EMPIRICAL RESEARCH ON LEGAL WRITING

TODAY'S GOAL

Review empirical research on what aspects of legal research and writing affect persuasion

Specific eye on appellate writing, but, with few studies out there, also will refer to studies of trial briefs (mostly SJ briefs)

INTRODUCTION, SOURCES, CREDITS

- Bio
- List of sources at end of presentation
- Credit to Wayne Schiess of UT law for compiling and sharing material

EMPIRICAL RESEARCH ON LEGAL WRITING: LIMITS

How much is out there?

How sound are the research/ study designs? Confounding variables, survey evidence, passage of time, pre- v. post- e-reading, etc.

Does research transfer?

(non-legal→ legal;

trial→ appellate)

EMPIRICAL RESEARCH ON LEGAL WRITING: LIMITS

Differences are marginal—after the merits, and after the lawyer's analytical skills

EMPIRICAL RESEARCH ON LEGAL WRITING: LIMITS

Takeaway: worthwhile considerations

Some (but not total) confirmation for legal-writing CW

Ammunition for drafting debates with colleagues/ clients?

- Readability and “Plain English”
- Citation and Authority
- Transitions and Connections
- Intensifiers and “Emotional” Language
- Priming and Storytelling

READABILITY

WHAT'S "READABILITY"?

- Plain meaning
- Technical meanings: different ways of measuring

READABILITY

The Flesch Reading Ease Scale

Rudolf Flesch, *How to Write Plain English* 25 (1979)

GRADE LEVEL (FLESCH-KINKAID)

- Numerical score for text that corresponds to grade level:
- ~How many years of formal education are required for a person to understand the text?

- 12 = completed high school
- 16 = completed college
- 19 = completed law school

DOES READABILITY MATTER?

- Does readability correlate with winning?
- The answer is a resounding “maybe”

READABILITY DOESN'T MATTER?

- Study examined readability of 882 appellate briefs (state and federal) using Flesch Reading Ease scale and the Flesch-Kincaid Grade Level
- *Authors found no statistically significant relationship between a brief's readability and its success*

Lance N. Long & William F. Christensen, *Does the Readability of Your Brief Affect Your Chance of Winning an Appeal?—An Analysis of Readability in Appellate Briefs and Its Correlation with Success on Appeal*, 12 J. App. Prac. & Proc. 145 (2011).

OR MAYBE IT DOES?

- In another study, authors reviewed 654 summary judgment briefs, excluding cross-motions, counterclaims, and partial summary judgment

- They scored briefs with 50 readability measures, including word difficulty as well as syllable, letter, and sentence counts, to generate a readability score for each brief
  - They also attempted to control for multiple other variables, both internal and external

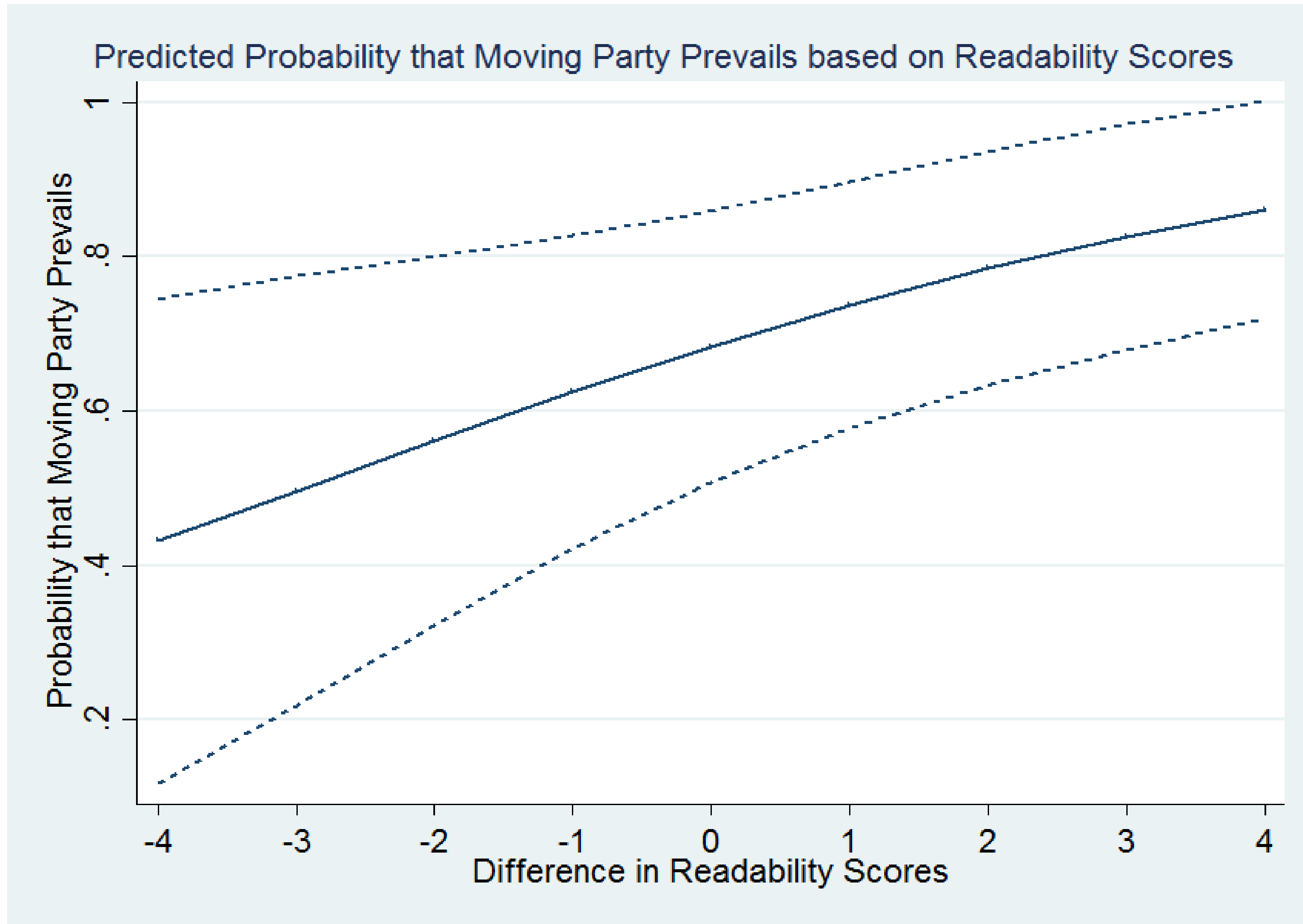
Shaun B. Spencer & Adam Feldman, *Words Count: The Empirical Relationship Between Brief Writing and Summary Judgment Success*, 22 J. Leg. Writing Inst. 61 (2018).

READABILITY MATTERS

- *The authors found that a brief's readability significantly correlated with summary judgment success.*

- *Further, readability had a stronger relationship with winning in federal courts than in state courts*

Shaun B. Spencer & Adam Feldman, *Words Count: The Empirical Relationship Between Brief Writing and Summary Judgment Success*, 22 J. Leg. Writing Inst. 61 (2018).

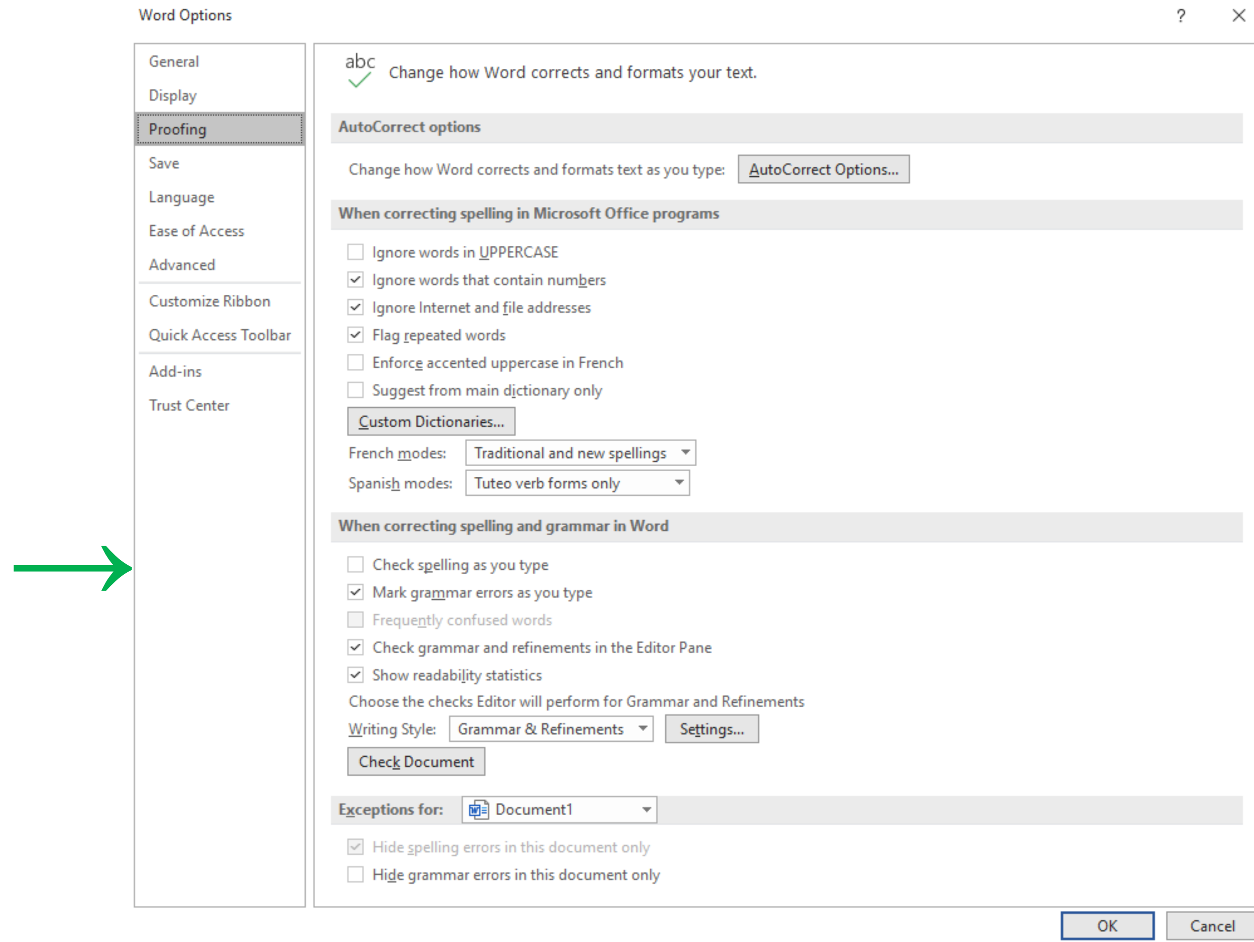


Shaun B. Spencer & Adam Feldman, *Words Count: The Empirical Relationship Between Brief Writing and Summary Judgment Success*, 22 J. Leg. Writing Inst. 61, 94 (2018).

READABILITY MATTERS?

- Maybe it matters in trial court but not appellate court?
- Maybe the 2018 study had a more sophisticated combined metric of readability than the 2011 study?

CHECKING READABILITY



READABILITY SCORES

- AEDPA:

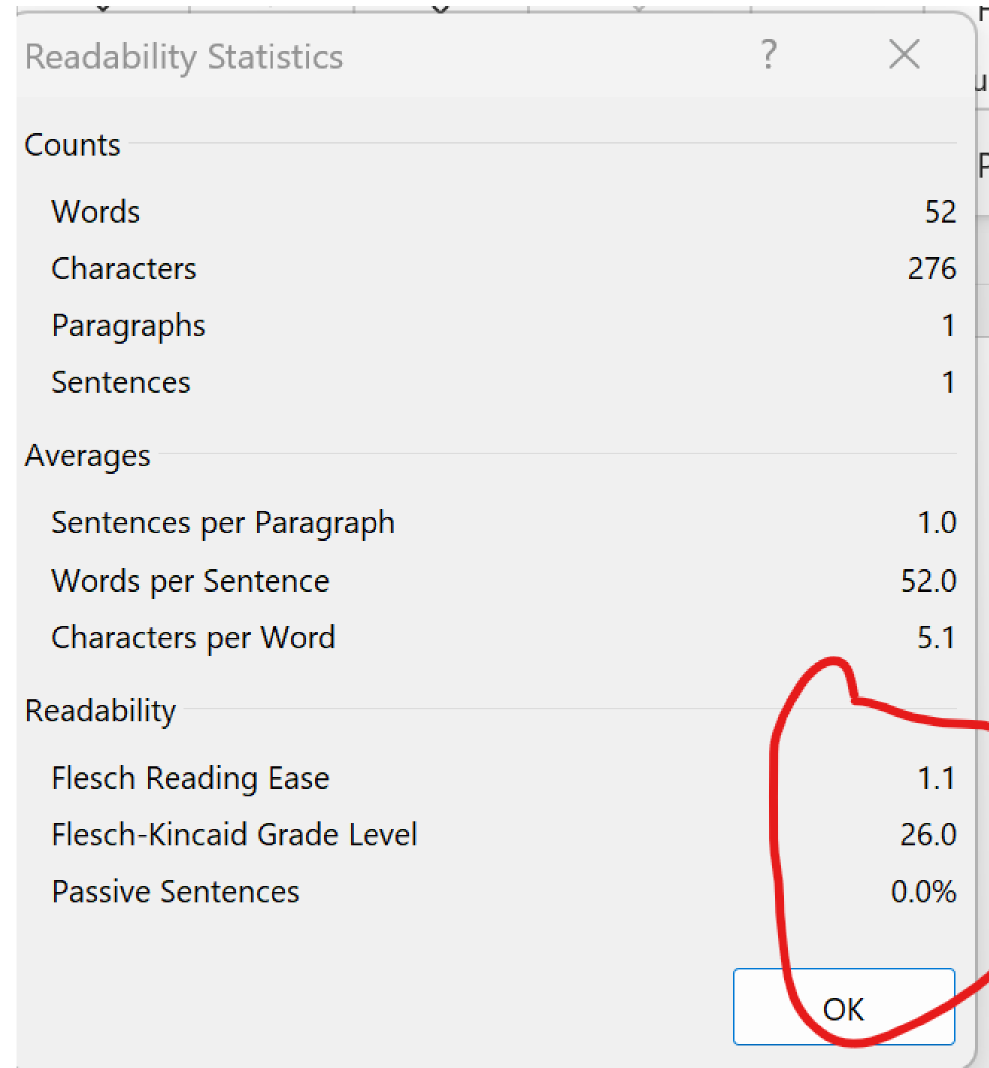
Readability Statistics

Counts	
Words	787
Characters	4,050
Paragraphs	13
Sentences	17
Averages	
Sentences per Paragraph	1.3
Words per Sentence	46.2
Characters per Word	4.8
Readability	
Flesch Reading Ease	30.8
Flesch-Kincaid Grade Level	17.8
Passive Sentences	29.4%

OK

READABILITY SCORES

- ?????????



“PLAIN ENGLISH” & READABILITY

- “Plain English” is at least akin to “readability,” if not exactly the same thing

“PLAIN ENGLISH” V. “LEGALESE”

- “Plain English” partisans have maybe stolen a march here
- Of course, “legalese” is bad; like saying “should a brief have more gibberish in it, or less?”

"PLAIN ENGLISH":

1. Use easily readable typefaces and type sizes.
2. Keep sentences and paragraphs short.
3. Use headings to create obvious, large-scale organization
4. Use moderate enumeration and tabulation for small-scale organization
5. Use concrete nouns as subjects; use concrete verbs.
6. Prefer active voice to passive.
7. Avoid unnecessary Latin, formal words, and jargon.
8. Cut unnecessary words.
9. Punctuate correctly.
10. Test documents on the intended audience before finishing them

Wayne C. Schiess, What Plain English Really Is, 9 Scribes J. Leg. Writing 43, 72 (2003–2004).

“PLAIN ENGLISH” V. “LEGALESE”

- “Plain English” has mostly won out among appellate lawyers (I think)
- But does “Plain English” actually win more?

“PLAIN ENGLISH” V. “LEGALESE”

2010 study attempted to survey judges’ preferences for “plain English” v. “legalese” v. “informal writing”

Participants were given sample briefs in plain English, legalese, and informal language (not told which)

256 judges responded

Author tracked responses in terms of state/ federal, male/female, rural/urban

Sean Flammer, *Persuading Judges: An Empirical Analysis of Writing Style, Persuasion, and the Use of Plain English*, 16 Legal Writing 184 (2010).

“PLAIN ENGLISH” V. “LEGALESE”

- Judges overall preferred plain English to legalese (66%/34%)
- Stronger preference (than the overall average) among federal judges (77%/23%)

Sean Flammer, *Persuading Judges: An Empirical Analysis of Writing Style, Persuasion, and the Use of Plain English*, 16 Legal Writing 184 (2010).

“INFORMAL” V. “LEGALESE”

- Judges overall preferred informal to legalese (58%/42%)
- Female judges preferred informal to legalese (83%/17%)
- Rural judges preferred legalese to informal (55%/45%)

Sean Flammer, *Persuading Judges: An Empirical Analysis of Writing Style, Persuasion, and the Use of Plain English*, 16 Legal Writing 184 (2010).

READABILITY/ “PLAIN ENGLISH” V. “LEGALESE”

- Trend evidence: Empirical studies of trends in readability (without trying to tie to win rates) have mixed results
- Supreme court briefs: 2010 study (of briefs from 1970-2004) found facts and summary of argument becoming more readable; argument less
- More drift away from legalese, past Plain English, and towards informality in 2023?

Brady Coleman & Quy Phung, *The Language of Supreme Court Briefs: A Large-Scale Quantitative Investigation*, 11 J. App. Prac. & Process 75 (2010).

SENTENCE LENGTH

- One aspect of readability, isolated
  - Conventional wisdom would be that shorter sentences are better and easier to comprehend
  - [Side note: could reading ease be a downside if merits are weak? No studies on deliberate opacity as a weak-case strategy.]

STUDY: DOES LAWYERING MATTER?

- 2022 *Texas Law Review* essay studied several different LRW topics seeking correlations with win chances
- Used machine-learning & textual-analysis methods
- Attempted *inter alia* to test some legal-writing conventional wisdom

Elizabeth C. Tippett et al., Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice, 100 Texas L. Rev. 1157 (2022).

STUDY: DOES LAWYERING MATTER?

- Authors gathered database of summary-judgment motions and responses in 444 employment-law cases in federal court.
- Excluded briefs when motion was granted only in part.
- Applied various statistical/ data analysis methods to see what characteristics did or didn’t correlate with winning
- Also examined controls (court, type of suit, *pro se* status)—none affected the validity of the results

Elizabeth C. Tippett et al., Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice, 100 Texas L. Rev. 1157 (2022).

- One big conclusion was—yes, research & writing matters
- Study found various degrees of correlation for particular differences, from zero to fairly strong
- Will mention several of these

Elizabeth C. Tippett et al., Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice, 100 Texas L. Rev. 1157 (2022).

SENTENCE LENGTH

- Conventional writing wisdom suggests shorter sentences are better
- Tippett article found no correlation between sentence length and winning (.000)

Elizabeth C. Tippett et al., Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice, 100 Texas L. Rev. 1157 (2022).

AUTHORITY & CITATION

DOES LAWYERING MATTER? CITATIONS DO.

- The *Does Lawyering Matter?* article found that:
- "… . . . [T]he strongest results involved the citations themselves, suggesting that legal research plays a central role in brief writing. . ."

Elizabeth C. Tippett et al., Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice, 100 Texas L. Rev. 1157 (2022).

HOW DOES CITATION MATTER?

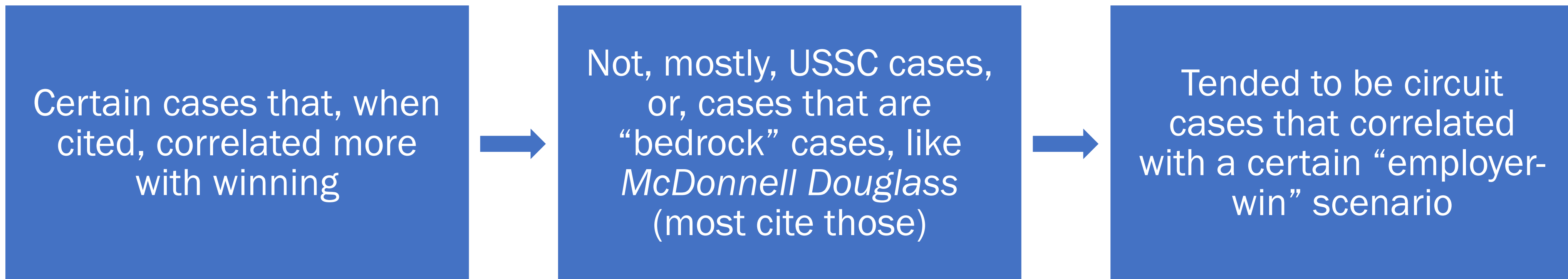
- String cites were correlated with winning (.044)
- More generally, overall citation frequency was also correlated with winning
- *But* lengthy string cites (>5 cites) were negatively correlated
  - “The results generally support the advice from LRW scholars to convey the weight of the legal authority through comprehensive citations but to avoid lengthy string cites.”

Elizabeth C. Tippett et al., Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice, 100 Texas L. Rev. 1157 (2022).

- The TLR study found the highest correlations to winning based on which cases briefs cited

Elizabeth C. Tippett et al., Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice, 100 Texas L. Rev. 1157 (2022).

RESEARCH MATTERS: BEST CASES



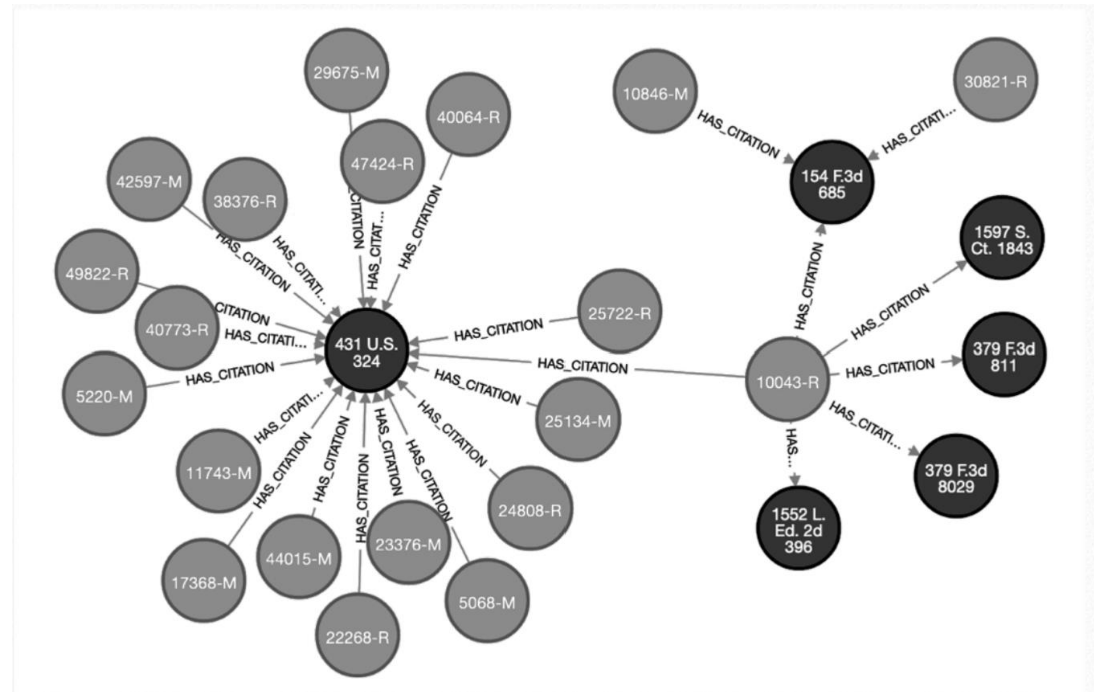
Elizabeth C. Tippett et al., Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice, 100 Texas L. Rev. 1157 (2022).

RESEARCH MATTERS: CLUSTERED CASES

- Also, there were clusters of cases across briefs that correlated with winning—that is, winning briefs tended to cite (many of) the same cases (.179)
  - "Network" analysis and briefs that are "neighbors"
  - "Vectorizing citation frequency"
- And, when the "best case" and "case cluster" effects were combined, it was the strongest predictor in the study

Elizabeth C. Tippett et al., Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice, 100 Texas L. Rev. 1157 (2022).

RESEARCH ITSELF MATTERS MOST



Elizabeth C. Tippett et al., Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice, 100 Texas L. Rev. 1157 (2022).

CASE SELECTION: OPPONENT'S CASES, LEADING CASES

- On the non-movant side, citing cases that a) your opponent also cited or b) were often cited in winning SJ briefs both tended to correlate with winning
- On the other hand, citing "idiosyncratic" cases correlated with losing
  - Specifically, every brief that shared no citations with any other brief ("singletons") was a losing brief
- "These results suggest . . . that it is a poor strategy to exclusively cite unusual precedent in a brief, while those that cite to a common body of law tend to fare better."

Elizabeth C. Tippett et al., Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice, 100 Texas L. Rev. 1157 (2022).

HOW TO FIND THE "LEADING" CASES?

- Expertise? Resources?
- The *TLR* authors argued that the differences in citation could be attributed to resource disparities (e.g., plaintiff-defendant)
- This seems plausible, but the article didn't show or try to show it empirically (e.g., that briefs with better cites had richer clients or cost more)
- Their proposed solution was a data-driven cite-recommendation tool based on a corpus of briefs in similar cases

Elizabeth C. Tippett et al., Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice, 100 Texas L. Rev. 1157 (2022).

MORE ON USE OF AUTHORITY

- Another study categorized and counted the main ways judges and lawyers used case law.
- The author used a database of parties' briefs and the judicial opinions written in response—199 documents total

Brian Larson, Precedent as Rational Persuasion, 25 Legal Writing: Journal of the Legal Writing Institute 135 (2021)

USE OF AUTHORITY: TYPES & FREQUENCY

- The study identified 5 main ways legal writers use cases (most to least frequent):
  1. As support for a legal rule
  2. As the source of a quotation
  3. As an example for comparison or distinction
  4. As support for a policy—the "why" of a legal rule
  5. As support for a generalization about how courts decide these kinds of cases

Brian Larson, Precedent as Rational Persuasion, 25 Legal Writing: Journal of the Legal Writing Institute 135 (2021)

USE OF AUTHORITY: WINNING & LOSING USES

- Winning briefs tended to make more of these types of uses than losing briefs:
  - Policy the ("why")
  - Generalization (how courts decide these kinds of cases)

- Losing briefs tended to use more of these types than winning briefs:
  - Rule
  - Quotation
  - Example

Brian Larson, Precedent as Rational Persuasion, 25 Legal Writing: Journal of the Legal Writing Institute 135 (2021)

TRANSITIONS & CONNECTIONS

- Using linking words, sign-posting, etc.
- Research shows that transitions/ connection words can improve reader understanding

TRANSITIONS AND CONNECTIONS

- E.g., two sentences linked with “because” resulted in faster comprehension than to sentences with no link
- And, between sentences linked with a) nothing, b) “and,” and c) “because,” the “because” sentences were easiest to recall
- Because of the connection (presumably)

Diana J. Simon, The Power of Connectivity: The Science and Art of Transitions, 18 Leg. Comm. & Rhetoric: JALWD 65 (2021)

“HEDGING”

- Hedging is a particular sort of connection that acknowledges a concern, problem, or counter
- E.g., , “however,” “albeit,” “regardless,” “even if/ assuming/ though,” “nevertheless,” “while”

“HEDGING”

- The *Does Lawyering Matter?* study found that, among writing/ textual features, hedging had the overall highest correlation with win prediction (.061)
- Hedging generally appeared when brief was acknowledging and defusing unhelpful authority or argument
- Perhaps fits with idea that briefs do better if they cite, rather than ignore, opponent’s cases

Elizabeth C. Tippett et al, *Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice*, 100 Texas L. Rev. 1157 (2022).

INTENSIFERS & EMOTIONAL LANGUAGE

INTENSIFIERS

- Intensifiers heighten, emphasize, or express certainty
- LRW scholar (Beazley) has distinguished between "Positive" and "Negative" intensifiers
- The distinction between "positive" and "negative" is based on how persuasive these are (supposed to be) to readers
  - Positive= more precise, followed by concrete "why"
  - Negative= more hyperbolic, rhetorical, overstated
  - E.g., "Unsubstantiated" is "positive" but "Clearly" is "negative"

Mary Beth Beazley, A Practical Guide to Appellate Advocacy 164 (2002).

INTENSIFIERS–NEGATIVE V. POSITIVE

- **Negative Intensifiers**—abandon, absolute, absurd, artificial, axiomatic, baseless, blatant, boldly, bootstrap, clear, complete absence, completely, conclusively, cover up, cover-up, critically, defective, disingenuous, egregious, epitome, fabricated, false, flimsy, frivolous, futile, futility, illogical, impossible, improper, impugn, inflate, invalid, lack merit, let alone, manifest, mere, mystery, no effort, obvious, patently, plainly, salvage, sandbag, simply, speculative, stark, totally, transparent, unfounded, unquestionably, vain, whatsoever, without question, woefully
- **Positive Intensifiers**—conclusory, critical, erratic, erroneous, even, excuse, fatal flaw, faulty, hastily, inadequate, inconsistencies, indisputably, irrelevant, littered, misplaced, misrepresentation, never, obfuscate, only, overwhelming, remotely, shred, unacceptably, uncorroborated, unmistakable, unsubstantiated, unsupported

Elizabeth C. Tippett et al., Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice, 100 Texas L. Rev. 1157 (2022).

DO INTENSIFIERS MATTER?

- The *Does Lawyering Matter?* study found "positive" intensifiers correlated with winning (.056)
- But so did "negative" intensifiers (.055)
- And the different in effects wasn't much
- So, just be intense (?)

Elizabeth C. Tippett et al., Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice, 100 Texas L. Rev. 1157 (2022).

POSITIVE INTENSIFIERS SIGNAL "HIGHER QUALITY"?

- Authors did find, in their qualitative review of the briefs, that positive intensifiers tended to be associated with higher quality briefs
- Negative intensifiers tended to be associated with lower quality briefs—poorly written, and often used in personal attacks

Elizabeth C. Tippett et al., Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice, 100 Texas L. Rev. 1157 (2022).

MORE EVIDENCE TO AVOID "NEGATIVE" INTENSIFIERS

- An older study looked at intensifiers in appellate briefs from a randomly selected set of federal and state cases
- Focused just on a small set of negative intensifiers: very, obviously, clearly, patently, absolutely, really, plainly, undoubtedly, totally, simply, and wholly
- (Wouldn't capture what other article called "positive" intensifiers or even all of the "negative" intensifiers)

Lance N. Long & William F. Christensen, Clearly, Using Intensifiers Is Very Bad—Or Is It? 45 Idaho L. Rev. 171, 180 (2008).

MORE EVIDENCE TO AVOID "NEGATIVE" INTENSIFIERS

- Found, in general, that more of these intensifiers correlated with more losing (for appellants; was neutral for appellees)

- *But* more intensifiers correlated with more winning when the judge who wrote the opinion made heavy use of intensifiers
  - (Maybe: use them when they're really warranted?)
  - Also: dissents tended to use these intensifiers much more than majority opinions

Lance N. Long & William F. Christensen, Clearly, Using Intensifiers Is Very Bad—Or Is It? 45 Idaho L. Rev. 171, 180 (2008).

EMOTIONAL LANGUAGE

EMOTIONAL LANGUAGE

- LRW expert wisdom is mostly against using “emotional” language and appeals to sympathy
- Especially in appellate briefs

SWEET EMOTION?

- One study used automated textual analysis to track “emotional language” in U.S. Supreme Court briefs
- Authors studied correlations between emotional language and justices’ votes in 1500+ cases decided during the 1984-2007 terms
- Attempted to eliminate various confounds (e.g., use of authority, ideology, quality of lawyers); checked several ways for robustness

Ryan C. Black et al., The Role of Emotional Language in Briefs before the U.S. Supreme Court, J. of Law and Courts 377, 384 (Fall 2016).

UNDER-EMOTE

- Findings—“Justices are more likely to vote for parties whose briefs eschew emotionally charged language”
- For petitioners, minimizing use of minimal emotional language is associated with a 29% increase in their probability of capturing a justice’s vote
- For respondents, the effect is even greater; minimizing use of emotional language is associated with a 100% increase in their probability of winning a justice’s vote

- Authors suggested that emotional language could signal to the justices lack of credibility or just overall lower-quality lawyering

Ryan C. Black et al., The Role of Emotional Language in Briefs before the U.S. Supreme Court, J. of Law and Courts 377, 384 (Fall 2016).

CAVEATS?

- The authors tracked “emotional language” using a 900+ word list of emotional words, but some of those are quite common in legal writing for other readings
  - E.g., “abuse”→ “abuse of discretion”

- The Supreme Court could be unusually/ especially resistant to emotional appeals (?)

Ryan C. Black et al., The Role of Emotional Language in Briefs before the U.S. Supreme Court, J. of Law and Courts 377, 384 (Fall 2016).

- *Does Lawyering Matter*? also examined whether emotional language correlated with winning, and found it did not (.000)

Elizabeth C. Tippett et al., Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice, 100 Texas L. Rev. 1157 (2022).

PRIMING

PRIMING

- Priming= preparing the reader to agree with the substance of your arguments

- Introducing themes that favor your side
- Setting frames via narratives or positive/ negative characterizations
  - "*We're* relying on well-settled law, *they*'re asking for something unprecedented"

PRIMING

- One study investigated whether priming mattered by testing whether changing the preliminary statement in a summary-judgment motion affected outcomes

- 163 U.S. judges read an excerpt from a brief on a cross-motion for summary judgment between a small business and a federal agency.

Kenneth D. Chestek, *Fear and Loathing in Persuasive Writing: An Empirical Study of the Effects of the Negativity Bias*, 14 Legal Comm. & Rhetoric 1 (2017).

PRIMING STUDY

- Each brief had the same statement of facts and summary of the law, but the briefs had nine different versions of the preliminary statement:

  - four negative-themed
  - four positive-themed
  - one neutral

- The only thing different was the preliminary statement; so, presumably, that was responsible for differences in outcomes

Kenneth D. Chestek, *Fear and Loathing in Persuasive Writing: An Empirical Study of the Effects of the Negativity Bias*, 14 Legal Comm. & Rhetoric 1 (2017).

PRIMING WORKED

- *Judges who read preliminary statements favoring the small business viewed the case more favorably to the small business compared to those who read a neutral preliminary statement.*

- *Judges who read a preliminary statement favoring the federal agency "were mixed but were uniformly less favorable to the small business."*

Kenneth D. Chestek, *Fear and Loathing in Persuasive Writing: An Empirical Study of the Effects of the Negativity Bias*, 14 Legal Comm. & Rhetoric 1 (2017).

STORYTELLING

NARRATIVE/STORYTELLING

JGR: It's got to be a good story. Every lawsuit is a story. I don't care if it's about a dry contract interpretation; you've got two people who want to accomplish something, and they're coming together — that's a story. And you've got to tell a good story. Believe it or not, no matter how dry it is, something's going on that got you to this point, and you want it to be a little bit of a page-turner, to have some sense of drama, some building up to the legal arguments. I also think — again, it varies on your forum — but certainly here at the Supreme Court and in the courts of appeals, you're

- Conventional LRW wisdom strongly encourages telling a story in legal writing (including appellate briefwriting)

Chief Justice John Roberts, Interview with Bryan Garner, 13 Scribes Journal of Legal Writing 5, 16 (2010)

NARRATIVE/STORYTELLING

- Does storytelling actually increase persuasion?
- One researcher studied this with an A/B test to see if including a narrative element made a difference

Kenneth Chestek, *Judging by the Numbers: An Empirical Study of the Power of Story*, 7 J. Assn. Legal Writing Directors 1, 19 (Fall 2010)

CONTROLLING THE NARRATIVE

- Author sent briefs for a fictional case to 95 readers (including judges, clerks, staff attorneys, practitioners, & law professors)
- Each reviewer got two briefs:
  - **one with a narrative component**—(facts tell a story, brief weaves in a theme)—plus legal argument
  - **one with no narrative component**—advocating for the same party but with only legal arguments
- The author controlled for possible reader preferences for Petitioners and Respondents.

Kenneth Chestek, *Judging by the Numbers: An Empirical Study of the Power of Story*, 7 J. Assn. Legal Writing Directors 1, 19 (Fall 2010)

STORIES DO MATTER

- *The majority, **64%**, found the narrative briefs more persuasive.*

Kenneth Chestek, *Judging by the Numbers: An Empirical Study of the Power of Story*, 7 J. Assn. Legal Writing Directors 1, 19 (Fall 2010)

TO SOME PEOPLE. . .

- Practitioners, staff attorneys, and law professors were the most persuaded by story briefs.
- Appellate judges preferred the story briefs by a slim majority
- Law clerks basically had no preference for the story
- More generally, time in practice mattered: those with 15+ years experience had a much stronger preference for story than those with <9 years
- Gender of reader did not make a difference

Kenneth Chestek, *Judging by the Numbers: An Empirical Study of the Power of Story*, 7 J. Assn. Legal Writing Directors 1, 19 (Fall 2010)

TO SOME PEOPLE. . .

- Notably, practicing lawyers were much more persuaded by story than appellate judges or law clerks
- Petitioners preferred story 70/30, but appellate judges only preferred by a slim majority & law clerks had no preference
- So, maybe story is overrated by practitioners?
- Caveat: small sample size in survey

Kenneth Chestek, *Judging by the Numbers: An Empirical Study of the Power of Story*, 7 J. Assn. Legal Writing Directors 1, 19 (Fall 2010)

SOURCES

- Ryan C. Black, Matthew E.K. Hall, Ryan J. Owens, & Eve M. Ringsmuth, The Role of Emotional Language in Briefs before the U.S. Supreme Court, J. of Law and Courts 377, 384 (Fall 2016).
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- Elizabeth C. Tippett, Charlotte S. Alexander, Karl Branting, Paul Morawski, Carlos Balhana, Craig Pfeifer and Sam Bayer, Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice, 100 Texas L. Rev. 1157 (2022).