



Use Quotations to Make a Point

BY MICHAEL A. BLASIE

Many lawyers fill briefs with quotes—too many quotes. A quote parade rarely helps readers. Here are some tips on when to use quotes and how to use them effectively.

Use Quotations Sparingly

Many briefs quote too often.¹ If you are analyzing the words in the quote, use it. If the quote has unique phrasing that pops, use it. But if you can say it better in your own words, don't quote. Most of the time you can say it better, and shorter, in your own words.²

Example 1

- **Before:** “Under Federal Rule of Civil Procedure 8(a)(2), a pleading must contain a ‘short and plain statement of the claim showing that the pleader is entitled to relief.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 677–78 (2009), quoting F.R.C.P. 8(a)(2).
- **After:** Complaints must contain a short and plain statement explaining why a claim succeeds. F.R.C.P. 8(a)(2).

Example 2

- **Before:** “As the Court held in *Twombly*, 550 U.S. 544, 127 S.Ct. 1955, 167 L.Ed.2d 929, the pleading standard Rule 8 announces does not require ‘detailed factual allegations,’ but it demands more than an unadorned, the-defendant-unlawfully-harmed-me-accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007).
- **After:** Although complaints do not require detailed factual allegations, they require more than bare accusations of harm. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

Example 3

- **Before:** “A pleading that offers ‘labels and conclusions’ or ‘a formulaic recitation of the elements of a cause of action will not do.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007).
- **After:** Complaints must state more than labels, conclusions, or a claim's elements. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

Weave Quotes into Your Argument

Here are some stereotypical introductions to quotes:

- As the Supreme Court held in *Smith v. Jones*, “. . .
- According to *Smith v. Jones*, “. . .
- The statute reads: “. . .
- As one case held, “. . .

Cut these. They add nothing except words. Without them the sentence's meaning is unchanged.

Then do even more. Legal writing specialist Ross Guberman provides several ways to enhance your argument with quotes.³ Rather than letting a quote stand alone, each method ties the quote to your case.

Method 1: Introduce Quotes by Explaining How They Support Your Argument

Introduce a quote by telling readers what to take away from it.⁴

- Regardless of the policy's merits, courts defer to codified legislative policies: “It is not for the courts to enunciate the public policy of the state if, as here, the General Assembly has spoken on the issue.” *Grossman v. Columbine Medical Group, Inc.*, 12 P.3d 269, 271 (Colo.App. 1999).
- During trial the victim emphasized his confidence in the defendant's identity: [quotes with record citations]

Method 2: Link a Party in Your Case With a Party in the Quote

Often briefs summarize a case and then compare the cited case to the case at issue. Combine these steps.⁵

- Where, as here, the interpreter did not testify, the agents did not speak Spanish, and no one could testify whether the “interpreter indeed read the Defendant each of his Miranda rights off of the card” or “what the Defendant said in response to each of these warnings,” the government fails to meet its burden and the court must suppress the post-arrest statements. *United States v. Sanchez-Manzanarez*, 2012 WL 315870 *8 (S.D.N.Y. Feb. 2, 2012).
- The prosecutor's use of the term “lie” in closing argument is the exact conduct



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prohibited in *Wend*, where after reviewing the repeated use of “lie” in opening and closing arguments the Supreme Court held “a prosecutor acts improperly when using any form of the word ‘lie’ in reference to a witness’s or defendant’s veracity.” *Wend v. People*, 235 P.3d 1089, 1096 (Colo. 2010).

Method 3: Link Your Case’s Facts with a Quoted Legal Standard

You can use quotes to merge a statement of law with the facts of your case.⁶

- The late disclosure of *Brady* material shortly before closing arguments prevented the defendant from cross-examining the lone eyewitness on his inconsistent prior statements, which is precisely why “the belated disclosure of impeachment or exculpatory information favorable to the accused violates due process.” *United*

States v. Burke, 571 F.3d 1048 (10th Cir. 2009).

- Plaintiff’s claim that the defendant gave him a dirty look falls well short of the “high standard” for intentional infliction of emotional distress by outrageous conduct, because the conduct is not “so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency.” *Coors Brewing Co. v. Floyd*, 978 P.2d 663, 665–66 (Colo. 1999).

Conclusion

Why we love quotes is unclear. Your own phrasing is usually more effective. When you do quote, try weaving key language into your argument. Standalone quotes are rarely helpful. ^{CL}

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NOTES


1. “A remarkably large number of lawyers seem to believe that their briefs are improved if each thought is expressed in the words of a governing case. The contrary is true.” Scalia and Garner, *Making Your Case: The Art of Persuading Judges* 127–28 (Thomson West 2008). See also Guberman, *Point Taken: How to Write Like the World’s Best Judges* 140–47 (Oxford University Press 2015) (discussing use of quotations in opinions).
2. “After you have established your major premise, it will be your reasoning that interests the court, and this is almost always more clearly and forcefully expressed in your own words than in the stringing together of quotations from various cases. Such a cut-and-paste approach also produces an air of artificiality, even of lack of self-assurance. You want the court to develop confidence in your reasoning—not in your ability to gopher up supporting quotations.” Scalia and Garner, *supra* note 1 at 128. “Whether you’re a judge, advocate, or journalist, stringing together quotations is not ‘writing.’ A surgical strike with lean quoted language will often beat bulky block quotation bursting all over the page. And yet sometimes, when binding precedent is worded just right, even an economical judge will want to preserve the language in the original court’s own words.” Guberman, *Point Taken, supra* note 1 at 140.
3. Guberman, *Point Taken, supra* note 1 at 121–26 (discussing how opinions draw analogies to cited authority). See also Garner, *Legal Writing in Plain English* 101–04 (2d ed. University of Chicago Press 2013) (discussing how to weave quotes into a narrative).
4. Guberman, *Point Made: How to Write Like the Nation’s Top Advocates* 175–79 (2d ed. Oxford University Press 2014) (applying strategy to block quotations); Guberman, *Point Taken, supra* note 1 at 140–41 (“For starters, don’t just dump the quote and run. Introduce a long quote the way you would introduce a stranger to a friend—by telling the friend about what they have in common, and why this new person might be interesting to get to know.”).
5. See Guberman, *Point Made, supra* note 4 at 131–32.
6. See *id.* at 133–34.

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