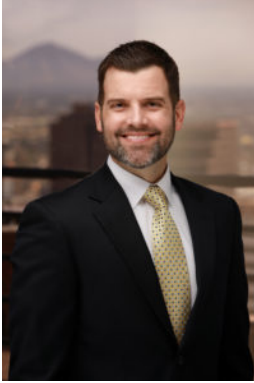


JONATHAN BARNES ON HOW TO WRITE THE WINNING PRELIMINARY STATEMENT

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Intro to Intros How to Write the Winning Preliminary Statement

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Guiding the court through a story arc alone is not enough; you also must convey a sense of meaning that underlies the result you seek. But “Good vs. Evil” is only the low-hanging fruit. The best briefs that I’ve ever read use creativity and an intimate familiarity with the key facts to craft an engaging theme. Again, however, this takes time – time that is more often than not worth the investment.

In short, an effective introduction should achieve three basic goals: “to convey what the case is about, to create a meaningful context for the facts and argument that follow, and to engage the reader.”² But of course, the overarching objective is to chart a path to victory. After all, “The purpose of an introduction is nothing less than to proclaim immediately why you must win.”³ Doing this on the first page, in accordance with the principles outlined above, will more than likely leave a pleasant taste in the judge’s mouth that she won’t forget while reading the meatier portions of your brief as the main course (use a meat substitute here if you are vegetarian).

With the foregoing in mind, it is difficult to articulate a persuasive excuse for omitting the preliminary statement from your brief. Admittedly, the introduction section is technically not required in state court. Indeed, according to Rule 13 of the Arizona Rules of Civil Appellate Procedure, the introduction is, by definition, optional. But why would you waste the perfect opportunity to communicate the most significant aspects of your case to the court without all the rigmarole that so often comes with legal writing? This should be the fun part! As appellate lawyers, we are in the business of communication, and the bulk of that discourse typically occurs on paper (or a computer screen if you are not a Luddite). The preliminary statement is a chance to make a lasting first impression you won’t want to miss.

1. Samuel A. Thumma, *Writing Appellate Briefs: Thoughts of a Rookie Appellate Judge*, *Ariz. Att’y* (Dec. 2013), at 34-35 (emphasis added).

2. David J. Perlman, *How To Write an Introduction, Appellate Issues*, Spring 2012, at 1.

3. *Id.*

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