The Expectant Reader

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By Timothy D. Blevins*

Writing is a process. The writer will turn information into knowledge and the reader will benefit from reading the document. Writing has a permanence not found in the telling and retelling tradition of oral communications. When creating the document, the writer must be vigilant to the reader’s needs and expectations. Why would the reader read this document? What does the reader expect from me, the writer, when reading the document? The answer to these two questions, and perhaps other questions, should be found in the opening paragraph(s) of the document. The process begins with the thesis paragraph.

The legal writer has a slight advantage toward meeting reader expectations because the expectant reader is, more likely than not, trained and conversant in the law. Keeping the legal reader’s needs in mind can be beneficial to the writer in determining how to structure that first paragraph. In addition to finding the writer’s position or conclusion on a legal issue, the legal reader expects a clear and concise statement describing the legal issue. Moreover, the reader expects to find a roadmap describing the author’s analysis, step-by-step. The placement and structure of the thesis paragraph is critical in fulfilling the many purposes assigned to this component.

The readers of legal documents do not expect to read materials comprising a mystery or suspense storyline. The reader wants to know the scope and direction of the writer’s analysis, presented in a clear and concise manner, that encourages the reader to revisit this important part of the document. Oftentimes, when presented with complex and multiple legal issues, readers will want to reorient themselves by reviewing the thesis paragraph.

**Begin at the end; End at the beginning.**

Thesis paragraphs are more effective when the writer completes the analysis. Once the writer has finalized her or his conclusions, the writer is better prepared to plan the thesis paragraph’s structure. The writer now knows the direction of the analysis and can adjust the length of the paragraph to fit within the document. Leave out the non-essential details, provide a clear roadmap, and introduce an overview of the issue that is certain to attract the reader’s attention. The well-written and concise thesis paragraph will state the writer’s conclusion, identify the cause of action, and address the applicable rules. The organized thesis paragraph will address both the applicable rules in the order that the writer analyzes the issue and provide a summary of how and why the rules apply to the facts.

**Examples**

**Version 1:** Possessors of land owe no duty to trespassers other than to protect against willful injury. There is a well-known exception to this rule arising from the “Turntable Cases.” The exception deals with children who trespass upon the land.

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Liability may attach to the landowner if 1) there is foreseeability by the landowner that children will trespass, 2) the landowner knows or should know that a dangerous condition exists upon the land, 3) the children, due to their youth, cannot appreciate the danger, 4) the risk of injury to the child surpasses the owner’s utility in maintaining the condition, and 5) the landowner fails to exercise reasonable care in eliminating the danger.

**Version 2:** The provisions of the U.C.C., regarding the enforceability of a contract for the sale of goods, apply to the disputed agreement signed by Korigan Metals and our client, Mission Projects LLC. In the absence of a re-formed contract allowing for impossibility of performance based upon economic hardship, a claim now advanced by Korigan, Korigan Metals must deliver the prefabricated roofing at the pre-delivery price stated in the contract.

Version 2 creates a focus for the discussion that follows, whereas Version 1 provides only the rule of law. Because the thesis paragraph is instrumental to the congruency of the document, a poorly created paragraph can have the same effect on the entire document as found in an old Yiddish saying: A fish rots from its head. Save your reader the unpleasantness.

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