



The Write House

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Learned Writing Consultants

Course Outline for *Brief Writing Masterclass*

1.0 The Architecture of Argument

- 1.1 The structure of a brief
- 1.2 Table of contents
- 1.3 Issues for Determination
- 1.4 The Introduction
- 1.5 Facts (and Procedural History)
- 1.6 The Argument Section
- 1.7 Conclusion
- 1.8 List of authorities

2.0 Issues for Determination

- 2.1 What is an issue or question for determination?
- 2.2 Place your issues upfront.
- 2.3 To formulate an issue, find governing law and isolate *legally significant* facts.
- 2.4 Winnow and prioritize your issues.
- 2.5 Devote time and effort to formulating your issues.
- 2.6 Learn the methods of drafting issues
 - 2.6.1 The *whether* fragment
 - 2.6.2 The one-sentence statement
 - 2.6.3 The one-sentence question
 - 2.6.4 The Catholic catechism
 - 2.6.5 The *under-does-when* formula
 - 2.6.6 Garner's deep-issue format



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- 2.7 Use deductive logic to elicit doctrinal holding.
- 2.8 Forget *circumstances of this case*.
- 2.9 Prefer legal to procedural juxtapositions.
- 2.10 Render your issues amenable to doctrinal categorization.
- 2.11 Apply a literal test to your issue statement.
- 2.12 Craft issues to steer the court your way.
- 2.13 Leave the lower court and other parties out of it.
- 2.14 Phrase your issues like questions.
- 3.0 **Facts** (and Procedural History)
 - 3.1 Use topical headings.
 - 3.2 Tell a story with your facts.
 - 3.3 Your narrative should transcend mere storytelling.
 - 3.4 Invest your story with a theme.
 - 3.5 Stress your client's perspective.
 - 3.6 Let the facts tell the story- don't interpret, don't interrupt.
 - 3.7 Shun the dating game and other data mess.
 - 3.8 Call parties and witnesses their names.
 - 3.9 Assign substantive descriptions to your data.
 - 3.10 Fit facts to law.
 - 3.11 Deploy characterization for persuasive effect.
 - 3.11.1 Characterization could be constructive or destructive.
 - 3.11.2 Direct negation is not characterization.
 - 3.12 Appeal to the court's conscience.
 - 3.13 Appeal to the court's emotion.
 - 3.14 Tell your facts differently than in other documents.
 - 3.15 Remember that the facts control the law.
 - 3.16 Think like a novelist- borrow fiction elements.



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- 3.16.1 Character—make your client likable.
- 3.16.2 Conflict—characterize the conflict with thematic undertones.
- 3.16.3 Resolution—prophesy a happy ending.
- 3.16.4 Organization—provide context before detail.
- 3.16.5 Point of view—choose a client-centred perspective.

3.17 Deal with bad facts—play safely with fire.

3.18 Procedural History

4.0 The Argument Section

PART A- Organization, Structure, and Posture

- 4.1 Organize for persuasive flow. Accentuate point headings.
- 4.2 Erect signposts along the way.
- 4.3 Use outlines and point headings for rhetorical advantage.
- 4.4 Boost organization with roadmaps.
- 4.5 Learn to structure your argument on each issue.
- 4.6 Foot in the Door (FITD) or Door in the Face (DITF)?
- 4.7 Winnow and prioritize your arguments.
- 4.8 Use topic sentences to reinforce rhetorical narration.
- 4.9 Use transition, bridging, and effective paragraphing to boost linguistic coherence.
- 4.10 Use exquisite civility to boost ethos.
- 4.11 Present your case as representing good law or sound policy. Save judicial labour. Apply social science.
- 4.12 Drop the digest and record methods of “argument.” And quarantine the plague of false *ratios*.
- 4.13 Choose a structural formula for your argumentation.

PART B- Rebuttal and Refutation

- 4.14 Plot your offensive and defensive gambits.



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- 4.15 Enclose refutation in a halo of affirmative arguments.
- 4.16 Anticipatory refutation makes your case complete.
- 4.17 Recharacterization, negative imagery, and similar gambits.
- 4.18 Candid versus zealous advocacy.

PART C- Citations and Quotations

- 4.19 Minimize citations and quotations. Scrutinize your authorities and isolate their *rationes decidendi*.
- 4.20 Know your best precedents.
- 4.21 Follow hierarchy in citing authorities.
- 4.22 Use explanatory synthesis.
- 4.23 Avoid ‘talking footnotes.’ Banish citational algebra to footnotes.
- 4.24 Nurture the pinciting habit.
- 4.25 Explanatory parentheticals can pack a persuasive punch.

5.0 **Think before you write.**

- 5.1 Believe in your client’s cause- formulate a thesis for every case.
- 5.2 Draft issues and point headings early.
- 5.3 Try the Flowers paradigm.

6.0 **Case Theory, Themes, and Priming**

- 6.1 Your theory of the case converts the facts of the dispute into a legal problem soluble in your client’s favour.
- 6.2 Your theme should supply moral justification for the victory you prophesy.
- 6.3 Your theme should possess narrative fidelity.
- 6.4 Your theme should leave an impression about the case.
- 6.5 Your theme should evoke emotions.
- 6.6 Prime the judge to view the case your way.

7.0 **Rhetoric and the Rhetorical Triangle**

7.1 Why study rhetoric?



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7.2 To exercise your rhetorical skills, you need a rhetorical situation.

7.3 To influence the rhetorical situation, deploy framing devices.

7.4 The Rhetorical Triangle

7.4.1 Ethos

7.4.2 Logos

7.4.3 Pathos

8.0 Logic and Logical Fallacies

8.1 Introduction to Logic

8.2 Logical Fallacies

8.2.1 *Argumentum ad baculum*

8.2.2 *Argumentum ad misericordiam*

8.2.3 *Argumentum ad hominem*

8.2.4 Accident

8.2.5 *Ignoratio Elenchi*

8.2.6 Red Herring

8.2.7 The Straw Man

8.2.8 *Argumentum ad ignorantiam*

8.2.9 *Argumentum ad verecundiam*

8.2.10 Hasty Generalization

8.2.11 Slippery Slope

8.2.12 False Cause

8.2.13 Weak Analogy

8.2.14 Amphiboly

8.2.15 Equivocation

8.2.16 Composition

8.2.17 Division

8.2.18 *Petitio Principii*



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8.2.19 Complex Question

8.2.20 Suppressed Evidence

8.2.21 False Dichotomy

8.2.22 Inverse Error

8.2.23 Faulty Analogy

8.2.24 Half-Truth



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