The Science Behind the Art of Legal Writing
The Science Behind the Art of Legal Writing

SECOND EDITION

Catherine J. Cameron
Lance N. Long

CAROLINA ACADEMIC PRESS
Durham, North Carolina
To Brett and Amy
# Contents

Acknowledgments xi
Introduction 3

## Part I: Science and Writing

Chapter 1 · Why Apply Science to Writing? 9
Chapter 2 · Some Caveats on Science Applied to Writing 13

## Part II: Before You Start Writing

Chapter 3 · Introduction to Legal Documents 21
  - Client Communications, Legal Memos, and Other Inter-Office Communication Documents 22
  - Communications with Opposing Parties, Briefs, and Other Litigation Documents 23
  - Contracts, Leases, Wills, and Other Transactional Documents 25
  - Law Reviews, Treatises, and Other Academic Documents 25
Chapter 4 · A Word about Legal Research and Outlining 27
  - Outline Exercise 31
Chapter 5 · Deductive and Inductive Reasoning 33
  - Deductive (Syllogistic) Reasoning 34
  - Inductive Reasoning 36
    - Sidebar: Rule Application versus Factual Comparisons 38
  - Deductive and Inductive Reasoning Exercise 39
Chapter 6 · Which Type of Legal Reasoning Works Best? 41
PART III: CONCEPTS FOR WRITING ALL LEGAL DOCUMENTS

Chapter 7 · Does Format Matter? 49
Chapter 8 · Does Correct Grammar Matter? 55
Chapter 9 · Why Is Passive Voice So Hated? 59
Chapter 10 · Readability and Plain Language 63
Chapter 11 · Narrative 73
Chapter 12 · Macro-Organization of Legal Analysis 77
Chapter 13 · Introductions, Transitions, and Conclusions 83
  Introductions 83
  Transitions 85
  Conclusions 87
  Introductions, Transitions, and Conclusions Exercise 89
Chapter 14 · Micro-Organization of Legal Analysis 91
  Micro-Organization Exercise 95
Chapter 15 · What Legal Readers Read and What They Don’t Read 97
Chapter 16 · Citation—Does Anybody Really Care? 101
  Citation Exercise 104

PART IV: CONCEPTS FOR WRITING PERSUASIVE DOCUMENTS

Chapter 17 · How Do You Persuade in Legal Writing? 109
  Logos 112
  Pathos 113
  Ethos 115
Chapter 18 · Do Intensifiers Really Intensify? 117
Chapter 19 · Is Less More? 127
  Concise Writing Exercise 130

PART V: IMPROVING YOUR LEGAL WRITING

Chapter 20 · Learning Legal Writing 133
CONTENTS

PART VI: SCIENCE AND THE ETHICS OF LEGAL WRITING

Chapter 21 · Are Bad Writers Bad Lawyers? 139

PART VII: SCIENCE AND LEGAL WRITING TOP TEN

Chapter 22 · The Top Ten Takeaways from The Science Behind the Art of Legal Writing 145

Index 149
Acknowledgments

We thank our wonderful research assistants Adam LaBonte, Chantel Green, Elise Pautler, Giovanni Giarratana, Miranda Ramedia, William Moreau and the many other research assistants who have helped us in our previous studies cited in this book. We also thank our colleagues who have worked with us on previous articles and studies discussed in this book, particularly William Christensen. We could (would?) not have written this book without the generous support of Stetson University College of Law, and we thank the administration for its support of our scholarship and this book. Finally, we thank Amy Oaks Long for her editing and proofreading over the entire course of writing this book and Antonio Gidi who offered us proofreading assistance as well.