

## University of Ottawa Faculty of Law (Civil Law Section)

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From the Selected Works of Hon. Gerald Lebovits

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March, 2007

# Sin and Virtue in Legal Writing: Vanity and Humility

Gerald Lebovits



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MARCH/APRIL 2007  
VOL. 79 | NO. 3

NEW YORK STATE BAR ASSOCIATION

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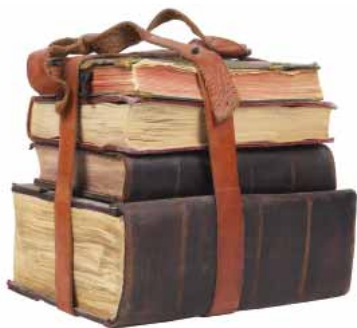
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GERALD LEBOVITS is a judge of the New York City Civil Court, Housing Part, in Manhattan and an adjunct professor at New York Law School. His e-mail address is [GLEbovits@aol.com](mailto:GLEbovits@aol.com).

## Sin and Virtue in Legal Writing: Vanity and Humility

The word “pride” refers to self-respect and joy in the success of oneself and of the people and institutions we identify with. Excessive pride is vanity. As the source of all sin, vanity is the worst of the seven deadly, cardinal sins. The vain have hubris. They are narcissistic. They devote themselves not to others, but to being important or attractive to others. They have unjustified self-confidence. They fail to credit others. They are arrogant, boastful, and defiant.

The opposite of vanity is humility. Humility is the first virtue because it removes vanity. As the Old Testament observes, “When pride comes, then comes disgrace, but with humility comes wisdom.”<sup>1</sup> The New Testament agrees: “For everyone who exalts himself will be humbled, and he who humbles himself will be exalted.”<sup>2</sup>

The best legal writers are humble about their writing and their writing skills. The best legal writing has humility. The humble write for their readers, don’t let their ego interfere, and take responsibility for their writing. One must have pride in self and work to write well. But vanity leads to poor legal writing.

The vain think they know it all.<sup>3</sup> That’s a problem in legal writing. Legal writing is the hardest of the legal arts to master. Successful legal writing requires years of study and effort. Without innate talent one can’t be a great writer, but one can’t even be a good writer, regardless of innate talent, without study and effort. Nothing important is easy, and legal writing is important. For lawyers, it’s the key to communication. Writing reflects thinking and under-

standing. One can’t be both a good lawyer and a poor writer. Learning to write takes humility. Humility begins with an openness to learn.

For many law students, legal writing is a hated subject. Too much work for too few credits. Too much criticism; too many corrections. Yet legal writing is writing that counts, writing on which people rely, writing that affects rights and responsibilities. The required level of accuracy, brevity, and clarity is unlike anything seen before. In college, a student can begin a writing project the night before it’s due. Not in law school. Legal writing requires research and advance preparation. In college, a student can cite references simply to explain where information comes from. Not in law school. Legal writing requires precision in citation to support factual and legal propositions in the form of logical argument. In college, a student can explore a subject until the minimum page limit is reached. Legal writing requires application of fact to law, sometimes unclear fact and unsettled law, until the maximum page limit is reached.

The vain believe that their cleverness compensates for effort. The humble realize that learning a difficult and important subject like legal writing takes study. Only the humble accept a writing teacher’s criticism other than as it affects a grade. The vain have too much ego invested in their writing. Every suggestion is an attack on them personally. They think, or pretend, they know more than their writing teachers. To challenge or show off, the vain announce in class that someone else years ago taught the matter at

hand differently. In not expending the required effort, the vain show slothfulness, not smarts. The humble study and accept criticism. The humble learn. The vain resist.

Resistance is futile. Not every lawyer must excel at legal writing. But most must. Most lawyers are professional writers. Lawyers are the world’s best-paid writers. So demanding is legal writing it requires a lifetime of study to excel. Writer’s block may not afflict a lawyer. No matter how good a lawyer is at writing, the lawyer can always get better. A lawyer must always work at writing. If not, writing skills calcify. The humble forever seek to improve their writing. They read about writing. They practice. As time permits, they take continuing legal education courses on writing. The vain do so rarely. When they do, it’s because they’re told they must, and it’s less to learn than to confirm what they already think they know.

**The vain write for themselves.**

Knowing that we don’t know is the first sign of knowledge. That means starting important writing projects with a plan. The precise way to plan an important writing project is open to debate. The point isn’t which plan is best — this way to outline or that — but to think about writing goals and not to assume it’ll come out right without planning and thought.

Planning and thought count to the humble because what counts is the

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reader, not the writer: "Humble writers rank the reader's convenience ahead of their own. They work hard so the reader doesn't have to."<sup>4</sup> Knowing who your readers are and what they need count among the most important things in all kinds of writing. One must write differently for different readers; different readers need different things. The vain write for themselves. They lose an opportunity to persuade because they're self-absorbed: They don't write to make it easy for the reader to agree with them. They write to flatter themselves or so that others flatter them. Their susceptibility to flattery is cyclical. When they aren't flattered, it's because the reader didn't appreciate good writing.

Legal writers must appreciate that the reader is smart, not stupid. The humble writer conveys the information the reader needs, neither more nor less. The humble assume that the legal reader is a busy professional. They write concisely and succinctly. They're sparing not only with words and pages but also with citations, quotations, and number of issues and arguments raised. They're concerned with doing what's best for their client, not with exhibiting their profundity and research.

What's best for the client is what's best for the reader. The humble won't insult the reader with metadiscourse or unneeded history or givens. The humble aren't pompous. They write clear, simple prose in plain English. They don't think that plain English dumb down writing. They avoid the bureaucratic passives, negatives, and nominalizations. They won't use legalisms or fancy, foreign, or uncommon words and phrases. They won't accuse, embarrass, or threaten. They respect precedent and follow court rules. They won't cheat, exaggerate, fudge, or overstate — with writing style or with fact or law.

The humble understate. By understating, they naturally come upon the essence of powerful writing. They emphasize content, not style; they

write for the ear, not for the eye. They call no attention to their writing. In doing their best not to distract from their message, they effect the right tone: no affected tone at all.

Nor do the humble write in a conclusory way. They don't assume that the reader agrees with them just because they say so. That makes the humble show, not tell, and showing is persuading. They won't need or want to rely on writing that raises hackles and skepticism — false adverbial excesses like "obviously"; false injections of narcissistic and irrelevant personal beliefs and emotions like "I feel" and "I believe"; and false emphatics like aggressively shouting at readers with bold or italicized text. They don't use sarcasm and invective. They don't delude themselves with illusions; they respect their readers and themselves. They therefore give accurate citations to the record, pinpoint citations to case law, and quotations to testimony, cases, contracts, and statutes. They also cite authority to give fair credit, and in return their citations bolster their arguments.

To bolster their arguments further, the humble attempt to understand their adversary's arguments. The humble, unlike the vain, don't assume that their adversary's machinations are clearly frivolous, certainly sanctionable, and undoubtedly mendacious. By understanding opposing arguments and dealing with them honestly, the humble blunt opposition preemptively and overcome the contrary through fair and often winning rebuttal. The vain can't do that.

Both the humble and the vain care about typographical errors and citing correctly, although for different reasons. The humble care that readers might lose the message; the vain worry about how they'll be thought of. But mistakes crop up in the writing of the vain more often than in the writing of the humble.

The humble make fewer mistakes because they follow two legal-writing maxims the vain ignore. First, the humble edit and revise. They, unlike the vain, don't assume they'll get it

The humble assume  
that legal readers are  
busy professionals.

right the first time, or the third. One perceptive writer explained the process: "Humble writers realize that their writing is not the product of genius, and so are willing to revise, and revise some more. Being realists, they can look at their own writing with a critical, objective eye, and see its flaws."<sup>5</sup>

The second is that the humble seek advice from others. They welcome suggestions, adopt the good ones, and learn from them. If the vain ask for suggestions, it's because they seek compliments, not critique. When they get constructive criticism rather than compliments, the vain reject it, are defensive and ungracious about it, and don't profit from it for the next project.

Because the vain ultimately fail at writing, others will write their next project, or the project after that one. If they're lucky, the humble will write their next project. Sadly for the vain — and more sadly still for reader and client — that won't stop them from criticizing others' writing. They'll always believe that they write better than others or that they're too important to write.

Humility isn't weakness or false humility. It's the wisdom to see your faults and the strength to correct them. Humility isn't the subservient belief that you should treat others well because they're better than you. It's the courage to respect others without cheap flattery. Humility isn't passivity. It's taking a stand with integrity and professionalism. Humility is the first and best virtue. Not merely of legal writing but for life. ■

1. Proverbs 11:2 (New Int'l Version).

2. Luke 14:11 (New Int'l Version).

3. See generally Brett Scharffs, *The Role of Humility in Exercising Practical Wisdom*, 32 U.C. Davis L. Rev. 127 (1998).

4. Raymond P. Ward, *Writer's Corner, Humility*, [Winter 2003] Certworthy 7, 7, available at <http://home.earthlink.net/~thelegalwriter/sitebuilder/content/sitebuilderfiles/2003winter.pdf> (last visited Dec. 26, 2006).

5. *Id.*