



Serve Your Audience

Strunk and White, and Legal Writing

By Stephen Senn

An attorney down the hall recently received his certificate of admission to the United States Court of Appeals for the Eleventh Circuit. The Clerk's Office included with the certificate a copy of William Strunk Jr. and E.B. White's classic writing guide, *The Elements of Style* (4th ed.). The Eleventh Circuit has been providing this lagniappe to newly admitted members for decades. While I am unaware of any other court going so far as to distribute *The Elements of Style* to attorneys, many courts and judges do recommend it.

The Elements of Style began in 1918 as a course text privately published by Professor Strunk for his students at Cornell University. Only 43 pages, it was referred to by the students and Professor Strunk as "the little book." E.B. White was among Strunk's students. White went on to write such celebrated children's books as *Charlotte's Web* and *Stuart Little*, and he was for decades on the staff of *The New Yorker* magazine. He wrote a glowing tribute to Professor Strunk and his teachings in *The New Yorker's* July 27, 1957, issue. Shortly thereafter, the Macmillan Company commissioned White to revise the text for publication. Professor Strunk died in 1946. He did not live to see the rise to prominence of the course notes prepared for his students. More than ten million copies of *The Elements of Style* have sold.

Devotees of "the little book" have been inspired to their own derivative creations. These homages have arisen from diverse academic and artistic disciplines and include an illustrated edition by artist Maira Kalman; Mark Garvey's *Stylized: A Slightly Obsessive History of Strunk & White's The Elements of Style*; and a charmingly geeky rap video by students at the Columbia School of Journalism. If you have read this far, you may want to watch the video on Vimeo or YouTube. Or perhaps you would prefer the spare minimalism of Nico Muhly's 2005 musical adaptation, portions of which can be heard on National Public Radio's website. Alas, the 1982 ballet by Matthew Nash is not available for Internet viewing.

Strunk and White's principles for writing have been subjected to high praise and harsh criticism. Controversy continues to rage over use of the passive voice, or whether "Thomas's engine" is preferable to "Thomas's

engine," or when to use a singular or plural verb with "none" as in "none of us is" or "none of us are." The principles have also been accused of prescriptivist inflexibility, but even Professor Strunk allowed for deviation when it would serve a larger purpose. At the same time, he suggested that this prerogative to deviate should perhaps be a privilege reserved for great writers, and the rest of us should stick to the rules.

My introduction to *The Elements of Style* occurred in the first year of law school. A talented writing instructor explained that though there may be many styles of great writing, attorneys must write to persuade. Persuasion is best achieved by accuracy, brevity, and clarity. We were taught to state the essential points in a clear and well-organized manner, and to avoid decorative prose, unfamiliar words, or discursive side-trails that meander without serving a clear purpose. As an enthusiast of meandering side-trails, this last for me was a hard lesson. I recall discussions of a complexity scale roughly extending from Hemingway on one pole to Faulkner on the other. Both were great writers, but Hemingway would make the better lawyer. In legal writing, short and simple is more effective. *The Elements of Style* provides this lesson, serves as an example of its truth, and offers guiding principles by which this style may be achieved.

At the heart of the little book lies the vaunted seventeenth principle, which is the key to the method that can compress unnecessary prolixity into taut and clear writing:

Vigorous writing is concise. A sentence should contain no unnecessary words, a paragraph no unnecessary sentences, for the same reason that a drawing should have no unnecessary lines and a machine no unnecessary parts. This requires not that the writer make all his or her sentences short, or that he or she avoid all detail and treat his or her subjects only in outline, but that every word tell.

This requirement that "every word tell" expresses an ideal that we may never reach, but should hold in mind as the goal to strive for. A legal brief that any addition or any subtraction would lessen is, measured by principle seventeen, perfect.

Thanks to Strunk and White a lawyer might celebrate, at least a bit, when first drafts exceed the page limit. A surpassed page limit provides motivation to excise the flab. First drafts often comprise all fruits of research, and all arguments that have come to a lawyer's mind, hastily



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unloaded into weakly organized and hurried text. Casting a broad net and dumping it all into a document is a serviceable first step, but it must be followed by ruthless pruning and reorganization. Entire paragraphs may be discarded if they are found to be weak links in the chain of argument. After each editing cycle the latest version should be approached again with a dubious eye, and with certitude that the work can be improved.

The editing process will eventually phase to a polishing stage. During these later revisions legal writing will be improved by closely reviewing for compliance with the directive that “every word tell.” Each word must accomplish some purpose, so that a void would be left by its removal. With this guiding objective, more sentences may be deleted, and others will be trimmed. A lawyer following the seventeenth principle will strike throat-clearing phrases that are not essential for smooth transition, remove modifiers that will not be missed, banish interesting but distracting side-notes, and discard parenthetical phrases that bog the reader down. What remains at the end should be nothing but clean, working text. Every element should be directed to the purpose at hand, with no excess to waste the time of the reader or the space on the page.

Why the Eleventh Circuit and other courts encourage attorneys to seek the guidance of Strunk and White should be no mystery. Given the volume of legal writing that judges must comprehend, they wish to read only what they must to do their work well. Let us give our audience what they have requested. 