

## Hey! Pay Attention! (Writing For Screen Readers)

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Don't click [this link](#).

(I told you not to. That song is lodged in my head like a blood clot now.)

And don't shuffle your itunes player.

And don't check your Netflix cue.

And don't think about the Facebook updates.

**I'm trying to keep your attention here.**

According to [Matthew Butterick](#), my most valuable resource as a writer is reader attention. And the problem is you're a screen reader.

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You've got lots of options other than reading this blog--as wondrously entertaining as it is.

And the judges reading your e-brief are increasingly screen readers too. They have a lot of options more engaging than reading your page upon page of unbroken text on the subtleties of the Noerr-Pennington Doctrine or the Dormant Commerce Clause.

Are these screen readers any different? If so, how do you engage them? How do you keep them? How do you write for them? As with typography, I went straight to the expert.

Because that's how we roll here at the Appellate Record.

My friend, [Robert Dubose](#), has written a [paper](#) and spoken on the topic before. Now, he is the author of the book, [Legal Writing for the Rewired Brain: Persuading Readers in a Paperless World](#).

From [Robert Dubose](#):

Research suggests that screen readers read differently. They skim. They focus on the visible structure of the text. They focus on headings. They focus on first sentences of paragraphs. And often, they skim over the rest.

How can we persuade this type of reader? The answers come from usability – the science of designing text for screen readers. We don't have to throw out traditional brief writing, so long as we incorporate usability tools to make briefs easier for screen readers to read.

## 1. Put the key parts of your argument in headings.

Usability studies show that screen readers spend more time reading headings than the rest of the text. This makes headings even more important for appellate lawyers.

Imagine a judge who reads only your headings before an oral argument. Will they understand your point? If not, rework your headings to include all your key points.

From Kendall:

[Robert](#) has four other usability tools that will be covered in upcoming posts. But, with apologies to him, I just **had to** break in and interrupt him. I think this one tool is so important, not only for screen reading, but just for good writing.

In fact, this is the first step I teach when I have someone write for me for the first time: Outline the argument with declarative statements that will become the headings in your brief. Everything else flows from that, and if you don't have your outline/headings, you don't know your case yet.

## Here's what I look for in my own headings:

- Each heading should be a declarative sentence, not an abstract section statement.

- Each heading should signal what you want the judge to conclude after reading that portion of the brief

**Example:**

"PremCo Owed No Legal Duty For The Actions Of Its Independent Contractor"

**NOT**

"Duty"

- Headings should be frequent enough to outline each proposition--including each key fact of the fact section. If you've gone more than a page or so, it is probably time for a heading.

**Example:**

"PremCo Hired ElecCo To Perform Electrical Work At The Factory"

"ElecCo Agreed To Provide Its Own Tools And Supervise its Own Employees"

"PremCo Contracted For A Specific Result And Did Not Control The Work"

**NOT**

"Factual Background"

With these types of headings, your table of contents shows why your side the argument ought to prevail. These headings also focus the attention of the judge who is screen reading, skimming, to see what your case is about, who ought to win, and why.

Abstract statements like "Factual Background" followed by six pages of typewritten text just won't cut it. The judge would rather click on over to Youtube and watch [cute baby videos](#).

(Admit it. I know you clicked.)

Next time: more of [Robert's](#) usability tools, like why texts should be chunky, not smooth.

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