

# Keep It Short and Tweet: Brief Writing Tips Inspired by Twitter

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Political tweets rain down upon us daily. On occasion, instead of getting riled up, pro or con, about the state of our country, try to stop and think: What lessons can these tweets teach me about my own writing? Ask yourself: In an age



when we've grown accustomed to arguments being played out in 140 character bursts, how can I

write something that is much longer but still equally compelling?

By one measure, you can't. You will never write a brief that will receive as much attention and debate as a tweet from our current Commander in Chief.

But that is not your mission. Instead, very often, you're writing



for an audience of one: the judge. If you'd like, add in your client, your adversary, and multiple decision-makers if you're concerned about an appeal or if you're before a three-arbitrator panel. Either way, your readership is much smaller. And this is **Lesson Number 1 in brief writing: Know your audience.**

This lesson extends to learning what you can about the reader.

Are you before a judge who is drowning in paper and whose mind may be made up by the end of the Preliminary Statement? Or a decision-maker who will take the time and inclination to dig deep into the law or the factual record? Will you have an opportunity to flesh out your subtler points in oral argument? Has your judge written about this issue before?

The more you know about your readership, the better.

Of equal importance is **Lesson Number 2: Know what you want, and say it clearly.** Nobody can accuse our politicians' tweets of being too subtle, and that is generally a helpful approach for brief writing too. It is impossible to write a clear, compelling brief when you don't know what relief you are seeking; it is equally impossible for a reader to consider your brief when she doesn't know that either. So provide a clear road map up front of what you plan to say, and let your entire argument flow from there. Your opening paragraph should tell the judge or arbitrator your most critical arguments—but the judge should not need to get even that far; she should be able to know it from your table of contents, which should provide an outline and organization that mirror the roadmap in your Preliminary Statement.

**Lesson Number 3:** Like a good tweet, **a good brief tells a story.** Here, however, the length of the brief works to your advantage, because you have the opportunity to tell your story at least three times. First, you can pack your most powerful punches in a concise version of the story in your Preliminary Statement. Second, you can tell the story again in the Facts or Background section, but differently:

here, you should just report, not decide. You should steer clear of editorializing and “fake news,” and stick to facts that are supported by the record. But just like the partisan media (regardless of which side you believe that to be), you can arrange those facts in a way that nevertheless tells the story compellingly from your perspective, emphasizing those pieces of evidence which are most convincingly in your client's favor. Finally, in the Argument section, you have the ability to retell your story a third time, but this time adding depth, context, explanation, and of course legal authority.

**Lesson Number 4** comes at the end, but it's important to state up front: once a first draft is written, **edit, edit, edit.** Tweets are sometimes fired off at the spur of the moment and therefore not polished. But briefs full of typos, perplexing verbiage, and grammatical mistakes—which unfortunately are more common than one might expect—distract the reader, reflect poorly on the author, and do not help persuade a judge.

It's important to emphasize the editing process for several other reasons. First, it should reduce any anxiety or pride of authorship in the writing process. A junior associate should not be discouraged by seeing a draft filled with redlines; that's only normal. A senior

partner, likewise, should not be reticent to seek and accept suggestions from others on the team.

Second, knowing that your work will be edited should impact the way you write—among other things, it should free you to be more creative and more ambitious in your first draft, since you will edit later anyway. The process of drafting a brief is very individualized. If I have time and I've already gathered my key documents and finished my research, I may try to bang out the entire brief, citations and all, in one sitting. If a brief is more complex and includes numerous or interconnected arguments, I will outline first, to make sure my thoughts are organized. If I'm having trouble telling my story, sometimes I will explain out loud (to myself or to a colleague) what my argument is, and then I will try to type up exactly what I just said. If I have writer's block, I may just force myself to start typing as rough a first draft as necessary, knowing that I will go back to it with iterative revisions. In other words, there's no one right way to draft.

But there is a right way to edit: aggressively, repeatedly, and without hesitation. Unless I'm racing against the clock, I always self-edit before sharing my draft with others. Sometimes I may self-edit twice or more. If my first draft was very rough, I know that I will need

to go back and add in citations or quotes from the record, or reorganize a bit, or rewrite certain passages to spruce them up, make my wording more precise, and remove repetitive or unnecessary text. If I've done all that, there is a good chance that my second draft will look substantially different than my first—and then I will want to edit that second draft to make sure *that* draft is presentable to others. If I have the time, I may let a draft sit overnight and then proofread it with fresh eyes the next morning. And once I've incorporated edits from my clients and colleagues, I may proofread one last time before finalizing and filing a brief. Amazingly, no matter how often a brief has been edited, there will always be something that catches my eye anew each time. Of course, all this editing must be balanced against a client's very legitimate desire for efficiency. But it is often money well spent.

**Lesson Number 5** comes in the editing process, and may diverge from most partisan tweets, on both sides of the aisle: **no distractions**. Plenty of things may fall into that category, including:

- Personal attacks and name-calling. This may drive followers on social media, but again, that's not your intended audience in a brief. Whether the public likes it or not can be decided every four years

in early November, but whether judges and arbitrators like it has been clear for ages: they don't.

- Lies, misleading arguments, or assertions that could lead to ethical breaches. Ditto. This may or may not get you in trouble as a politician, but it likely will before a court. Plus, it's just the wrong thing to do.

- Excessive descriptions, adjectives, and clichés that may do a better job in describing how you feel than in advancing your argument. You can tell when a statement includes such fluff when it could be slotted into almost any brief: "Plaintiff has embarked on a wild goose chase looking for a deep pocket to blame, and Defendant is now unfairly and unreasonably forced to defend this frivolous lawsuit." "Defendant's deceptive actions and multiple false promises fraudulently and deceitfully led Plaintiff down a rabbit hole which swallowed up Plaintiff's time, money, and goodwill." There may be a time and place for such statements, but that is rare. Odds are high that your argument will not suffer if you cross this type of sentence out of your brief.

- Long disquisitions of legal or factual points which are not essential to your argument. If you are moving to dismiss the complaint, you may need a quick footnote to point out that you have the right to rely on the contracts which were

discussed in the complaint but not attached to it. You certainly do not need two paragraphs of string cites, or a lengthy block quote, in order to drill home the point.

- Lengthy hypotheticals or analogies. These can certainly be fun, but they can also be distracting, so use them with care. A judge or arbitrator should be able to understand your case on its own merits.

Regardless of your political persuasion, it's hard to deny that the President has mastered **Lesson Number 6: Keep it lively**. Short, compact sentences. Short paragraphs, too. Active verbs. Avoid circuitous introductions. Minimize redundancy. Reduce legalese.

Tweets may be an unlikely source of inspiration for brief writing. But while the supply is plentiful, why not make the most of them?