GUIDING LEGAL READERS THROUGH YOUR LEGAL DOCUMENT

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Crafting effective legal documents presents a two-step challenge. First, you have to write coherently about a topic—the law—that is often dense, complex, and confusing. Second, you have to write for an audience—the legal reader—who is usually sharp, skeptical, and very busy. To help her navigate the complex subject matter of your document, your reader craves guidance—signals in your text to help her understand the shape of your analysis and the direction that you are headed with it. You can best provide this guidance in two ways:

- First, at the macro level, by organizing your analysis around the law and giving the reader a preview of the elements of your analysis with roadmap paragraphs.
- Second, at the micro level, by using linking words and phrases to show how the ideas in a paragraph’s sentences relate to one another.

1) At the Macro Level: Roadmap a Path Through Your Analysis

A legal document usually walks the reader through the hierarchical structure of a particular legal doctrine. When you write, you can use roadmap paragraphs to make this structure more expressive for your reader.

A) The hierarchical structure of legal analysis.

Legal analysis usually proceeds by determining whether the elements of a cause of action are established under a particular situation’s facts. Frequently, at least one element will consist of sub-elements which must be established independently. In turn, whether a particular sub-element is met may depend on a rule with two or more options. Thus, the elements, sub-elements, and rules together usually form a nested hierarchical structure. This structure often conforms to the structure of a typical hierarchical outline.

For example, Pennsylvania law provides insurance companies with a cause of action to void an insurance policy if the insured person made a misrepresentation when securing the policy. The cause of action has three elements: first, the representation must have been false; second, the insured must have known that the representation was false when made or have made it in bad faith; and third, the representation must have been material to the risk the policy insured against.1

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These elements form a simple outline:

1. Was the representation false?
2. Did the insured know the representation was false when made or make it in bad faith?
3. Was the representation material to the risk being insured?

But the law is often more complex. Instead of defined elements, a legal test sometimes consists of a set of factors that must be evaluated together. In certain circumstances, for instance, a police officer may stop someone and question him about suspected criminal activity. During such a stop, the officer may also frisk the person for weapons if the circumstances indicate that the individual may be armed and present an immediate threat to the officer’s safety. But the decision to conduct the frisk must be justified at its inception, and whether it is justified depends on a number of factors and sub-factors considered together. The hierarchical organization of these factors might look like this:

1. Was the officer’s decision to frisk the individual justified at its inception based on the officer’s reasonable fear for her safety?
   a. Were there specific and articulable facts indicating an immediate threat to the officer’s safety?
      i. Did the officer’s observations reliably indicate that a crime involving a dangerous weapon may have occurred?
      ii. Did the officer observe a bulge under the individual’s clothing?
      iii. Did the individual exhibit potentially threatening characteristics during the stop?
         1. Were the individual’s hands in an area of the body where weapons are commonly hidden?
         2. Was the individual agitated and aggressive during the stop?
      iv. Did environmental conditions reduce the officer’s capacity to detect and react to a sudden threat?
      v. Was the officer experienced enough to detect subtle cues that indicate a threatening situation?
   b. Do those facts, considered in totality, indicate that the officer’s fear for her safety was reasonable?

Although the legal test here is more complex than with the Pennsylvania insurance issue, it still lends itself to organization in a hierarchical structure.

B. Using roadmap paragraphs to guide your reader through the hierarchy.

You can help guide your reader through the document by providing her with a roadmap paragraph each time your analysis moves to a more specific level in the hierarchy. Each roadmap paragraph should identify the elements, sub-elements, or factors that fit together at that level of the hierarchy. That way, your reader will know what to expect as she reads each section of your analysis. Often, in the first paragraph of your analysis section you will provide an overall roadmap setting forth the cause of action’s elements or providing an overview of the law. Then, as you transition between levels of generality in your analysis, include smaller-scale mini-roadmaps to guide the reader through the sub-elements and factors at each analytic level. And be sure to limit the scope of each roadmap or mini-roadmap to the elements or factors present at that

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2 See, e.g., Terry v. Ohio, 392 U.S. 1, 27 (1968).
level of your analysis; that way, you avoid overwhelming the reader with too much information up front.  

A memo analyzing a simple, element-based cause of action like Pennsylvania’s insurance misrepresentation law might require only a single, simple roadmap paragraph at the start of your discussion. A more complex legal test requires more roadmapping. Here is the hierarchical structure for the decision to frisk issue again, with appropriate places for roadmaps and mini-roadmaps inserted in italics.

1. Was the officer’s decision to frisk the individual justified at its inception based on the officer’s reasonable fear for her safety?  
   Roadmap here identifying the nature of the legal test.
   a. Were there specific and articulable facts indicating an immediate threat to the officer’s safety?  
      Mini-roadmap here to preview the different factors.
      i. Did the officer’s observations reliably indicate that a crime involving a dangerous weapon may have occurred?  
      ii. Did the officer observe a bulge under the individual’s clothing?  
      iii. Did the individual exhibit potentially threatening characteristics during the stop?  
         Mini-roadmap here to identify the sub-factors.
         1. Were the individual’s hands in an area of the body where weapons are commonly hidden?
         2. Was the individual agitated and aggressive during the stop?
      iv. Did environmental conditions reduce the officer’s capacity to detect and react to a sudden threat?  
      v. Was the officer experienced enough to detect subtle cues that indicate a threatening situation?  
   b. Do those facts, considered in totality, indicate that the officer’s fear for her safety was reasonable?

You should note that a roadmap does not need to be long to be effective; when identifying a few sub-factors, a single sentence will often do the trick. As noted above, the key to guiding your readers through your large-scale organization is to craft a roadmap of some kind each time you shift down a level in your organizational hierarchy.

2) At the Micro Level: Connect the Dots Between Sentences with Words and Phrases that Preview Where You are Headed.

When your reader digs into the meat of your analysis, continue to guide her through your paragraphs by starting sentences with words and phrases that show her where you are about to go. These words and phrases are called linking or transitional words and phrases. (Thereafter, “linking words and phrases”). Linking words and phrases express the relationship between the prior sentence and the present sentence. Thus, when a reader encounters one at the start of a sentence, she is not required to puzzle out the relationship between the sentences while also

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3 Along with roadmaps, you can include headings at the top of each section or sub-section to keep your reader oriented. For more on crafting effective headings, see the Writing Center’s handout on “Writing Effective Point Headings.”
digesting the substance of the sentence she is reading now. In effect, the linking word or phrase serves as a roadmap for the sentence that follows. This document explores two particular types of linking words and phrases: those that express logical relationships between the sentences, and those that summarize the previous sentence.

A. Using words and phrases that show the logical links between sentences.

Legal analysis is most effective when it explains the logical relationships between propositions with clarity. Many legal writers rely principally on a few stock linking words and phrases to express logical relationships: “although” or “even if” when refuting a counterargument; “furthermore” or “additionally” to emphasize or expand on a point; “therefore” or “accordingly” to set up a conclusion. And most writers deploy their linking words only occasionally—for example, by using words that signal conclusion only at the end of each section of a document.

Legal writers should not limit themselves to using only a few linking words in only a few specific situations. Indeed, strong legal analysis is characterized by making strong logical connections between sentences, and working to find a logical linking word or phrase to connect them expressly can help you tease out those connections as you write. Linking words and phrases can also provide you with an opportunity to put to use the kind of elegant variation that you should often avoid in the substance of your legal analysis. For example, in addition to using “although” and “even if,” when you are about to refute a counterargument, you could use “at the same times,” “even so,” “still,” or “on the other hands.”4 Likewise, legal writers need not rely only on “because” or “as a result” to show cause and effect. Other choices include “on that basis” or “to that end.”5 Of course, you may need to balance the virtues of adding variety to your linking words and phrases against the need for concision and the demands of a tight word count. Still, when you have room to do so, deploying a variety of logical connectors can add spice to your legal writing and at the same time strengthen your substantive analysis.

B. Phrases that summarize the previous sentence.

Legal analysis is rarely simple and frequently deals with abstract principles and ideas. Often you may need to string together several sentences, each with its own complex but intangible subject. These types of subjects lend themselves to being characterized with relative pronouns like “this,” “these,” and “that.” Unfortunately, those pronouns are often ambiguous precisely because they can stand in for abstractions; faced with one, your reader may not know which of your ideas it refers back to.

You can clear up the linkage between sentences with abstract subjects by adding a summative modifier to the start of the second sentence. A summative modifier is simply a global term that sums up the concept the preceding sentence discussed. Here are two pairs of sentences, one with a summative modifier and one without:6

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4 This list (and others like it) can be found in Ross Guberman’s Point Made, 213–15 (Oxford University Press, 2011).
5 Id.
6 This example is a modified version of an example in Williams and Colomb’s Style: Lessons in Clarity and Grace, 127–29. Williams and Colomb also discuss using summative and other types of modifiers within a long sentence to keep your reader oriented.
Economic changes have reduced Russian population growth to less than zero. This will have serious social implications.

Economic changes have reduced the Russian population growth to less than zero. This demographic event will have serious social implications.

Adding the summative modifier (“demographic event”) to the second example provides the second sentence with a definite subject (and converts the word “this” from acting as a pronoun to acting as an adjective). In turn, the subject acts like a roadmap when encountered at the start of the sentence because the reader knows that the rest of the sentence will describe something new about it. By using summative modifiers to connect sentences in this way, you can boil down abstract sentences to their essences and help keep your reader oriented as your analysis unfolds in a step-by-step fashion.

3. Conclusion

To sum up: Your legal reader wants (and expects) you to guide her through your complex document. By giving her roadmaps at each shift in your organizational hierarchy, you prime her to expect to encounter the elements and factors you then discuss. And by connecting your paragraphs’ sentences with a variety of appropriate linking words and phrases, you impress upon her the soundness of your reasoning while at the same time sparing her the effort of figuring out those connections herself. So don’t just sit there; put these techniques to work and make life easier on your legal readers!