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Legal Writing: A Judge's Perspective on the Science and Rhetoric of the Written Word. By Robert E. Bacharach. ABA Book Publishing, 2020. Pp. 184, \$89.95.

Legal Writing: A Judge's Perspective on the Science and Rhetoric of the Written Word is filled with airtight advice and breathes new life into some familiar tips. True, none of the advice here is unique or especially earth-shattering. But if that sounds like a backhanded endorsement, it shouldn't. This is no ordinary legal-writing manual. Judge Bacharach has made an important and unique contribution because he peppers his book with short, clear examples as well as scientific support for why certain writing techniques are effective. This alone would be worth the cost of the book. But there's more: he gives the reader an inside look at how a judge views legal writing, and his own writing is an excellent example of everything he recommends.

I will put this book on my bookshelf next to my other favorite writing texts (both legal and nonlegal). I have a lawyer friend known for his outstanding writing. On the three or four days of the year when he can't find a colleague to join him for lunch, he spends the hour reading through one of his favorite books about writing. I have adopted his practice, and this book will make it into my lunchtime reading rotation.

Here is how I approached this, my first book review. I did not read any of the blurbs or praise included on the book itself. I did not look for any additional reviews. I did not read the "About the Author" page. I did not want to be influenced by what other lawyers or law professors had said about the book. I also did not want to read what I (correctly) assumed would be an impressive biography of Judge Bacharach. But I immediately broke another rule I had set for myself. I planned to read straight through the book without marking it. My resolve faded almost immediately — I

couldn't resist both highlighting particular sections and taking notes on observations that I planned to share with my legal-writing students.

The book itself is slim, formatted for easy reading, and divided into logical chapters. I read it in a few hours, spread over five sessions. I immediately recognized its value not only as a book that can be read straight through, but also as an excellent resource for future perusing.

Judge Bacharach's curiosity and delight in examining the what, how, and why of legal writing instantly drew me in. He used *what* five times, *how* three times, and *why* two times in his scant 257-word preface. Just like other professors, I tell my students that learning to be a great legal writer takes a lifetime. And here is a living example of someone who was asking those questions, reflecting on a legal career, and ending with five words that hooked me: "Here is what I learned."

Let me return to my first observation, that Judge Bacharach's book is filled with airtight advice on legal writing, including many familiar tips. Virtually everything that can be said about the basics of legal writing has been said. But there is still great value in explaining the well-known qualities of legal writing in a clever way, using new examples, supporting the known fundamentals with science, and simply reinforcing the basics. Judge Bacharach is doing that work in this book.

I could pick any chapter and give multiple examples of how Judge Bacharach gives sound advice in a new way. Here are a few nuggets from *Chapter One – Introductions*, with my italics to show his particular contribution:

1. "[T]he introduction furnishes an ideal opportunity to *ease the reader's burdens* by providing the context for

the argument.”¹ I have heard something similar many times, and I tell my students to make it easy on the reader because all legal readers are overwhelmed with pages and pages of text to read. But there is something poetic and visual about the phrase “ease the reader’s burdens.” It captures exactly what I mean in four words instead of the twenty I use to explain the same thing. The phrase also allows the reader to visualize taking a load off the overwhelmed reader.

2. “To direct the reader, *the writer must know where to begin.*”² Again, this is a fairly common directive to legal writers. But the phrase “the writer must know where to begin” captures the multiple things that challenge any legal writer drafting an introduction: brainstorming about how to start, picking the starting place that will be most helpful to a reader in this situation, and then actually starting in that place.
3. “In effect, the ideal introduction serves as a *mini-argument*,”³ and “Writers must sometimes *present the mini-argument with only a sentence or two.*”⁴ The idea that an introduction is a mini-argument is customary, but I appreciated the challenge to accomplish much in “a sentence or two.”
4. “At this point, readers must know *only what is essential* to understand the logical progression of the argument.”⁵ After reading that sentence, I immediately

¹ Robert E. Bacharach, *Legal Writing: A Judge’s Perspective on the Science and Rhetoric of the Written Word* 1 (2020).

² *Id.* at 3.

³ *Id.* at 10.

⁴ *Id.* at 11.

⁵ *Id.* at 17.

thought of *The Little Prince* by Antoine de Saint-Exupéry. I grabbed the book off my shelf and read the passage where the fox explains to the Little Prince, “It is only with the heart that one can see rightly; *what is essential* is invisible to the eye.”⁶ I am not suggesting that Judge Bacharach meant the same thing as Saint-Exupéry, but the identical phrase will be memorable to many readers.

The book shines in its use of examples. Each legal-writing tip is immediately illustrated with a compelling example that helps the reader understand exactly what the tip means. I was especially impressed because the examples come from all kinds of legal cases, even areas as complex as the Employee Retirement Income Security Act and the Patient Protection and Affordable Care Act. These selections speak both to Judge Bacharach’s rigor (he doesn’t just pick the easy cases) and to his pleasure in finding a variety of examples (I imagined him collecting these gems and adding them to his list just the way an avid birder keeps a life list). Most examples in the book’s early sections were written by white male authors, but by the book’s end, the reader will have seen examples from more diverse authors.

The scientific support is impressive — it explains how readers read, what techniques help them focus, and what a writer can do to maximize the chances that the reader will remember what is written. It must have been difficult to decide where to pack all this “science of the written word.” I devoured the footnotes, and I hope that other readers will also make the effort to read them.

I plan to use several parts of the book as a reference:

⁶ Antoine de Saint-Exupéry, *The Little Prince* 87 (Harcourt Brace & Co. 1971) (emphasis added).

- pp. 49–69, on how to emphasize “critical points in your argument” (complete with succinct explanations of several rhetorical devices);
- pp. 73–88, listing vivid verbs to use for emphasis (but I won’t use any, such as “becloud,” that are not part of my usual speech);
- pp. 116–21, on usage; and
- *Chapter Eight — Grammar*, pp. 123–45 (this chapter is bursting with good reminders).

I also highlighted a host of other tidbits to share with my students. Not surprisingly, the advice from a federal judge lends gravity to my recommendations.

Judge Bacharach’s own writing is an inspiration to any writer hoping to improve. He succeeds at every level: he picks the simplest word possible to make his point, his sentences are clear, his chapters are digestible in one sitting, his headings and subheadings divide the material into understandable chunks, and his typography does just what he says it should — “facilitate understanding.”⁷ He follows his own advice when he notes, “[N]o one should need to reread anything that you write.”⁸

I disagreed with only one statement in the book: “Legal writers need not hook a reader’s interest because legal writing is typically read out of obligation.”⁹ The part about obligation is true, but in my view, a legal writer should not take the legal reader for granted. Of course, I read this book out of obligation because I had agreed to review it. Even so, I was hooked. Judge Bacharach, after years of reading mounds of legal writing, piqued my interest when he wrote, “Here is what I learned.” He held my interest for

⁷ Bacharach, *Legal Writing* at 153.

⁸ *Id.* at 46.

⁹ *Id.* at 1.

the entire book as I learned about new examples and elegant ways to explain the fundamentals of legal writing. A law student will learn much from the book. So will a lawyer.