

Write your brief like a country song The universal rules of communication

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Write Your Brief Like a Country Song

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I. We've got a lot in common, really.

At first glance a legal brief and a country song don't seem to have much in common. We may complain about the limits on the length of a brief, the Fifth Circuit's 13,000 word limit is 130 times that of a typical modern country song, which will probably have no more than 100 words. Briefs deal with often complex and often esoteric legal issues, while country songs are about the commonplace activities of daily life. Finally, briefs, despite the name, do not need to be brief because they are written for a reader who will read it to the end out of a sense of duty if nothing else. Songs are written for an audience that is probably driving or sitting in a noisy bar. A short attention span is presumed.

Despite these obvious differences, a brief and a country song have a lot in common. First, both are written for strangers. In the case of most appellate briefs you will have three judges you probably know only from reading opinions on whatever random selection of cases they individually heard in the past. You may know your district judges a little better, but except in relatively rural areas you aren't likely to be personal acquaintances. A song is written for the anonymous radio or Spotify listener.

Second, both are written in a highly structured format. Song formats are a little more flexible than brief formats, but in the commercial world at least it isn't by much. Country songs consist almost universally of verses, choruses and a single bridge. Songs and briefs communicate within the confines of a formal structure.

Communicate is the key word in that last sentence, because communication is what both songs and briefs are all about. We usually think of briefs in terms of persuasion, but it's pretty obvious that you can't persuade if you can't communicate. More important, persuasion really isn't something different from communication. Good songs have something to say that the songwriter believes is important and about which he or she wants you to agree. We communicate, whether it is in a song or a brief or a conversation in order to get understanding and agreement. We are trying move someone from wherever they are to wherever you want them

to be. Communication is universal, and the same rules of good communication in a song are bound to have some application to a brief.

I took up songwriting as a hobby a number of years ago. I didn't have trouble with the formal elements of song writing – lawyers are trained to write within fixed structures whether it is a pleading, brief or even classic firm memorandum of law. I did have trouble getting past my assumptions about what constituted good writing and, most important, my assumption that whatever I wrote would be read with an open mind and heart. And as I went further into understanding what makes a good country song I realized there were also important lessons about what makes a good brief. Those lessons are we'll talk about today.

II. Make 'em want to listen.

One of the first things I was told at a songwriting conference was that as a songwriter you have only about 10 seconds to make the listener continue listening. That's how long it takes for someone to decide to change a radio station or hit the forward button on their phone. That's how long it takes for someone in a bar to decide the conversation they were having is more interesting than the song the band is playing.

To do this doesn't mean proclaiming the song is important or making a dramatic statement. It means drawing the listener in so they decide for themselves they want to hear the next line, and the next after that. Let's look at a couple of first lines from classic songs by Texas songwriters to see how this works:

As an aside, one of the things I noticed at songwriter conferences is that everybody refers to famous people they've never met by their first names. I'm going to do the same, but don't assume I have even a passing acquaintance with anyone whose name you see.

We'll start with Guy Clark's "Dublin Blues."

"I wish I was in Austin, in a chili-parlor bar drinking mad-dog margaritas and not wondering where you are."

And then take a look at Townes Van Zandt's classic "Pancho and Lefty."

"Pancho was a bandit boys, his horse as fast as polished steel, he wore his gun outside his pants for all the honest world to see.

There is a lot packed into these lines, and most important, there something that makes you want to know more. Where is this guy who wishes he was in Austin, why is he wondering where someone – presumably a girl – is, and why does it seem like a margarita would be helpful. We don't consciously ask these questions, but we know there's a story we are interested in.

The Townes Van Zandt song is not about the singer, but about somebody named Pancho, a bandit, and if that doesn't sound like a story we're interested in, the line "he wore his gun outside his pants" is bound to alert us that we at least have an interesting story-teller to listen to.

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First appeared as part of the conference materials for the 2020 STUDIO WEBCAST Write Your Brief Like a Country Song: The Universal Rules of Effective Communication session

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