

Effective Lawyering

Effective Lawyering

A Checklist Approach to
Legal Writing and Oral Argument

SECOND EDITION

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Introduction

This book takes a unique approach to legal writing and oral advocacy. Many excellent legal writing books exhaustively detail how to write effectively. Those books—many of which are several hundred pages long, and contain numerous examples and exercises—meticulously explain the dos and don'ts of effective advocacy. This is not one of those books. This book assumes the reader has learned or is learning the basics of legal writing, and at most needs only reminding what they are. It also assumes that most practitioners (and, for that matter, law students) have neither the time, nor the inclination, to read a lengthy discussion of all the subtleties of legal method. Busy lawyers and law students need a book that gets to the point quickly—a book that will be useful even if they only have time to skim it.

For these reasons, we have designed this book to be a concise, easy-to-use reference—not a book to be read cover to cover. We intend it to provide concrete advice, and to serve as a day-to-day reference. Because many people find it difficult to improve their legal writing, the book has adopted a methodical approach. In our experience, practitioners and students alike can improve their advocacy by following carefully crafted checklists. Checklists force writers to focus on specific problems and help them improve incrementally and systematically. The checklists in this book have evolved from our experiences as former litigators and professors of legal writing. Since the publication of the first edition, checklists have become increasingly common in a whole range of fields, including prominently in healthcare and aviation. Doctors, nurses, pilots, scientists, investors, and many other highly skilled and highly trained professionals now regularly use checklists to improve safety, productivity, and effectiveness—we think lawyers should too.

So who should use this book? This book is suited for busy attorneys and law students of all stripes. The book concisely describes useful, yet often neglected, writing techniques. It has pithy discussions of: (1) ways to avoid recurring, yet frequently overlooked, writing problems; (2) sensible approaches to writing common legal documents; and (3) methods for preparing an oral argument. In addition, it provides the reader with a series of checklists to turn to when undertaking a writing project or preparing for oral argument. In sum, this book is not for the novice who requires a comprehensive guide, although the book can be used to supplement more exhaustive texts. Nor is it for the sophisticated writing expert, looking for nuanced discussions about topics not commonly covered in legal writing books. But it is for practitioners and students who want to be refreshed on the fundamentals of effective lawyering. After publication of the first edition, we found that the book was used not only by practitioners and legal writing faculty in law schools, but also by a range of clinicians, by students in moot court advocacy programs, by faculty teaching upper-division seminars, and by students in pre-law societies and in undergraduate pre-law courses.