

Why You Should Write Legal Briefs Like Car Manuals by David Coale

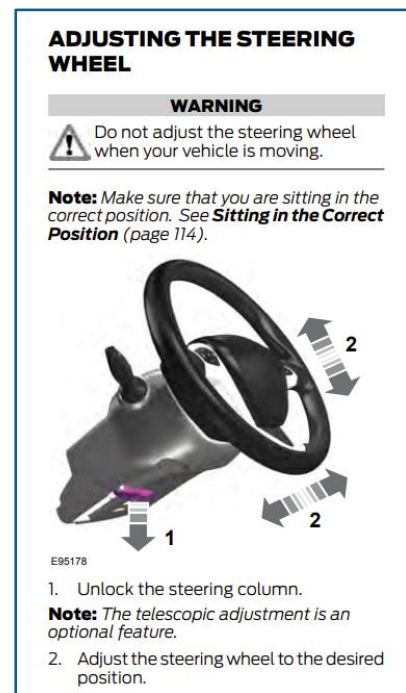
A good appellate brief is like a good user's manual for a car. Both are reference works with technical information for busy readers. Based on that similarity, this article offers two brief-writing insights from the author's manual for his 2014 Ford F-150 pickup.

1. Cross-references. While a chapter of a manual is generally a stand-alone discussion of a single topic, it's still related to the rest of the work. All chapters, after all, describe the same vehicle.

For example, a driver turns to "Adjusting the Steering Wheel" (right) because of a problem reaching the wheel.

The author of the manual knew that the driver's problem may have two causes. The wheel may be in the wrong place (the topic of this chapter), or the driver may be in the wrong place (the topic of another chapter).

Rather than repeat another section of the manual about "Sitting in the Correct Position," the manual instead refers the reader to that section as an additional resource. That way, the information is made available, but the presentation in each chapter is kept focused, while also avoiding unnecessary repetition.



So too with a good brief. If an opponent repeats an argument that's addressed earlier in your brief, there's no reason to repeat your refutation. Just tell the reader where that refutation can be found, as shown in the example to the right from a brief I filed a few years ago.

Telle concludes this section by repeating her earlier argument about the injunction potentially reaching customers with whom she did not work.⁹⁹ That argument is addressed in *supra* Part A, and Telle's return to it here raises no new points. The appropriate protection of Capital Title's confidential information justifies both the noncompetition restriction and this part of the injunction.

The same is true for background facts. In [another short article](#) that I wrote for the BAFFC, I advocate trying to integrate fact statements with the related argument wherever possible. But what if the same core set of facts relates to more than one legal issue?

Here again, the F-150 manual provides wise counsel. Simply refer to the earlier statement of those key facts, rather than repeating them again. By doing so, you not only avoid repetition, but minimize the risk of an inadvertent citation error creeping into the restated facts.

2. Table of contents. A car owner uses the table of contents to quickly find instructions on a specific issue, such as how to turn off the windshield wipers. The table of contents provides a "manual for the manual." It helps the owner, who has no desire to read the manual from start to finish, to find the specific issue about which he has a question.

Similarly, the table of contents helps judges and clerks quickly find the specific arguments or facts they need to review. Like the car owner, they aren't interested in a cover-to-cover read, when they just want to know why the appellant says the contract lacks consideration. A user-friendly table of contents lets them jump to the sections that relate to their questions.

Let's look at a couple of examples. To the right is what the F-150 manual's table of contents says about "seats." It's clearly written to align with the way a car owner is likely to ask a question (i.e., "my seat is too hot" leads easily to "Heated Seats.")

Seats	
Sitting in the Correct Position.....	114
Head Restraints.....	114
Manual Seats.....	116
Power Seats.....	117
Memory Function.....	118
Rear Seats.....	119
Heated Seats.....	120
Ventilated Seats.....	121
Front Seat Armrest.....	122
Rear Seat Armrest.....	123

And to the left is what a recent brief has to say about a preemption issue. While some readers might be interested in reading a lengthy discussion of preemption from beginning to end, I thought it more likely that a typical reader would be curious about

II.	Even if the RLA applied, it would not preempt SWAPA's claims, because they do not require interpretation of any CBA.....	47
A.	Correctly defined, the standard of review involves the interaction of state procedural law with federal substantive law.	48
B.	Under the correctly defined standard, Boeing did not conclusively establish its preemption defense.....	50

either procedure (the "standard of review" issue discussed under subheading "A"), or substance (analysis of the factual record under that standard of review).

There's a key difference, of course, in the two tables of contents. The table of contents in a brief is an outline of one overall argument, while a manual is never read from front to back. That said, a brief isn't often read from start to finish either. A reader is more likely to be interested in one specific point, and a table of contents that makes it easy to find that point has a lot in common with a good car manual.

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An appellate brief and an automobile user's manual both rely on helpful cross-references and clear tables of contents. Those tools help guide a reader to the right information quickly.