

Effective Legal Writing: Practitioner's Perspective

I. Think About Your Purpose

- *Writing style varies with the purpose of the document*
 - A Plan of Reorganization is written like a *contract*
 - Definitions and Defined Terms
 - Expand or limit dictionary definition of a word
 - Clarify the meaning of a word or phrase for precision
 - Resolve ambiguities
 - Explain the meaning of technical terms specific to the transactions under the plan
 - Precise Language
 - Conveys intent of the parties to create obligations and rights, make representations, declarations, warranties and covenants, establish conditions, grant discretionary authority, etc.
 - Drafting determines the available remedies
 - Formatting for Clarity
 - Use of tabulation, precise numbering systems, descriptive headings and table of contents
 - A Disclosure Statement is written like a *narrative*
 - Opportunity to explain the debtor's background, its reasons leading to filing, and how it plans to reorganize in a conversational manner that is accessible to all interested parties

- A Proposed Order is written like a *summary*
 - Draft with the Court in mind. Would the Judge be comfortable affixing his or her seal to an order with typos? Would the Judge use Latin or arcane phrases where plain English will do? Does the order accurately represent the court's findings and conclusions?
 - Ensure relief sought is actually stated in the dispositive section of the order—not just “the motion is granted,” or “the objection is overruled.”
 - Do not grant relief in the order that is not requested in the accompanying motion.
- A brief is written like an *advertisement*
 - Persuade the court to agree with your argument
 - Make your message simple
 - Tell a story and convince, do not just convey information

II. Think Visually

- *“Wherever possible, use pictures, maps, diagrams, and other visual aids in your briefs. Some lawyers seem to think a word is worth a thousand pictures. The reverse, of course, is true. Seeing a case makes it come alive to judges.” – Hon. Richard A. Posner*
 - Visual Brief Organization
 - Use paragraph dividers and headers effectively to create a roadmap for the court. Keep the roadmap simple and consistent.

MOTION TO WITHDRAW THE REFERENCE

Background

Legal Basis for Relief

1. *The District Court has Subject Matter Jurisdiction*
2. *Venue is Proper in the District Court for the Eastern District of Wisconsin*
3. *The Court Should Decline Discretionary Abstention*

Conclusion

BRIEF IN OPPOSITION TO MOTION TO WITHDRAW REFERENCE

Factual and Legal Background

Argument

1. *Mandatory Withdrawal is Not Appropriate*
2. *Permissive Withdrawal is Also Not Appropriate*
 - A. *This matter is a core proceeding, which favors denial of the motion.*
 - B. *The Bankruptcy Court has greater familiarity with the factual issues raised in this proceeding than the District Court; this favors denial of the Motion.*
 - C. *The ruling will affect orderly administration of the remainder of the Debtor's bankruptcy case; this favors denial of the motion.*
 - D. *Judicial economy is not preserved by withdrawal of the reference; this favors denial of the motion.*
 - E. *The Debtor will suffer further costs and delay, which favors denial of the motion.*

Conclusion

- Keep sentences short
- Use lists and bullet points to break out arguments
- Use charts and graphs to condense information:
 - Omnibus claim objections
 - Property summaries
 - Fee Applications
 - Stipulations
 - Timelines
- Visual Considerations for Exhibits
 - If exhibits are attached to main document, use pdf bookmarks so that exhibits can be easily referenced electronically
 - If the exhibit is a transcript with key language, highlight the language so that it is readily apparent
 - Consider omitting irrelevant pages from exhibits
 - Provide a red-line exhibit to a clean document to show the Court and interested parties relevant modifications
- Miscellaneous visual items to consider
 - Simplify citations to the record
 - Avoid large block quotes
 - Use *italics* and **bold** fonts sparingly, do not underline
 - Abstain from definitions and defined terms unless they are necessary and their use adds clarity
 - Write numbers one through ten, and numbers 11 or higher in Arabic numerals (unless the number begins the sentence)
 - Numbers do not need to be drafted in both words and Arabic numerals
 - Always defer to local formatting rules

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