

THE JOURNAL OF APPELLATE PRACTICE AND PROCESS

FOREWORD

A PAEAN

I first learned about Bryan Garner back in 1994, when he was the moderator of the Legal Writing forum on Counsel Connect and I a periodic contributor to its discussions. Another member of that forum, struck even then by the extent of the Garner knowledge, once characterized him to me as “the guy who understands every rule.” Of course that was true. And of course it is still true: If our age has a Fowler, it’s Garner.

Inevitably, I turn to Garner when I am stumped. His *Modern American Usage* sits on the desk in my home office (and it also makes frequent appearances at the kitchen table, where my teenager does his homework). I keep a copy of *Modern Legal Usage* within reach of my desk here at the law school. And twice in the last few years, I have attended one of his “Advanced Legal Writing and Editing” seminars. As I expected, each session was organized, engaging, and packed with information useful to a lawyer holding any job, including this one.

Bryan Garner’s expertise, influence, and stature have only grown since the days of Counsel Connect,¹ for he has devoted the last twenty years to changing the way lawyers write. His work has inspired in the rest of us both gratitude and awe.

AND THEN A PREVIEW

Although this issue includes a range of contributions—an essay about a little-noted aspect of Supreme Court history; an article about an exception to the preservation requirement for

1. See e.g. *Black’s Law Dictionary* (Bryan A. Garner ed., 9th ed., West 2009); Antonin Scalia & Bryan A. Garner, *Making Your Case: The Art of Persuading Judges* (Thomson/West 2008).

criminal appeals in New York and another analyzing the early Roberts Court at oral argument; a piece describing the development of a program that helps pro se appellants appearing in a California appellate court—the special section is its heart. We present in it two reports from the inside, each replete with suggestions for lawyers interested in improving their appellate skills. These articles differ a bit in the particulars, but the advice they offer is identical in focus: Be honest, be prepared, pay attention to the essentials, make your writing clear and strong. (And of course they agree on the importance of consulting Bryan Garner along the way.²)

NBM
Little Rock
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2. See Rachel Clark Hughey, *Effective Appellate Advocacy before the Federal Circuit: A Former Law Clerk's Perspective*, 11 J. App. Prac. & Process 401, 406 n. 18, 409 n. 32 (citing Bryan A. Garner, *The Winning Brief* (2d ed. Oxford U. Press 1999)); Jane R. Roth & Mani S. Walia, *Persuading Quickly: Tips for Writing an Effective Appellate Brief*, 11 J. App. Prac. & Process 443, 444 n. 7 (citing Scalia & Garner, *supra* n. 1), 445 n. 8 (citing Garner, *supra* this note).