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BOOK REVIEWS

Adam Lamparello & Megan E. Boyd
Show, Don't Tell: Legal Writing for the Real World

Marie Summerlin Hamm, reviewer

Book Review

Stop Telling and Start Showing

Show, Don't Tell: Legal Writing for the Real World
Adam Lamparello & Megan E. Boyd (LexisNexis 2014), 249 pages

Marie Summerlin Hamm, reviewer*

> *When you develop outstanding legal writing skills, you evolve as both a lawyer and communicator.*[1]

Legal writing does not lend itself to the "show, don't tell" concept in its traditional sense. The idea of bringing characters to life, evoking emotions, and painting pictures with words simply does not spring immediately to mind when contemplating motions and memoranda. As Steven Stark's *Why Lawyers Can't Write* article in the *Harvard Law Review* proclaimed over three decades ago, "you don't need a literary critic to know how badly most legal prose is written. You need only turn to any page of most legal briefs, judicial opinions, or law review articles to find convoluted sentences, tortuous phrasing, and boring passages filled with passive verbs."[2] Time has not healed. In a recent *ABA Journal* column of the same title, Bryan Garner observed, "While lawyers are the most highly paid rhetoricians in the world, we're among the most inept wielders of words."[3]

Assigning fault is part and parcel of lawyering and there is no shortage of blame to go around for the supposedly sad state of legal writing. In addition to proposing that the legal profession has succumbed to a pervasive Dunning–Kruger problem,[4] Garner calls out the usual suspects:

1 Megan E. Boyd & Adam Lamparello, *Legal Writing for the "Real World": A Practical Guide to Success*, 46 J. MARSHALL L. REV. 487, 488 (2013).

2 Steven Stark, *Why Lawyers Can't Write*, 97 HARV. L. REV. 1389 (1984).

3 Bryan A. Garner, *Why Lawyers Can't Write: Science Has Something to Do with It, and Law Schools Are Partly to Blame*, A.B.A. J., Mar. 2013, at 24.).

4 *Id.* The term "Dunning–Kruger effect" was first coined in 1999 when Cornell psychologists David Dunning and Justin Kruger conducted "a series of studies showing that unskillful or unknowledgeable people (1) often think they are quite skillful

declining standards in secondary and higher education, senior associates ill-equipped to hone the skills of their young colleagues, and law schools that "inundate students with poorly written, legalese-riddled opinions that read like over-the-top Marx Brothers parodies of stiffness and hyper-formality."[5]

Show, Don't Tell: Legal Writing for the Real World[6] seems almost a direct response to such criticism. The book is designed to "not only benefit law students, but [to] 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."[7]

The structure of the book is unique. Readers are asked to imagine themselves as eager associates, with ink on the new license barely dry. Before such a young lawyer acclimates to the impressive new office, a litigation partner bustles in and hands over a high-profile defamation case with facts that could be ripped from the headlines—celebrity, a disgraced politician, addiction and recovery, deception, name-calling, and social media. The fledgling lawyer is immediately overcome with feelings of inadequacy and self-doubt. Reflecting on the distant memory of a couple of memos and a contrived appellate brief, the overwhelmed associate laments that "[t]hey don't teach this stuff in school."[8]

The reader then walks through each step of the litigation process, from initial memorandum to appellate brief. After covering predictive and persuasive writing in the first two chapters, the authors turn to a demonstration of well-crafted documents. Each chapter focuses on a specific legal document and includes examples drafted and edited by each of the authors, who act as opposing counsel. *Show, Don't Tell* distinguishes itself from the usual legal composition manual. The document examples are not relegated to an appendix, but factor prominently in the text itself. Nor is the reader given mere excerpts or language samples—instead, each well-written example is presented in its entirety. The authors quite literally "show" the reader what effective writing should look like.

Because the background context for the case is provided only in chapter 1, the book does not lend itself to a meandering perusal. A careful

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or knowledgeable, (2) can't recognize genuine skill in others, (3) uniformly fail to recognize the extremity of their own inadequacy, and (4) can recognize and acknowledge their own previous unskillfulness only after highly effective training in the skill." *Id. See also* Ruth Vance & Susan Stuart, *Of Moby Dick and Tartar Sauce: The Academically Underprepared Law Student and the Curse of Overconfidence*, 53 DUQ. L. REV. 133, 136 (2015).

5 Garner, *supra* note 3, at 24.

6 ADAM LAMPARELLO & MEGAN E. BOYD, SHOW, DON'T TELL: LEGAL WRITING FOR THE REAL WORLD (2014).

7 *Id.* at iv.

8 *Id.* at 5.

reading of the facts is necessary to fully grasp the legal issues and to appreciate the related documents. The result is a feeling of immersion in a case file. The structure is effective. There is something compelling about the concept that this is "my" case. And although the client is less than endearing, any lawyer can relate to the plight of the new associate and to the unease that descends when confronting a cause of action for the first time.

Tips for writing in the real world abound in chapter 2. The authors devote a good deal of attention to explaining the three stages of the writing process, which they contend "is the same whether you're drafting a memo, legal brief, or a children's book."[9] *Write. Rewrite. Revise.* As obvious as it may seem, and as difficult as it may be, the act of actually *writing* a solid draft is key. As the authors point out, "you can't re-write or revise a blank sheet of paper."[10] Macro or developmental editing, which includes tackling big-picture problems such as organization, flow, clarity, repetition, and irrelevancies, is handled during *rewriting.* Before turning to the final stage of micro-editing or *revising*, the authors unleash a torrent of practical tips for writing and rewriting.

There is little new under the sun and the advice offered is sound but unsurprising. In the section, "Don't Write Like a Lawyer—Write Like a Writer and Remember the Reader," [11] the authors counsel writers to "Avoid SAT Words,"[12] suggesting that "[i]f you force your reader to consult a dictionary, you've distracted from the substance of your writing."[13] In confronting "unnecessary repetition," they surmise that the writer with this weakness "is merely seeking to instill a Pavlovian response in the reader—if I say it enough times, the reader will believe it is true."[14] My "you had me at 'hello'" moment came in the section "Don't Talk So Much" with "if the authors could give law students and lawyers only one piece of advice about legal writing it would be this: be concise."[15]

Persuasion is tackled next. Chapter 3 is devoted to "Tips for Persuasive Writing in the Real World." The essential concept is that good writers are great narrators and that the job of the legal writer is to tell the client's story with "a credible, compelling storyline that has (1) believable characters (the parties); (2) a persuasive plot (the facts and law); (3) a logical story arc (a beginning, middle, and end); and (4) a powerful ending (why your client must prevail)."[16]

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9 *Id.* at 7.

10 *Id.*

11 *Id.* at 11.

12 *Id.* at 12.

13 *Id.*

14 *Id.* at 10.

15 *Id.* at 9.

16 *Id.* at 19. It is in persuasive legal writing that language choice, emotion, and metaphor—literary devices commonly associated with "show, don't tell"—can be judiciously and effectively used. *Id.* at 22–24.

Next, the authors turn in chapter 4 to a demonstration of the most-common litigation documents, including: The Legal Memorandum; Client Letters; The Complaint; The Motion to Dismiss; The Answer; Discovery; The Motion for Summary Judgment; Pretrial Motions—The Motion in Limine; The Court's Decision; and The Appellate Brief. Each chapter begins with a checklist. The practical effect is that principles for effective drafting are at the forefront of the reader's mind. The authors then delve into the document's particular purpose and offer insight into crafting each portion. After each document, the authors discuss effectiveness, again offering tips for real-world drafting. The advice offered covers areas often given short shrift in typical legal writing texts. An excellent example is the repeated emphasis on the role of local rules. The authors opine, "By the time you finish this book, the necessity of following [the local rules] will be so ingrained in your head, you'll never forget to look at them."[17]

Spoiler Alert: The client does not prevail at trial. After becoming invested in the case, losing was a bit of a disappointment—despite the foreseeability of the outcome. It is undeniably difficult to proceed to appellate documents without the necessity of appeal. The authors delve into the appellate process with renewed enthusiasm, once again offering up well-crafted documents and practical tips. The briefs are filed and—the book ends. Who prevails? The reader is left to imagine the outcome. Never one to appreciate the ubiquitous "it depends," this reviewer is already contemplating an assignment requiring advanced writing students to draft a judicial opinion, just to know how the story ends.

If our hypothetical young associate had a copy of *Show, Don't Tell* on the bookshelf in the new office, the prospect of facing real-life research would be much less daunting. Lamparello and Boyd have crafted a no-nonsense text that is more practical than pedagogical. The presentation is pithy, written in an approachable and engaging style. The tips offered are both timeless and timely and the example documents effectively *show* rather than simply tell legal writers how to evolve as communicators.