand.” – Oliver Wendell Holmes (paying tribute to William Allen in 1891)

“The first rule . . . for a good style is that the author should have something to say . . .” – Arthur Schopenhauer, “On Style” (1851)

“Have something to say and say it as clearly as you can. That is the only secret to style.” – Matthew Arnold (1822-88)

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### **James says**

A pleasant and informative read. I agree with Garner that legal writing needs to shed a lot of its unnecessary pomp and self-importance. However, he strikes me as a tad overzealous in his advocacy against certain (seemingly innocuous) words and phrases.

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