

Aspen Coursebook Series

SIXTH EDITION

The Legal Writing HANDBOOK

Analysis, Research, and Writing

Laurel Currie Oates • Anne Enquist



Wolters Kluwer
Law & Business

Aspen Coursebook Series

The Legal Writing Handbook

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Sixth Edition

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Preface

One of the first things that you learn as a first-year law student is that law school textbooks are big. The casebooks for your doctrinal courses are big, and this book, your legal writing textbook, is also big. While we will let your other professors explain why their casebooks are so big, we want to take a moment to explain the size of this book.

This book is big because it's really seven books in one. Think of that as a bargain and not a burden. Book 1, designed to be read during orientation, introduces you to law school, to the U.S. legal system, and to what you will spend most of your time doing in law school: legal reading. Book 2 introduces legal research, providing you with research plans and describing many of the sources that you will be reading. The electronic supplement then shows you how to use those plans and sources to research a variety of different types of legal issues. The electronic supplement is available at http://www.aspenlawschool.com/books/oates_legalwritinghandbook. Your access number is on the card that came with your book.

The next two books walk you through the process of drafting, revising, and editing some of the most common types of legal documents: Book 3 moves you, step by step, through the process of writing objective memoranda, e-memos, and opinion letters, and Book 4 does the same for motion briefs and appellate briefs. In addition, Book 4 covers making oral arguments before a court. We then turn to writing in general. Books 5 and 6 contain information about writing effectively and correctly, and Book 7 addresses the grammatical and rhetorical writing issues that English-as-a-Second-Language law students and lawyers face. In other words, once you add your citation book, this book and its website for legal research contain everything you need for learning legal research, analysis, and writing.

If your school has a one-year legal writing program, you probably will not have enough time to cover some of the chapters in these books, but we hope you will be glad to have them at your fingertips when you graduate and start to practice. If your school has a three- or four-semester legal writing program, you will probably use the material in Books 1, 2, and 3 in your first year of law school and the material in Book 4 in your second year. Think of Books 5 and 6, which have all the general writing chapters, as a reference book that you will use both in law school and in practice.

This book is big because it contains numerous examples. Our experience as professors who teach legal writing has taught us that most students find models and examples important keys to learning legal writing. So, instead of just telling you what to do, this book shows you what to do.

Think of this approach as a kind of apprenticeship. Imagine that you are sitting next to an expert legal writer and researcher and learning by observing

how he or she does things. For example, in Book 3 we walk you through the process of writing several different types of memos and an opinion letter, and in Book 4, we walk you through the process of writing motion and appellate briefs, and we explain how to do an oral argument. Similarly, in Books 5 and 6, we provide you with numerous examples, often showing you how to revise a draft to make the writing more effective or to correct errors in grammar or punctuation.

Finally, this book is big because becoming a good legal writer is a complex process involving skills that can take years to master. Although many students entering law school are good writers, few are good legal writers. Therefore, even though you are able to write an effective term paper, business letter, or report without additional instruction, you are going to need help to write a strong objective memo or appellate brief: help in learning how to do legal research; help in learning to read and analyze the information that you find in doing that research; help in learning the conventional formats for memos, letters, and briefs; and help in learning how to present complex ideas and arguments clearly and concisely and without any mistakes in grammar or punctuation.

Our hope is that this book will provide you with more than a weightlifting program. Yes, it is big and a bit heavy, so you may actually develop a few muscles carrying it around. The muscles we care about, though, are the mental ones that will make you a successful attorney. It is to that end that we hope you will see this book as just what you need—the perfect exercise for the well-built legal mind.

Laurel Currie Oates
Anne Enquist
January 2014

Acknowledgments

Now that this book is in its 6th edition, we are humbled by the number of people who are using the book in law schools throughout the United States and in legal education programs around the world. In any given day, we receive emails from users in South Africa, Qatar, Belarus, across the United States, and across town at the other law school in Seattle. We wish we could name and thank each one because they have all given us comments and suggestions that have improved this book. Thank you to all of you who have used our books over the years and have shared with us what you think works and doesn't.

We also want to say a special thanks to some colleagues and friends who were particularly instrumental in the early years when we were first writing. Mary Beth Harney was critical to the book's development in the early stages. She helped conceptualize the book and allowed us to use many examples of her own writing. Our friend and colleague, Marilyn Berger, introduced us to the people at Little, Brown (now Wolters Kluwer) and encouraged us to persevere. At Little, Brown and then at Aspen and now at Wolters Kluwer, we have been fortunate to have wonderful editors, Betsy Kenny, Peter Skagestad, and Dana Wilson.

Four law school deans have been significant supporters of this project. Former Dean Fred Tausend gave us the "green light" in the early years; former Dean Jim Bond provided institutional support and personal encouragement; former Dean Kellye Testy and our current dean, Dean Annette Clark, have continued that support and encouragement.

We have been fortunate throughout this process to have had the critiques and counsel of numerous colleagues who have taught legal writing. A heartfelt thank you to our longtime colleagues Lori Bannai, Janet Dickson, Connie Krantz, Susan McClellan, Chris Rideout, and Mimi Samuel, Mary Bowman, Lucas Cupps, and Deirdre Bowen. We would also like to give a special thanks to our friend and colleague from Maine, Jessie Grearson.

Special thanks to Connie Krantz, our colleague and co-author for the second edition of *Just Briefs*, for allowing us to use the chapter on writing appellate briefs that the three of us wrote for *Just Briefs* in this edition of *The Legal Writing Handbook*, to Denis Stearns for allowing us to use examples based on the problem that he developed for our Legal Writing II students; to Merryn DeBenedetti for her help on drafting the section on e-memos; and to Anne's niece, Peggy Graham, who gave us helpful feedback on the chapter about drafting email and text messages.

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Perhaps the most important collaborators in this project have been our students. Their writing appears throughout the book, and they were our first readers. So many made recommendations and allowed us to use their writing that we cannot mention them all, but we want them to know how much we appreciate their part in what we think of as “their book.”

Some students made substantial contributions and deserve special recognition. Thank you to Ahmad Kahil for his tireless work in helping us update the electronic supplement; to Carmen Butler for her research on procrastination; and to Megan Coluccio for her research on multi-tasking. We would also like to thank former students Susan McClellan, Annette Clark, Luanne Coachman, Mary Lobdell, Eileen Peterson, Lance Palmer, Edwina Martin-Arnold, Vonda Sargent, Melissa May, Kevin Dougherty, Cindy Burdue, Amy Blume, Chris Fredrikson, Daryl Wareham, Elaine Conway, and Monique Redford.

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The diagnostic test that is available with this edition has also been a collaborative effort. Special thanks to Connie Krantz and Judi Maier for their help with early versions of the test, to all the Seattle University School of Law legal writing faculty in 2001-02 for helping us iron out the kinks.

We also want to thank our administrative assistant, Lori Lamb, who was an instrumental part of the earlier editions of the book and who helped assemble this edition and Steve Burnett, who helped us think about and develop a website for this book.

The Legal Writing Handbook

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