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SHOW, DON’T TELL:
LEGAL WRITING FOR THE REAL WORLD

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Introduction

Show, Don’t Tell: Legal Writing for the Real World was written for law students, lawyers, law firms, law clerks, and judges who want to dramatically improve their legal writing skills in the “real world” of law practice.

As former law students, and now lawyers and law professors, the authors are keenly aware of the challenges law students face when entering the practice of law. A significant problem is that law schools do not spend enough time teaching students how to write well. The practice of law, however, is “a profession of words”¹ and requires law school graduates to be proficient writers.

Unfortunately, recent graduates often endure unnecessary stress, uncertainty, and panic because they are not equipped to perform even the most basic lawyering tasks. As others have observed:

Ask judges and senior lawyers to identify the most disturbing aspect about younger lawyers, and they will reply in one voice, “They can’t write.”²

And it’s not just that law students can’t adequately draft legal documents — they often can’t write well at all. Perhaps the most scathing indictment comes from United States Supreme Court Justice Antonin Scalia, who recently offered this opinion:

[I]t became clear to me, as I think it must become clear to anyone who is burdened with the job of teaching legal writing, that what these students lacked was not the skill of legal writing, but the skill of writing at all * * * [T]he prerequisites for self-improvement in writing . . . are two things. Number one, the realization — and it occurred to my students as an astounding revelation — that there is an immense difference between writing and good writing. And two, that it takes time and sweat to convert the former into the latter.”³

Show, Don’t Tell addresses a pervasive and well-documented complaint about the quality of the writing of both recent graduates and seasoned lawyers. This book was written for law students throughout the country who want to know “how things work in the real world” and lawyers who want a straightforward, no-nonsense resource to improve their writing. We hope that everyone will benefit from the wealth of practical information in this book.

As the title suggests, Show, Don’t Tell is designed to help all members of the legal profession learn to effectively draft the most common litigation documents. Far too many books offer tips and advice about good writing, but don’t actually show the reader specific examples of good writing or show the reader why examples offered are effective. The authors have read many books on legal writing, but once we learned the basics of legal

¹ David Mellinkoff, The Language of the Law at vii (Boston, 1963).
Introduction

writing, we didn’t learn anything in those books. We were exposed to the best theories, but never given practical, how-to tips to turn book knowledge into real-world skills. Most people can relate — you read a legal writing book or leave a lecture thinking you now know how to write. Then, when you sit down to write, you find yourself staring at a blank computer screen, feeling lost. We wrote Show, Don’t Tell so that you can see real progress in your writing and feel confident in your ability to draft documents you will most frequently draft in litigation. After all, you can learn everything about how to fly a plane, but until you get into the cockpit, you’re not a pilot. Learning is good, but doing is essential.

Show, Don’t Tell will not only benefit law students, but will assist law schools that are transitioning to an experiential-based learning model and law firms that seek a concise, economic, and comprehensive guide to teach young lawyers litigation drafting.

Our book has a unique structure. Beginning with Chapter 1, Show, Don’t Tell immerses the reader in an interesting, hotly contested hypothetical lawsuit. The following chapters take the reader through each step of the litigation process, from the initial memorandum to the appellate brief. Each chapter focuses on a specific legal document — such as a complaint or motion for summary judgment — and includes examples drafted and edited by each of the authors, who act as opposing counsel. For example, Chapter 2 discusses the purpose and scope of a legal memorandum, including the particular writing skills that ensure a high-quality memorandum. That chapter includes two full length memorandums by the authors and concludes by discussing the reasons these example memos are effective.

The authors hope that Show, Don’t Tell reduces the fear that many new attorneys experience, aids the legal academy in improving the quality of legal writing instruction, and helps seasoned members of the profession improve their legal writing skills.

Adam Lamparello and Megan E. Boyd
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