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### Nothing So Destructive as Habit

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# The Scrivener: Modern Legal Writing



## Nothing So Destructive as Habit



by *K.K. DuVivier*

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*To fall into a habit is to begin to cease to be.*  
Miguel de Unamuno, *Tragic Sense of Life*

January is a time to look ahead, a time to resolve to make the new year better than the last. In January, health clubs overflow with optimistic patrons hoping that trainers will help them undo months, or years, of bad habits. Similarly, with some guidance you can overcome bad habits: this year, resolve to make the effort to improve your writing.

As with physical exercise, inertia may prevent you from beginning. You complete your briefs, your clients pay the bills, and you win some of your cases. Doesn't this mean your writing is adequate? You already spend a lot of your time writing—why dedicate additional time to improve?

Don't be fooled; simply writing more will not make your writing better. More exercise will make you stronger, but more exercise using poor technique can injure your body instead of strengthening it. In writing, the more you become accustomed to using poor technique, the more your meaning will be obscured. To become an effective communicator, resolve to do more than simply writing more: resolve to concentrate on and to change the writing itself.

In addition to the desire to change, you must also have the belief that you will succeed. Too many lawyers have the impression that they are "bad writers" incapable of changing. They believe others were born with a gift that they do not have. Such a negative attitude may defeat you before you even start. Avoid unproductive tension and stress by remembering that you are not competing with anyone except yourself.

Explore your full potential and discover your personal best. Take inspiration from Demosthenes, the greatest orator in ancient Athens. Demosthenes was born with a speech impediment. To overcome it, he stood for hours on the shores of the Aegean Sea. With a mouthful of rocks, he practiced the art of

speaking over the sound of the pounding surf. More than 2,000 years later, remember your style is not a natural gift with which you were born. It is something that has developed over the years and something that you now can shape and reshape.

Once you have made a decision to work actively on your writing and you believe in your ability, the next steps are to isolate your problem areas and to pick manageable objectives. As with physical exercise, it can be useful to have a coach or personal trainer provide perspective. A coach can help dissect your work and concentrate on accomplishing change one step at a time. If you evaluate your own work, shift your focus from content to an objective assessment of your prose. Do not frustrate yourself by trying to do too much too soon.

Remember to be patient. Like working out, writing can be frustrating. At first, it will seem awkward and time-consuming. It is hard, painful work to move in unfamiliar ways. Progress may be slow and sporadic, with frequent slumps or plateaus. Changing one's writing requires breaking bad habits before adopting new ones. Breaking and resetting a bone is more painful than simply growing new tissue. But give it time to work. It will pay off because you will become more flexible, and you can make good writing a habit that comes more easily.

Finally, remember that improving is a lifelong task. We cannot improve simply by watching a workout video or attending one CLE class on writing. When we reach a goal, we cannot stop the effort. If we stop working out, the extra pounds return and our muscles atrophy. In the same way, if we stop working on writing, our prose becomes flabby.

Exercise your writing muscles: reread drafts not just for mechanical errors, but also to add transitions, to move paragraphs, and to eliminate unnecessary or confusing phrases. To remain competitive, you must continue to grow and learn.

Although a coach or trainer can inspire and direct you, no one can do the work for you. If you start this year with a new exercise schedule, your skills will improve and you will both look and feel better. Similarly, if you start the new year with a resolution to improve your writing, both you and your readers will appreciate the results.

### DO YOU HAVE QUESTIONS ABOUT LEGAL WRITING?

K.K. DuVivier will be happy to address them through *The Scrivener* column. Send your questions to: K.K. DuVivier, University of Colorado School of Law, Campus Box 401, Boulder, CO 80309-0401 or through e-mail to: [duvivier@spot.colorado.edu](mailto:duvivier@spot.colorado.edu).

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*K.K. DuVivier is a senior instructor of Legal Writing and Appellate Court Advocacy at the University of Colorado School of Law, Boulder.*

# 100 Years in the Same Bar



**...and still trying to find ourselves.**

We're looking for Colorado Bar Association memorabilia (or *The Colorado Lawyer*) that you'd like to donate. As we go into our centennial year in 1997, we'd like to collect old pictures and old documents that will give us a better look at our history.

Send stuff to Diane Hartman, CBA, 1900 Grant St., Ninth Floor, Denver, CO 80203, or give us a call at (303) 860-1115 or (800) 332-6736. If you send pictures, please identify the people in them. Dates would also be helpful.

# FOR MEMBERS ONLY

## ARE YOU MAKING THE MOST OF YOUR CBA BENEFITS?

**AT&T PROFIT BY ASSOCIATION**  
(800) 722-7756

**ALAMO CAR RENTAL**  
(800) 354-2322  
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**AIRBORNE EXPRESS OVERNIGHT DELIVERY**  
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**INSURANCE PROGRAMS**  
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(303) 691-1300 or  
(800) 666-5663  
Chris Buckman or  
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Please call Susan Bauer at the CBA office, (303) 860-1115 or (800) 332-6736, with any questions about these programs or other ongoing benefits through the Colorado Bar Association.

## IN MEMORIAM

Former CBA President **Alex Keller** passed away on November 18 after a long illness. He was sixty-eight. Keller, who had served as a teen-age Nazi hunter for the U.S. Army after World War II, graduated from DU College of Law in 1950 and had practiced law in Denver since then. He had served on the Board of Governors of the American Bar Association, was on the Board of Trustees of the Denver Bar Association, was a past president of the International Society of Barristers, and was active in numerous other professional organizations. Donations may be made to the American Lung Association, 1600 Race St., Denver, CO 80206.

The Colorado Bar Foundation is one means of commemorating members of the profession. Contact the Foundation at 1900 Grant St., Ninth Floor, Denver, CO 80203.



## First Judicial Women Attorney's Committee to Meet January 28

New name, same group. The former First Judicial Women's Group is now called the First Judicial Women Attorney's Committee; the new name more accurately reflects this group's relationship to the First Judicial District Bar Association.

The next meeting of the Committee will be held at 11:45 A.M. on January 28 in the Lookout Mountain Room on the administrative side of the Jefferson County Courthouse. Attorney Juanita "Nita" Benetin will discuss her representation of victims of the abuse of power. These persons, usually women, are victims of unethical conduct by such professionals as therapists and counselors, among others.

The meeting will close by 1 P.M. Lunch may be purchased in the cafeteria or brought in. For further information, call Dee Keller in Golden at (303) 277-0892.

# LEGAL SUPPORT BRIEFS

## Legal Staff Professionals Organize, Plan February 1 Meeting

The Colorado Association of Legal Secretaries, d/b/a Legal Staff Professionals ("LSP") of Colorado, and the Denver Legal Secretaries Association, d/b/a Legal Staff Professionals of Denver, have recently refocused and are beginning anew in 1997. The Legal Staff Professionals is a tri-level association under the National Association of Legal Secretaries ("NALS"), which offers many innovative programs to its members. NALS can be visited on its Web site; questions can be answered on e-mail; or information can be received by a monthly FaxEd.

The LSP of Colorado is planning an exciting board meeting in Denver on February 1. There will be educational seminars and a cram session for those who are sitting for the ALS or PLS exams. The LSP of Denver will hold its educational dinner meeting on January 14. The topic is handwriting analysis and the legal field.

For more information about any of these events, call LSP of Colorado President Maryann Watson in Denver at (303) 571-5302 or LSP of Denver President Cathy Spangler in Denver at (303) 830-8911. For membership information, call Perri Morris in Denver at (303) 861-1000.

## ALA Mile High Chapter to Hold Monthly Meeting January 16

The Mile High Chapter, Association of Legal Administrators ("ALA"), will hold its monthly luncheon meeting on January 16 from noon-1:30 P.M. at the Denver Petroleum Club. The speaker is Audrey Nelson-Schneider, Ph.D., an internationally recognized consultant and seminar leader with expertise in conflict management, male-female communication, organization-

al development, and interpersonal communication. Her topic will be "Building Bridges, Not Walls."

For more information, call Connie Proulx at (303) 295-8069 or Elizabeth Lipscomb at (303) 866-5123, both in Denver.

## CBA Legal Assistant Committee Seeks Volunteers for Speakers Bureau

The Legal Assistant Committee of the Colorado Bar Association has a Speakers Bureau that was formed to meet requests from CBA members and the legal community. The Committee is looking for both paralegals and attorneys to speak on paralegal issues and paralegal practice. If you are interested in serving on the Speakers Bureau, contact Brenda Mientka in Colorado Springs at (719) 444-0190.

### Organizational Membership Information

#### *Association of Legal Administrators (ALA), Mile High Chapter:*

Grover Brittain, Denver, (303) 296-2828

#### *Association of Legal Assistants of Colorado (ALAC):*

Brenda Mientka, Colorado Springs, (719) 444-0190

#### *Colorado Association of Legal Support Staff (CALSS):*

Lynn Charlebois, Denver, (303) 449-6161

#### *Colorado Bar Association Legal Assistant Committee:*

Julie Petersen, Denver, (303) 860-1115 or (800) 332-6736

#### *Legal Staff Professionals of Colorado:*

Perri Morris, Denver, (303) 861-1000

#### *Mile High Association of Legal Support Staff (MHALLS):*

Linda Chandler, Denver, (303) 634-4453

#### *Rocky Mountain Paralegal Association (RMPA):*

Diana Gibbons, Denver, (303) 738-8477

(leave message with name and address)

## 2nd Annual Rocky Mountain Child Advocacy Training Institute

"Presenting Evidence in Cases Involving Children"

A Hands-On Trial Skills Training

May 18-20, 1997

University of Denver College of Law

Presented by: University of Denver College of Law, The Children's Legal Clinic,  
The National Association of Counsel for Children

In Cooperation With: National Institute for Trial Advocacy (NITA)

Training Skills: Building facts into engaging theme; questioning techniques; foundations for exhibits, refreshing recollection, and impeachment by prior inconsistent statement; using exhibits in witness examination; preparing and questioning child witnesses; examining expert witnesses; persuasive opening statements.

**Register Now! SPACE IS LIMITED. For information, call the**

**Institute for Advanced Legal Studies at the University of Denver College of Law: (303) 871-6326.**