**David Neligan – Class of 2013**

All lawyers write, but not all lawyers write well. What a shame, because clear, concise and persuasive writing is a lawyer’s most important tool. Whether explaining, advising, advocating or demanding, every lawyer must be prolific with his pen and graceful with her grammar.

The following lessons have been compiled over the course of thirteen grueling weeks of study and reflection (and reflection on those reflections) in order to make you a better legal writer. They are in no particular order; you get to decide what works for you.

**1. Think ahead or you’re dead**



Think you can just start writing and the ideas will come to you? Think again. Good writing involves hours of pre-writing. Some established tools you can use include mind maps, free-writing, and outlining, but sometimes staring at the wall for 30 minutes works just as well for getting your brain going.

Thinking ahead allows you to unleash the creativity that got you into law school in the first place. Use those issue spotting skills you learned in first-year Torts and add your ideas to a mind map or a white board. This will allow you to recognize themes and organize your ideas into a cohesive argument. Use colours or shapes to help sear these ideas into your brain.

Once you have a good idea of the issues and the argument, create an outline. I sometimes like to use PowerPoint to make individual slides for each idea I want to explore in my writing. This allows me to easily move the ideas around to create the most logical and persuasive order for the final product.

If you take the time to pre-write, the hard work is already done. Writing that memo should be a breeze.

**2. Chart a course to success**



Are you relying on multiple cases to write that super-important memo for that senior partner? Try taking some time to create a chart of those cases that includes all the important information you think you might need (date, court, facts, rule, applicability, even pertinent quotations).

Oh, but you’re busy and don’t have time to make pretty charts? What if I told you that this chart will actually save you time? By keeping all of the important information in one easy-to-reference document, you don’t have to waste time flipping between stacks of cases looking for that one crucial statement that you are pretty sure you highlighted and could have sworn you tabbed. And, you can re-use that chart for further memos, update them when new decisions are released, and share them with your fellow students working on similar issues.

Mind. Blown.

**3. Get to the point already!**



Lawyers are busy. Judges are busy. You’re busy. So why do you think anybody has the time to read your lengthy dissertation on the history of getting out of traffic tickets? Be aware of the time demands of your reader and give them an answer. Now!

A good technique is to lead from the top. Lead from the top to tell your reader what to expect and what to look for in the rest of the paper. Lead from the top of the paper, at the beginning of each section, even in the first line of each paragraph. This way, the time-crunched reader can glean the important information at a glance and choose where to read more in-depth.

Remember, you’re not writing a mystery novel. Tell your reader upfront that the butler did it. No spoiler alert needed.

**4. Don’t waste time, just spit it out**



Some writers like to use words that do little more than clutter up the page. Phrases like “it is important to note” and “it is evident that” add little or no substance to your sentence. So be nice to your reader and get rid of them. A letter or memo without these throat-clearing expressions will be clearer, more concise and more confident. Your reader will thank you.

**5. Actions speak louder than (boring) words**



Lawyers have a terrible habit of turning dynamic, easy action words into staid, cumbersome nouns. Perhaps this is because they think they sound impressive and formal, but really they are just boring.

The police undertook an investigation of the mayor for smoking crack? Yawn. The police investigated the mayor for smoking crack. That’s better!

The mayor eventually made an admission that he had smoked crack? Snooze. The mayor eventually admitted he had smoked crack! Wow.

**6. Be confident…**



Confidence is sexy. A reader will be able to glean your confidence based on your tone and your choice of words. Hedging words and phrases like “apparently”, “it appears that”, and “we believe that” all suggest that you don’t really believe your own argument. So ditch them in favour of a more straightforward, courageous approach.

**7. …but don’t be a bully**



In persuasive writing, never confuse confidence with aggression. Don’t antagonize the other side, and don’t engage in mudslinging or character assassination. If your legal arguments are strong then you shouldn’t need to disparage those of your opponent; they should stand on their own. Always be gracious and collegial in your battle of words.

**8. You never know who could be reading your writing**



So you’re about to write an angry letter to that jerk of a lawyer who’s been antagonizing you and your client. He poked the bear and he deserves that brilliant literary take-down you’ve so carefully crafted. But think for a minute. Could anybody else eventually read that letter? Is there a chance that it gets included in a case file and filed in court for a judge to read? Could that jerk of a lawyer post in on his blog for it to go viral?

The fact is that you never really know where that letter may end up and who may eventually read it. Once it’s left your desk you no longer have control over it, which means you no longer have control over your reputation. Always write with the thought that a judge might read your words. Or worse: your mother.

**9. Show, don’t tell**



Persuasive writing often comes down to the facts. More specifically, it comes down to how you choose to tell the facts. A useful tip for framing the facts in your client’s favour is to show, don’t tell. Don’t offer the reader your interpretation of the facts, allow them to arrive at that conclusion on their own. Your job is to steer the reader in the direction you want them to go.

Instead of writing, “The defendant was upset that he lost his job and returned that afternoon with a gun,” try something like, “The defendant had worked tirelessly for 20 years at the factory before being laid off. He had relied on his weekly pay cheque to support his wife and three children. He had only a high-school education and few prospects in a town hit hard by the recession. That afternoon, he returned to the factory with a gun.”

**10. Have a creative outlet for your writing**



Despite what your professors might say, legal writing isn’t fun. It’s necessary and important and you can learn a lot from practicing it, but it’s boring.

As a lawyer, you are going to be constantly writing boring things to boring people. But writing itself can be a joy. It can be a creative release that brings you great pleasure and fulfillment. To make sure you don’t lose your love of writing, find a way to write for fun. Contribute articles to your firm’s blog or newsletter. Keep a personal blog or diary. Write prose or poetry in your spare time (I’m sure we’ll eventually have some of this). Find some way to enjoy what you write and build up a passion for the written word.