

Persuading with Style

Here we introduce a series of techniques for persuasive legal writing. We begin with some basic techniques to create emphasis, move to some techniques we think are not used enough, and then introduce some classical rhetoric. Finally, we conclude by reporting on some recent research that can help us understand what readers, especially judges, find persuasive. A theme is that no single technique is a magic “persuasion device”; rather, we think all legal writers who seek to persuade should be familiar with a variety of persuasive-writing techniques.

Basic persuasion techniques: emphasis

How can legal writers create emphasis in the main text of an analytical document like a motion or brief?

As a first principle, DON’T USE ALL-CAPS TEXT FOR EMPHASIS in a brief. It doesn’t look professional, and it comes across to many readers as puerile. And don’t use exclamation marks! Are exclamation marks ever appropriate in legal writing? We say no!

Typefaces

Typefaces emphasize. **Boldface**, *italics*, and ***bold italics*** do draw the reader’s attention. But they almost work too well. They **stand out** from the main text so strongly that they become **distracting**. When readers read a ***bold*** or *italics* word, they mentally **increase** the volume of the voice in their heads. Readers literally **emphasize** the emphasized text. That becomes tiresome. **Tiresome emphasis irritates**, and the intended emphasis backfires, annoying the reader. *See what we mean?*

So use typefaces for emphasis sparingly.

Brevity

Brevity emphasizes. Did you notice that in the midst of a series of normal-length paragraphs, the previous paragraph stands out? It’s short—a single sentence. The contrast of the single-sentence paragraph with the typical-length paragraphs creates emphasis. Notice also the first sentence in this paragraph: two words, subject and verb, direct and forceful.

By the way, there’s no “rule” against a single-sentence paragraph. The “rule” is a guideline that, because most paragraphs should introduce and develop a topic, a single sentence usually won’t work. But you can use the single-sentence paragraph, sparingly, for emphasis.

Brevity can be overdone. Brevity becomes choppy when you write lots of short sentences. Brevity impedes paragraph development when you write several single-

sentence paragraphs. (By the way, in this paragraph, we tried to use two more techniques for emphasis: beginnings and repetition.)

Repetition—particularly at the beginning

Repetition emphasizes. A word or phrase that's repeated in your text will be emphasized in the reader's mind. In particular, words and phrases that appear at the beginnings of paragraphs and sentences tend to draw emphasis. More specifically, anyone or anything that appears as the subject of several sentences will be emphasized in readers' minds—a good reason to keep your subjects close to the beginnings of sentences. As with any technique, of course, repeating key words can be overdone. But repetition means more than repeating key words; it means repeating structure, and that's called parallelism.

Parallelism

Parallelism emphasizes. Consider four types:

1. A simple list or series:
 - You can emphasize text with bold, italics, or bold italics.
2. A complex series with identical grammatical structures:
 - You can create emphasis by repetition, produce clarity with simple words, and enhance persuasion through well-defined organization.
3. Large-scale parallel structure:
 - You can begin a series of paragraphs or subsections with the same structure, such as the way I began several subsections here with this structure: ____ *emphasizes*.
4. A numbered list:
 - You can use a numbered list like the one you just read.

Endings

Just as the beginning of a sentence is a place of emphasis, each sentence has another place of emphasis—the end. The last word of a sentence closes out a complete thought for the reader. It is therefore a good place to put a word that's important.

Dashes

Dashes emphasize. If you have a concept you want to emphasize, consider setting it off with a long dash—like this. Or set it off with a pair of dashes—to create emphasis—like this. But don't overdo it—like this paragraph.

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