

# Legal Writing for Online and On-Screen Readers

Wayne Schiess | Austin Bar Assn. Solo & Small Firm Sec. | Oct. 22, 2009

## The reality of on-screen reading by courts

- By 2010 all records, briefs, and files of Texas appellate courts will be kept in computers, not paper.
- The Fifth Circuit is moving to electronic files.
- Many Texas trial courts are already paperless.

## On-screen or online reading shows these characteristics

Based on a study of web reading and website viewing:

- On-screen readers employ much skimming
- On-screen readers jump from point to point and source to source
- On-screen readers allocate only a short time to reading
- On-screen readers' eye movement on screen shows a top-left pattern

## Given the traits of the on-screen reader I recommend

1. Keep documents as short as possible.
2. Give readers many tools for skimming: headings, topic sentences, lists (bullets, numbers), outlines
3. Give readers a summary up front
4. Give readers context before details
5. Keep the language, logic, structure, and design simple
6. Use white space wisely
7. Use hyperlinks wisely

## 1a. ACADEMIC INTEGRITY

UT Law section 4 | Fall 2008

For research exercises, each of you must do each problem in the assignment (that is, you may not divide up the work). Each of you must turn in a paper. The actual expression of your answers must be your own. Do not copy someone's answers even if you all did the work. If you work with a partner, write the name of your partner at the top of your homework.

For ungraded work, you may *talk* but not *write* together. In other words, as you work on research exercises and ungraded writing projects, you may discuss ideas with other students, talk about research and writing options, consult with the writing-center staff, and give oral feedback on oral expressions. You may not write an assignment jointly, edit another student's writing, copy another student's work, or read another student's writing before it is turned in.

You may not collaborate or get help on any graded assignment—except from Mr. Schiess.

You will be penalized for dishonest citation. Dishonest citation means citing a source that does not support the proposition asserted, altering or omitting language in a quotation without indicating the alteration or omission (if you quote, you must quote it exactly or indicate the changes), and using paraphrased or verbatim language without citing the source.

# 1b. Academic integrity

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## Research exercises

Each of you must do each problem in the assignment (that is, you may not divide up the work). Each of you must turn in a paper. The actual expression of your answers must be your own. Do not copy someone's answers even if you all did the work. If you work with a partner, write the name of your partner at the top of your homework.

## Collaboration allowed on ungraded work

For ungraded work, you may *talk* but not *write* together. In other words, as you work on research exercises and ungraded writing projects, you may—

- discuss ideas with other students,
- talk about research and writing options,
- consult with the writing-center staff, and
- give oral feedback on oral expressions.

You may not—

- write an assignment jointly,
- edit another student's writing,
- copy another student's work, or
- read another student's writing before it is turned in.

## No collaboration or help on graded work

You may not collaborate or get help on any graded assignment—except from Mr. Schiess.

## Dishonest citation

You will be penalized for dishonest citation. Dishonest citation means—

- Citing a source that does not support the proposition asserted.
- Altering or omitting language in a quotation without indicating the alteration or omission. If you quote, you must quote it exactly or indicate the changes.
- Using paraphrased or verbatim language without citing the source.

## **2a. Email without summary**

I spoke to the Dean of Academic Affairs today about getting an exception to the law school's curve for the Drafting course. As you know, I believe that I should be allowed to give grades that are higher than they would be if I conformed to the curve.

I explained that an exception to the law-school curve was warranted for three reasons: the small class size (19 students), the self-selecting nature of the course (i.e., students who signed up for this course probably take legal drafting seriously), and the fact that I had already graded and returned two earlier assignments that were not based on the curve.

So as I hoped, the grades for Drafting do not have to conform to the law school's curve.

## **2b. Email with summary**

As I hoped, the grades for Drafting do not have to conform to the law school's curve.

I spoke to the Dean of Academic Affairs today about getting an exception to the law school's curve for the course. As you know, I believe that I should be allowed to give grades that are higher than they would be if I conformed to the curve.

I explained that an exception to the law-school curve was warranted for three reasons: the small class size (19 students), the self-selecting nature of the course (i.e., students who signed up for this course probably take legal drafting seriously), and the fact that I had already graded and returned two earlier assignments that were not based on the curve.

## **3a. Opinion letter without summary**

You have requested this firm provide Great Mountain Homeowners Association, Inc. ("Association") with a legal opinion regarding whether Section 4.02 of the Association's Bylaws requires a candidate to receive a majority of the votes cast at an annual meeting in order to be properly elected to the Board of Directors.

## **3b. Opinion letter with summary**

You've asked us to give Great Mountain Homeowners Association a legal opinion on Section 4.02 of the Association's Bylaws. Specifically, for election to the Board of Directors, does section 4.02 require a candidate to receive a majority of the votes cast at an annual meeting, or is it enough that the candidate received more votes than the next competing candidate?

- Although long-standing Association practice has been to seat candidates who received more votes than the next competing candidate—and that practice is likely legal—it would be safer to conduct a run-off election for the contested seat.

#### **4a. Motion without summary**

**RESPONSE OF FAQ OPERATING LIMITED PARTNERSHIP AND  
RUTTER, LLC TO MOTION OF HENRY H. HINEMAN FOR STAY  
PENDING APPEAL**

Plaintiffs, FAQ Operating Limited Partnership ("FAQ") and Rutter LLC ("Rutter"), by their attorneys, Amber T. Green, Sanjay Adeep, and David P. Hurst, state as follows in response to Defendant Henry H. Hineman's ("Hineman") motion for stay pending appeal:

#### **4b. Motion with summary and roadmap**

**FAQ and Rutter's Response to  
Hineman's Motion For Stay Pending Appeal**

Hineman, believing that he can succeed on appeal to the district court, seeks to stay the effect of the remand orders this court entered on February 25, 2004. But Hineman is incorrect in his analysis under Rule 8005 and is unlikely to prevail on appeal for four reasons:

1. He has not met and cannot meet the "strong showing" of likely success required as a threshold inquiry under Rule 8005;
2. He cannot show that he will suffer irreparable injury absent a stay;
3. A stay could substantially harm other parties in the litigation; and
4. He cannot show that stay is in the public interest.

Hineman fails on all counts, and the request for stay should be denied.

## **5a. Appeal motion without summary**

DEPARTMENT OF HOMELAND SECURITY'S  
APPEAL FROM THE DECISION  
OF THE IMMIGRATION JUDGE

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (hereafter "Government") submits this brief in support of its position that the Immigration Judge erred in terminating removal proceedings.

## **5b. Appeal motion with summary**

**Homeland Security's Appeal From  
The Immigration Judge's Decision**

### **Summary**

Gerard Colangelo, an alien, was convicted in Texas of Criminal Sexual Contact of a Minor in the Fourth Degree. Homeland Security concluded that he was guilty of an aggravated felony under the Immigration and Naturalization Act and sought to deport him. The Immigration Judge denied deportation, concluding that because the conviction did not require a mental state of sexual arousal or gratification, Colangelo's crime was not an aggravated felony. But a mental state of sexual arousal or gratification is not required for an aggravated felony, and Homeland Security therefore appeals the judge's decision.

## **6a. Details before context**

The Commissioner of Social Security (the "Commissioner") submits this brief in support of her motion for judgment affirming her final decision that plaintiff was not entitled to disability insurance benefits ("DIB") or eligible for Supplemental Security Income ("SSI") benefits under the Social Security Act ("the Act"). This Court has jurisdiction to review the Commissioner's decision under 42 U.S.C. § 405(g), incorporated for purposes of SSI by 42 U.S.C. § 1383(c)(3). As shown below, substantial evidence of record demonstrates that plaintiff was capable of performing her past work as an inventory control specialist and a convenience store clerk. Therefore, the Commissioner's decision that plaintiff was not disabled must be affirmed.

## **6b. Context before details**

Substantial evidence of record shows that the plaintiff was able to perform her past work as an inventory-control specialist and a convenience-store clerk. Therefore, this court should affirm the Commissioner's decision that the plaintiff was not disabled.

### **Background**

The Commissioner of Social Security submits this brief in support of her motion for judgment affirming her final decision that the plaintiff was not entitled to disability insurance benefits or eligible for Supplemental Security Income benefits under the Social Security Act. This Court has jurisdiction to review the Commissioner's decision under 42 U.S.C. § 405(g), incorporated for purposes of Supplemental Security Income by 42 U.S.C. § 1383(c)(3).

## **7a. Details before context**

On December 2, 2007, Gentry obtained a bid for the excavation and installation of a sewer line. Gentry rented a front-end loader from Ted Tanaka for this project, and the loader was operated by either Gentry or another individual. . . .

## **7b. Context before details**

Our client, Ted Tanaka wants to know if he can prevail on an assertion that he was not a borrowed employee of Gentry Excavating and was always an employee of Tanaka Enterprises on the day of his injury.

Gentry obtained a bid for the excavation and installation of a sewer line. Gentry rented a front-end loader from Tanaka for this project, and the loader was usually operated by either Gentry or another individual. . . .

In order to determine whether Tanaka was an employee of TEI or Gentry, facts and circumstances must be considered because there was no express assignment of the right of control. The right of control over an employee may be expressly assigned by a contract. *Magnolia Petroleum Co. v. Francis*, 169 S.W.2d 286, 287-88 (Tex. Civ. App.—Beaumont 1943, writ ref'd). Magnolia had a contract with Stewart to unload a cargo ship. *Id.* at 286-87. The contract specified that Stewart would provide the labor and have complete control over it. *Id.* Because Stewart did not have a trained crew available, he used Magnolia's crew at Magnolia's expense. *Id.* at 287-88. Francis, a crewmember, was injured during the unloading due to the negligence of another crewmember, and Francis sued Magnolia under the doctrine of respondeat superior. *Id.* at 287. The court reversed judgment for Francis and rendered judgment for Magnolia, because Francis was acting at the service of the contractor at the time of the accident, as per the assignment. *Id.* at 287-288. Although an express assignment of right of control is helpful, implied contracts and contracts without express assignment force the court to look elsewhere to determine which employer has the right of control. *Producers*, 366 S.W.2d at 226. Pursuant to a request by telephone, Producers supplied a compressor and operator to Canadian River. *Id.* at 222. The compressor exploded, and in a case brought by injured employees of Canadian River, the operator was found negligent. *Id.* at 222-23. Producers appealed, alleging that the operator was a borrowed servant of Canadian River. *Id.* at 225. Because there was no express contractual assignment of right of control, the court had to determine right of control from facts and circumstances (discussed in detail below). *Id.* at 256.

When an express contractual assignment of right of control does exist, the assignment is not dispositive if circumstances indicate that the other party exercised the right of control over the employee. *Exxon*, 842 S.W.2d at 630. Exxon had a contract with Hancock Construction . . .

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