



## Busting through writer's block

THE SOLUTIONS FOR FOCUSING AND STARTING TO WRITE ARE AS VARIED AS THE DISTRACTIONS AND REASONS WE DO NOT

Intellectual hiatus. Creative standstill. Imagination drought. Mental block. Creative burnout. Blank page syndrome. Creative impasse. Blinking cursor curse. These synonyms for “writer’s block” feel simultaneously playful and painfully accurate.

As lawyers, we are prolific writers. We prepare motions, oppositions, pleadings, briefs, correspondence, and proposed rulings. We edit and revise our colleagues’ writing. Some of us also write articles and/or presentations. A smaller subset also write for fun, relaxation, or simply as a creative outlet. We simply don’t have time for writer’s block to delay us from meeting our stringent deadlines, or consuming time we prefer devoting to other activities. The frustrating irony, however, is as our deadlines loom closer and/or the stakes of the outcome of our writing heightens, the more likely we are to face writer’s block.

How do we prevent writer’s block from derailing us? The goal of this article is to offer some practical advice to combat it.

### Know thy enemy

“If you know the enemy and know yourself, you need not fear the result of a hundred battles.” – *Sun Tzu, The Art of War*.

It is easy to cast writer’s block as the enemy of writing. But I see writer’s block as the favored weapon of a more insidious enemy – our expectations, perfectionism, or insecurities. When we understand why writer’s block appears, we can more easily dismantle it.

### Our expectations can hinder our writing

Have you ever experienced the frustration of preparing to write about a topic or a law with which you are familiar, and find yourself struggling to put your ideas into writing? Does your frustration grow as you tell yourself that the writing should not be so difficult because you know this area so well, or you have already briefed this issue, etc.? If so, you are in good company.

One of a writer’s greatest enemies is his or her own expectations of how the

writing process *should* go for any given project. Our expectations often conflict with reality because we fail to consider the many factors that impact our focus on any given day. Did we get enough sleep? Did we eat energizing food? Are we feeling hormonal? Did we rush out of the house? Did we have an influential interaction (either positive or negative) with a client or colleague? How about with our spouse or children? Did we just return from vacation or are we feeling overdue for one? How much other work do we currently have competing for our attention? How many interruptions are we receiving? Are we working on the project in the morning or the afternoon? How soon is our deadline?

No two days are the same, and therefore, *we* are not the same from day to day. It is misguided and optimistic to assume, therefore, that our writing and our ability to focus and to get the creative juices flowing will be the same every day. Our abilities to focus, process, and organize our thoughts into writing are affected by everything we encounter in a

day, regardless of whether we are aware of it. When we struggle to write because we are tired or distracted, and then add to the difficulty the added judgment that we are falling short of our expectations for ourselves, we add an *additional* layer of distraction to the writing process, judgment, and we unwittingly sabotage our writing efforts.

Winston Churchill said, “perfection is the enemy of progress.” This observation seems especially true when it comes to writing. Have you ever stared at a blank page for much longer than necessary because you could not find the “right” words, terms, or phrase to express the thought? Have you started writing, then deleted your “terrible paragraph” (the modern version of crumbling your paper draft and throwing it in the trash can)? Do you sit down to your desk, ready to start writing, and find yourself tidying your files or paperwork rather than actually starting? Most people struggle at some point with writer’s block because they are concerned about the outcome or the quality of their initial drafts.

The solution is simple, but not easy. We need to rid our minds of anything – especially our own self-judgment or expectations – that prevents us from starting.

### Getting started

The solutions for focusing and starting to write are as varied as the distractions and reasons we do not. However, there are a few strategies that have been extremely helpful in my experience.

The overwhelmingly consistent and fail-proof solution I have found to combat writer’s block is, ironically, writing.

Big help, right? If you could start writing, you wouldn’t *have* writer’s block, right?

Actually, no.

Writing is a physical expression of thought. It forces our brains to convert thoughts into something tangible. Writer’s block short-circuits that process. It feels like we have too many tabs open on our mental browser. When we face

writer’s block but we start writing anyway, it’s like hitting the forced reset button on our computer. We “refresh” our mental browser.

### Anything goes

The good news is that it truly does not matter *what* we write in order to successfully hit that reset button. Seriously. Start freewriting the thoughts flying through your head. Write a letter to someone. Write about how much you hate writer’s block. Let the connection between your thoughts and your hands flow and fight the inertia that writer’s block brings.

That’s all well and good, but you have a deadline and freewriting about random thoughts is not getting you closer to completing your brief. Once you have spent a few minutes writing random musings, or you have decided to just plow forward with your legal writing, there are some additional strategies that can help you get started.

### Don’t reinvent the wheel

Legal writing has some inherent advantages that help combat writer’s block. For example, you may have already drafted portions, such as the applicable standard of review, in other cases that you can adapt for use in your current project. Disclaimer: Obviously, every case is different, and law changes constantly, so the key word here is *adapt* for use, not simply reuse.

One fantastic byproduct of starting the writing with an adapted excerpt from a similar case is the brain does not seem to differentiate between the recycled analysis and new writing for purposes of creating momentum. When the brain observes *something* written, the following sentence or paragraph becomes easier to start because the brain believes it has already started the writing process.

When I do not have previously drafted authority to adapt, I turn to case law. Most legal writing requires a discussion of applicable legal standards that are relevant to the dispute. These

may include, for example, elements of a tort, explanation of duty, the standard for determining reasonable attorney fees, etc. I often start my writing with the legal standards. When stuck, I may simply copy a quote from a case. Again, motivation stems from momentum, which in turn, builds from writing.

When I struggle with what facts to include or how to write a compelling introduction or narrative, I don’t start with that. I rarely write a brief in the order that it will be read. Beginning with the legal analysis before the factual summary, for instance, helps identify what facts are most important to include. The case law will highlight for me what facts in my client’s case will help distinguish negative authority, and analogize to helpful authority.

### Pomodoro technique or other time-based incentives

When writer’s block occurs because of too many distractions, a strategy that captures all of the writer’s attention for a set, brief period of time, can be helpful. The “Pomodoro” technique is a time-management tool that breaks tasks and time into manageable chunks. Once a person has identified a task to complete, or in the case of writer’s block, to start, the person sets a timer (traditionally for 25 minutes). During the 25 minutes, make sure you do nothing but the specific task or subtask you have chosen. Turn off electronic notifications. Maybe put your phone in a different room. Close your door. Wear noise-canceling headphones. Grab a sweater or a fan. Be comfortable, but alert. The idea is to be as focused as possible during the set 25 minutes.

After the 25 minutes have finished, take a five-minute break. Go ahead and check your messages. Stand up and walk around. Grab some water. Use the toilet. Just clear your mind of the work you just completed.

Repeat the process three more times. Focused, non-distracted 25 minutes,

followed by a five-minute break, followed by another focused, non-distracted 25 minutes, followed by another five-minute break, etc. When you have finished the final 25-minute section, take a longer 30-minute break before you start the whole process over again.

If you don't have time to do the process four times, don't let that derail you. Do whatever your schedule allows. If 25 minutes seems daunting, start with less time. The Pomodoro technique is a tool, not a cage.

What if you struggle to get started during the 25 minutes? Try using another strategy like the "body doubling," to help you start.

### Body doubling

Before you get a strange image in your head, "body doubling" is a term that, according to CHADD (Children and Adults with Attention-Deficit/Hyper-Activity Disorder), refers to a tool some adults use to help them start and complete projects. "Sometimes referred to as an accountability partner, it is a technique for better productivity. A body double is a friend or partner who works simultaneously, either in the same room or virtually through videochat platforms. Having another person in the same physical or virtual room can help you with productivity because you have someone present to check in with and keep you accountable." (<https://chadd.org/adhd-weekly/could-a-body-double-help-you-increase-your-productivity/> <last accessed 1-17-2024>.)

If you are unable to find a body double, it can still be helpful to enlist a trusted person to check in with you at the end of your 25-minute block and see how well you were able to move through the block. Sometimes simply knowing that you will share your progress with another person is sufficiently motivating to help you overcome that initial writing paralysis.

### Outline strategy

As attorneys, we are often faced with writing legal arguments that involve

multiple issues and a host of facts. Sometimes it can be difficult to decipher what is most pressing and significant to discuss, and especially, what order to present certain ideas. What do we even start? Outlining is helpful, of course, for organizing our thoughts and creating a roadmap. But outlining has a more subtle benefit for helping to bust through writer's block.

Traditional outlining involves drafting and organizing headings and subheadings, and adding a few supporting points for each topic or paragraph, depending on how detailed the writer wants the outline to be. When I find myself struggling to write paragraphs, I start writing my supporting points in full sentences. I expand my headings to topic sentences. I might add legal citations and record citations to support my sentences. Once my outline becomes sufficiently detailed with multiple sentences, I can more easily cobble them together into paragraphs. It is an effective way to boost morale by viewing a bunch of organized sentences on the screen. I basically use the outline to trick my brain into thinking that I have been writing, which in turn, makes it easier to continue writing.

### Listen to Ernest Hemingway

Were you ever told that your first draft had to be artful, clear, and persuasive? I am guessing that you were not. (If you were, that was terrible and untrue advice.) I'm not sure how so many of us internalized the idea that our first drafts have to be good. If that voice is stuck in your head, try your best to send it on a permanent vacation. As Ernest Hemingway famously said, "The first draft of anything is s\*\*t."

Do not judge your skill as a writer based on your first draft. So much of good writing is good editing. But do not edit as you write. Just write. Use the momentum to engage you and help you finish the draft. Then, and only then, evaluate what you have written and start improving it.

### Ritualize the writing process

We have daily rituals, even if we don't consider them as such. Rituals, in this context, simply refer to a series of actions performed in a particular order. For instance, a morning ritual might start with the alarm clock, followed by dressing in workout clothes, brushing teeth, grabbing a leash and taking the dog for a walk, etc. We have bedtime rituals, coffee stop rituals, sitting-at-the-desk-to-begin-work rituals, and more. The more enjoyable a ritual, the more we perform it. The more we perform the ritual, the more habitual it becomes and we eventually no longer have to think about it.

Because beginning a writing project can feel like a daunting task, a natural response may be to dread it, procrastinate, or even avoid and ignore it. None of these responses will help you overcome writer's block, of course. But what if everything you did for the 10 minutes prior to sitting down and starting to write made you feel calm, confident, and focused?

What these specific actions may be will vary depending on your own preferences. Before I begin a substantial project like an appellate brief, I start my full writing ritual: I clear my desk of all extraneous papers and clutter. I make a cup of tea or coffee, depending on the time of day. I also fill my water bottle with very cold water. I sit at my desk and silently meditate for 5-10 minutes. When I have finished my meditation, and my hot beverage has cooled slightly, I take a few mindful sips of the beverage and focus my attention on its nuanced flavors and the physical sensations of the beverage as I drink it. I take three deep breaths, and I tell myself something encouraging like, "You've got this," and I begin. I have a few scaled-down versions of this ritual for slightly less daunting tasks.

My personal ritual is designed to shift my focus away from the thoughts in my head to whatever I am perceiving in that moment. I find any action that engages my senses helps me to focus on the present moment.

When I am focused in the present moment, and I begin the writing process using any strategy(ies), I prime myself to enter “the zone” or “the flow.” This mental state is the antithesis of writer’s block.

### What is “the zone” or “the flow”?

Consider the last time you were fully immersed in the activity in which you were engaging and time seemed to stand still. Did you brainstorm a brilliant idea? Did everything feel a bit lighter, easier, and more accessible? Did you feel creative? More energized? Were you able to find a solution to a problem that had been challenging you for a while? It sounds somewhat cliché, but when we are in that mental state of total focused presence, which is often referred to by athletes, musicians, creatives, etc., as being “in the flow,” or “in the zone,” we can feel superhuman, even magical.

Movie critic, Roger Ebert, described the mental state: “When I write, I fall into the zone many writers, painters, musicians, athletes, and craftsmen of all sorts seem to share: In doing something I enjoy and am expert at, deliberate thought falls aside and it is all just THERE. I think of the next word no more than the composer thinks of the next note.” Music producer legend, Dr. Dre, describes it as well: “I’ve gone seventy-nine hours without sleep, creating. When that flow is going, it’s almost like a high. You don’t want it to stop. You don’t want to go to sleep for fear of missing something.” After scoring 62 points in a game, former NBA star, Carmelo Anthony, reflected: “Guys was asking me what was wrong. It wasn’t anything wrong. There was just some reason I had that feeling. I was just locked in. There’s only a small group of people that knows what that zone feels like. Tonight, I was one of them.”

“Flow is described as a state of optimal performance denoted by smooth and accurate performance with an acute absorption in the task to the point of time dissociation and dissociative tendencies.” (Joshua Gold & Joseph Ciorari, “A

Review on the Role of Neuroscience of Flow States in the Modern World,” Behavioral Sciences, 2020, 10, 137, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7551835/pdf/behavsci-10-00137.pdf> <last accessed January 17, 2024>.) Gold and Ciorari note that a 10-year longitudinal study demonstrated people in flow states were 500% more productive. Superhuman, indeed.

### When do we enter into a flow state?

Researcher Csikszentmihalyi has assembled a list of nine components associated with the flow-state experience. These include: 1. Clear goals (expectations and rules are discernible, and goals are attainable and align appropriately with one’s skill set and abilities). 2. High level of concentration, a high degree of concentration on a limited field of attention (a person engaged in the activity will have the opportunity to focus and to delve deeply into it). 3. A loss of the feeling of self-consciousness, the merging of action and awareness. 4. Distorted sense of time, one’s subjective experience of time is altered. 5. Clear and immediate feedback (successes and failures in the course of the activity are apparent, so that behavior can be adjusted as needed). 6. Balance between skill level and challenge (the activity is neither too easy nor too difficult). 7. A sense of personal control over the situation or activity. 8. The activity is intrinsically rewarding, so there is an effortlessness of action. 9. People become absorbed in their activity, and the focus of awareness is narrowed down. (Csikszentmihalyi, M., *Flow: The Psychology of Optimal Experience*; Cambridge University Press: Cambridge, UK, 1990.)

These varied and often subjective components explain why individuals cannot merely tap a switch and dive into a flow state. For instance, the lawyer may not get to choose the balance of the skill set and challenge any particular writing assignment presents. An advanced skill set with low challenge may cause

boredom, which will not induce flow. Conversely, an average skill set with an extremely difficult challenge may cause anxiety, which also will not induce flow.

However, a lawyer’s focus is both a skill and a practice that may help the lawyer become absorbed in the matter at hand. There are countless ways to develop and practice focus, including turning off notifications or placing phones and other small electronics in a separate room while writing, practicing mindfulness meditation, removing physical clutter from the workspace, creating and executing a pre-writing ritual, and taking a few long, deep breaths.

### A final piece of advice

Sometimes nothing works and writer’s block has you spinning your wheels. Just as a batter will not hit the ball every time he comes to the plate, some days are more conducive to writing than others. But days like these are why time management is so crucial. When calendaring our cases and deadlines, we should (to the extent possible) add buffer time for days where we need to walk away from the project. It’s just part of the writing process. Stand up, take a walk or do some other physical activity, work on a different project, and return to writing when you can approach it with a fresh perspective, and a relaxed and focused mind.

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