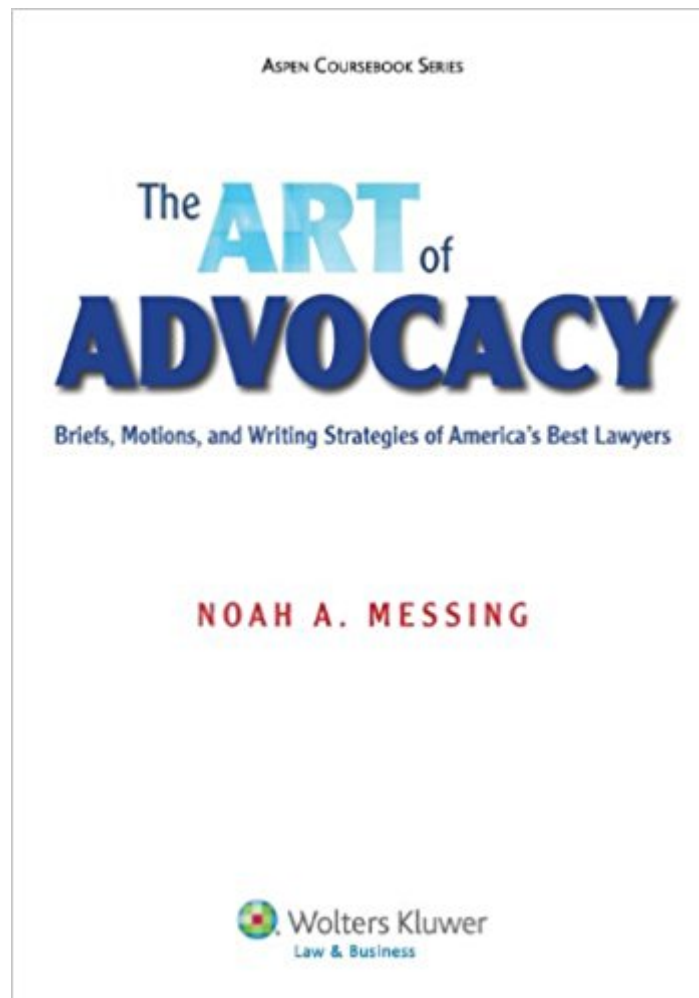




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# The Art Of Advocacy: Briefs, Motions, And Writing Strategies Of America's Best Lawyers (Aspen Coursebook)



## Synopsis

The Art of Advocacy: Briefs, Motions, and Writing Strategies of America's Best Lawyers presents more than 150 examples of masterful advocacy to show lawyers how to write winning motions and briefs. The book focuses on the strategic and substantive choices that top litigators make, drawing examples from important, timely, and controversial cases. Detailed annotations give readers insight into what makes each document so effective. In addition to presenting a host of storytelling, stylistic, and organizational strategies, the book's examples demonstrate how to build and rebut different types of arguments. The Appendices provide a wealth of additional resources, including Karl Llewellyn's previously unpublished advice from 1957 about the art of advocacy, which one top law professor described as the "best advice on legal writing I've ever seen."

**Features**

- Compiles more than 150 examples of masterfully written legal advocacy and analysis
- Succinct introductory text presents the facts of each case
- Detailed annotations by the author highlight
  - How to tell your client's story
  - How to build and counter six types of legal argument
  - How to organize your arguments
  - How to develop a theme
- Excerpts from high-interest cases, such as
  - The battle over "Obamacare"
  - A massive copyright suit involving YouTube
  - BP's oil spill in the Gulf of Mexico
  - Facebook's infamous feud with the Winklevoss twins
  - Apple's billion-dollar patent dispute with Samsung
  - Lance Armstrong's attempt to retain his Tour de France titles
- Major cases involving gay rights and affirmative action

For year-long courses, a stellar option for second-semester students

Perfect for practicing litigators who want to see a playbook of moves and strategies from top lawyers and from major cases

Stresses strategic choices and the art of building compelling substantive arguments

Focuses on briefs and motions

Developing a theme

Framing issues

Isolates examples of specific arguments--doctrinal, textual, legislative history policy, and so on

Innovative layout

## Book Information

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## Customer Reviews

I received *The Art of Advocacy* earlier this week. I haven't finished it yet, but I've devoured much more of it than I thought I would so soon. I can tell already that it's going to be a mainstay on the bookshelf above my desk. In fact, it should be a mainstay on every litigator's bookshelf. I'm a senior associate in the litigation group of a relatively large firm. I do quite a bit of motions briefing in my current gig. I'm an okay writer, and I've been lucky to be blessed by cases with good facts and law (which have led to several wins.) Despite that joy that comes from success, my biggest problem has always been that I find good written advocacy to be really, really difficult. It does not come naturally, and the anxiety/frustration that comes with wanting it to be perfect - but knowing that won't be easy - isn't very fun. This is the reason *The Art of Advocacy* has sucked me in. The book's style and format is different from any other advocacy text I've seen. And, I love it. Reading through the carefully selected examples has motivated me to dive back into writing projects, trying to emulate the techniques in the excerpts I just read. I imagine it's not unlike watching Michael Jordan highlights before heading out to the basketball court. Whether conscious or not, observing the best inspires you to go out and try to play the same way. (And, hopefully, make your effort a little bit stronger in the process.) So, well done Mr. Messing. You've done a very valuable thing here. This is a real resource, I expect it to be overly dog-eared and highlighted in no time. This should be required reading for every lawyer -- from first year associates to partners. Buy it.

In a field in which effective practitioners **MUST** be good writers, this book is absolutely essential. I cannot recommend it highly enough for anyone looking to improve their legal writing. I wrote reasonably well before entering law school, so I assumed that I would have no trouble with legal writing. But it turns out that legal writing is hard. Lawyers work in an artificial world in which nearly everything is constrained -- the available facts, the authoritative texts, the accepted argumentative forms. Even the structure of an argument is restricted by the court's local rules. To write effectively, you can't just navigate these obstacles; you have to actively use them to your advantage. Messing's book teaches you how to do that at every turn. The book is outstanding in a number of ways, but three stood out to me. First, and most importantly, I wholeheartedly believe in Messing's pedagogical approach:

“the only good way to learn about writing is to read good writing.” That’s particularly true in a field as specialized and insular as law. Understanding the “principles” of effective writing is important, of course, but learning to write by learning rules is like learning how to hit a baseball by studying biomechanics. Messing’s lessons are built around meaty examples from top advocates, so you’re constantly exposed to exemplary work. You can’t help but pick up good habits. Second, the book shows that every aspect of a brief can and should be persuasive. Perhaps the most important thing I learned from the book is the power of facts. (That Messing dedicates three chapters to facts is telling.) There’s even a chapter on weaponizing your table of contents—something I had never considered before picking the book up. Third, while the excerpts are the book’s main attraction, Messing’s copious annotations are packed with useful information. Following his advice from the introduction, I read the examples first, ignoring the annotations. Then I returned for a second reading, this time including the annotations. I was consistently shocked by how little I noticed on my own. Subtle bits of advocacy were folded into every nook of the arguments. Without a veteran guide, it’s difficult to see what good lawyers are doing, or why they’re doing it. Messing breaks it down. At the same time, he doesn’t pull punches. When a lawyer slips up, Messing points it out, and explains how it could have been better. There are other things about the book that I appreciated. It’s simple and straightforward, but covers advanced strategies. The writing is excellent—as it should be in a book about writing! The organization and typesetting are smart and attractive, so the book is enjoyable to read. I could go on, but I won’t. This is a fantastic book. If you’re a law student, you owe it to yourself to read it. Even if you’re an experienced lawyer, I’d be shocked if this book didn’t help you improve your craft. (One note. I originally bought the Kindle edition, but the layout isn’t as good as the print version. Unless you’re trying to go fully digital, get a paper copy.)

Awesome! learned some great tips and tricks. However, this book teaches more by showing examples of writing and using annotations to explain what the author of the book felt the author of the brief (or other writing) did correctly/effectively. I like this style way better than my “traditional” legal writing book that was assigned, but it may not be for you. We were assigned the book “Your Client’s Story” for Legal Writing class. I didn’t like that book and kept getting mediocre grades on

assignments. So I bought this book and it helped a LOT!!1

The Art of Advocacy is a terrific book. Law students, in particular, will find it an accessible, yet sophisticated, introduction to the art of legal writing. There's a lot to like about The Art of Advocacy. One quality that stands out is the book's marriage of comprehensiveness and convenience. The book is about 300 pages long, and it has a lot to say. It covers the basic principles of good non-fiction writing, and the fundamentals of good legal writing, too. But the text doesn't stop there. Through careful, sometimes cutting analysis of excerpts drawn from carefully selected briefs and motions, the author also reveals and explains the more sophisticated tricks of the advocate's trade. At the same time, the book moves along briskly, with the author parsing complicated subjects into bite-sized morsels. I have found myself picking up the book time and again just to read a randomly selected pointer, together with its accompanying illustrative excerpt that shows how to (or, in some cases, how not to) apply the technique. (Really. I know reviewers often say things like this. I actually am doing it.) In sum, I enthusiastically recommend The Art of Advocacy to law students specifically, and lawyers generally. I teach at a law school in California, and will encourage my first-year students to purchase the book and consult it often as they get the hang of their craft. And I won't be embarrassed when they see it on my desk, too. Full disclosure: I know the author from our law school days. But I would have called him out if he had written a bad book. He didn't.

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