



# Making Your Case: The Art of Persuading Judges

*Antonin Scalia , Bryan A. Garner*

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## **Making Your Case: The Art of Persuading Judges** Antonin Scalia , Bryan A. Garner

In their professional lives, courtroom lawyers must do these two things: speak persuasively and write persuasively. In this noteworthy book, two of the most noted legal writers of our day - Justice Antonin Scalia and Bryan A. Garner - systematically present every important idea about judicial persuasion in a fresh, entertaining way. Making Your Case: The Art of Persuading Judges is a guide for novice and experienced litigators alike. It covers the essentials of sound legal reasoning, including how to develop the syllogism that underlies any argument. From there the authors explain the art of brief writing, especially what to include and what to omit, so that you can induce the judge to focus closely on your arguments. Finally they show what it takes to succeed in oral argument. The opinions of Justice Scalia are legendary for their sharp insights, biting wit, and memorable phrasing. The writings of Bryan Garner, Editor in chief of Black's Law Dictionary, are respected inside and

## **Making Your Case: The Art of Persuading Judges Details**

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# From Reader Review Making Your Case: The Art of Persuading Judges for online ebook

Sean Rosenthal says

Interesting Quotes:

"Your objective in every argument, therefore, is to show yourself worthy of trust and affection. Trust is lost by dissembling or conveying false information—not just intentionally but even carelessly; by mischaracterizing precedent to suit your case; by making arguments that could appeal only to the stupid or uninformed; by ignoring rather than confronting whatever weighs against your case. Trust is won by fairly presenting the facts of the case and honestly characterizing the issues; by owning up to those points that cut against you and addressing them forthrightly; and by showing respect for the intelligence of your audience."

-Antonin Scalia & Bryan Garner, Making Your Case: the Art of Persuading Judges

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"When the standard of decision favors your side of the case, emphasize that point at the outset of your discussion of the issue-and keep it before the court throughout. Don't let the discussion slide into the assumption that you and your adversary are on a level playing field when in fact the standard of review favors you."

-Antonin Scalia & Bryan Garner, Making Your Case: the Art of Persuading Judges

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"It's an age-old rule of advocacy that the first to argue must refute in the middle, not at the beginning or the end. Refuting first puts you in a defensive posture; refuting last leaves the audience focused on your opponent's rather than your own."

-Antonin Scalia & Bryan Garner, Making Your Case: the Art of Persuading Judges

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"On the surface, it might seem that a ten-point argument has been overanalyzed. In reality, it has been underanalyzed. Counsel has not taken the trouble to determine which arguments are strongest or endured the pain of eliminating those that are weakest."

-Antonin Scalia & Bryan Garner, Making Your Case: the Art of Persuading Judges

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"Repetition bores, and boredom invites skimming."

-Antonin Scalia & Bryan Garner, Making Your Case: the Art of Persuading Judges

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"Clarity is amply justified on the ground that it ensures you'll be understood. But in our adversary system it performs an additional function. The clearer your arguments, the harder it will be for your opponent to mischaracterize them."

-Antonin Scalia & Bryan Garner, Making Your Case: the Art of Persuading Judges

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"Whereas in brief writing it's often necessary to give logically prior points the first place, at oral argument you need not do so. Put your strongest point of law first. Never mind the logical order. By beginning with your best argument, you put your case in perspective . . .

"There is, of course, a second reason to begin with your strongest point: the court's questioning may hold you on that first point for all or most of your argument. If you save your best point for later, you may never reach it. And you don't want to spend most of your argument on your \*opponent's\* favored territory."

-Antonin Scalia & Bryan Garner, Making Your Case: the Art of Persuading Judges

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"An appellant's points that have been warmly received [by the judges], however, or that are inherently strong, must be answered at the outset, especially if they are points that render your principal argument academic. You must 'make space' for the court's acceptance of your argument by eliminating these prior impediments."

-Antonin Scalia & Bryan Garner, Making Your Case: the Art of Persuading Judges

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"Never-never-patronize a judge by volunteering 'That's a very good question.' Of \*course\* it is! A judges' questions are ex officio brilliant."

-Antonin Scalia & Bryan Garner, Making Your Case: the Art of Persuading Judges

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## **Jonathan Rolfe says**

Written for lawyers but applicable to the professions in general, Making Your Case is full of good advice for argumentation, reasoning and writing. Hands down, the best persuasive argumentation today occurs before the appellate courts, and Scalia and Garner explain how to do it. They are masters of clarity, brevity, and reason. And they're funny. The book has 115 short chapters. It's easy to jump around in, reading what applies and skipping what doesn't.

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## **Angelina says**

For me this book is the new "Stephen King on Writing". While it is not a writing guide or a style manual, watching a master wordsmith bring his A game to the court day after day is mad instructional. Again, let me stress that I think his political leanings are nightmarish, but god, I really am in hearts with his writing. I love his clean, cheeky, dynamic style and nuanced consideration that goes into writing at this well. I love reading his decisions; always have, so this book was a real treat for me.

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## **Cheryl says**

Antonin Scalia isn't one of my favorites as Supreme Court justices go, "originalist" that he is. However, as I'm reading this book, I'm coming to see how much goes into the development of case law, and what is expected when one presents a case before appellate courts. It offers insights into the thinking and processes of adjudication, and how one can present compelling arguments, not only before the bench, but in almost any situation.

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## **Dawn says**

This book came out right before my first state supreme court argument. As much as I dislike Scalia's politics and Garner's self-importance, it's a great little reference book. It's a quick read and actually fairly entertaining.

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## **Sharwanñ Sharaññ says**

Fantastic book ever read must useful for law students and advocates

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## **penny shima glanz says**

Disclaimer: I am not an attorney, however, I am employed by a law firm. Among my many tasks, I am their librarian, a role I begged to hold despite not having all the official alphabet soup most legal librarians possess. The following review is mine and my thoughts and opinions alone (as they all are).

Late last year I saw announcements of this title in various publications. While reviewing my 2009 budget and various reviews to see the benefit of this book to our shelves an associate requested it, greatly simplifying my approval process. However, I purchased it with one condition: I could read it first.

I struggle with my words, both on the page and orally. I practice and do not see significant improvement. I need constant reminders and sometimes a slightly self-help but very much traditional title will catch my eye and help.

I found *Making Your Case* to be in the spirit of *Elements of Style* with enough industry specific interest to keep my attorneys engaged and enough common sense that anyone would gain from reading this title. It also has provided some ideas for how I can help my Firm out in other aspects of their practice.

The layout is crisp and concise with numbered points, bold-face topic headings, quote blocks, and enough footnotes to thrill me.

If you need to persuade anyone I believe that you can benefit from the points raised in this book.

Please remember, to just read this book will not result in immediate improvement of your words.

As was mentioned within the text, you need to practice and to read in the style you want to write.

Now to wait for it to cycle through the Firm so I can reread it.

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### **Tanner says**

Wow, Scalia was such a smarmy guy. I've been reading a lot of legal stuff that criticizes the system or suggests how things could work better. With that context, this book's "go along to get along" instruction is kind of jarring but very useful. I also highly recommend Bryan Garner in any writing. He's got a decent sense of humor and is more modern and aesthetic than Scalia. There are a few sections where they fight things out entertainingly, if you are the kind of person who can find entertainment in a usage guide.

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### **Danelley says**

Definitely a must-read for anyone in law school or graduated. Helps you learn how to "hone-in" on your audience, usually a judge for your legal briefs and presentations. Helps you to prepare a concise and well-researched legal case. I'm reading it because it looked interesting. (I've been reading a few of Adam's law books here and there -- the one on Tort law was also interesting.)

Scalia is just a brilliant man with a biting wit. I've read a few of his supreme court case decisions and he calls a spade a spade while being very humorous. This book just looked great, like more of the same.

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### **Kimberly says**

I enjoyed reading this book because it highlighted some important aspects of writing and arguing as a lawyer. It gave practical advice about how to write a great brief and argue before a judge. I found the details about grammar and vocabulary to be incredibly helpful because some lawyers prefer for young lawyers to write one way yet law school and this book teaches you another way. For example, Justice Scalia states that you should make a complex subject simple by using clear short sentences. However, many practicing attorneys prefer the lawyer jargon such as "heretofore", "in the instant case," etc. I am keeping this book on my office desk as a reference tool. It will serve me well in my litigation files.

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## **Mazola1 says**

Legal writing expert Bryan Garner and Justice Antonin Scalia combined forces to produce this book about the art of legal argumentation, both written and oral. While it will probably be of interest mostly to lawyers, it still has a lot of useful material for anyone who makes a living by either spoken or written persuasion. It is clearly written and offers numerous practical tips on how to best make your case. The non-lawyer readers can just skip over the stuff that is obviously intended specifically for lawyers. They will still find a wealth of real world advice on writing and speaking clearly in a way best calculated to persuade their intended audience.

I picked this book up as I was getting ready for an oral argument in an appellate court, and to my delight, found several pieces of advice which I intend to use, and which I believe will make me better prepared and my argument more focused and more effective. So, although I find Justice Scalia's philosophical and political views to be a bit peculiar, he is on the money when he writes about how to persuade judges.

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## **Amy says**

A practical and interesting book for lawyers - I particularly appreciated the portions about brief writing, as that has the most immediate use for me. I would have enjoyed my Civil Procedure and Legal Research and Writing classes much more if we read this book. It contains many of the lessons I learned there.

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## **Sam says**

Garner and Scalia provide an easily-digestible and very readable compendium of tips and insights on, first and foremost, endearing one's self to a court. This is not a book about legal philosophy, but rather how to be an advocate that is useful to the judge(s) before whom you may appear, and in doing so, how to cultivate a reputation of professionalism and competence that will make you a more effective advocate in the long-term.

Although much of the advice is common sense (i.e. arrive at court on time, answer judges' questions forthrightly, etc), many of the authors' insights are counter-intuitive (i.e. do not argue to persuade the "swing" vote) or pertain to issues that might not seem terribly important (i.e. do not write in the first person).

As an entering 1L who will not be writing briefs or arguing before a judge for some time, I found myself outside the target market of this book. However, its broad themes pertain to all manners of argument and persuasion, and are applicable far beyond the context of the courtroom. Furthermore, the organization of the work -- the authors provide over 100 self-contained tips that come in at about 1-2 pages each -- make it easy to jump in at any point of the text, and to easily refer to relevant sections (brief writing, oral argument, etc) without re-familiarizing yourself with the preceding text. I can easily see myself coming back to this work in the future as I near the conclusion of law school.

In all, this is a valuable but sometimes pedantic book. At its \$29.95 price tag, I can't say that it is worth it for the oftentimes basic and common sense advice it offers. But certainly get a copy from the library, and if you can find a used copy at a good price, this book would make an excellent addition to your bookshelf, and a

valuable resource for anybody in the business of law or persuasion.

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### **Li Li says**

Another great book co-authored by Bryan Garner. I love his writing style. Precise, simple, press-through, and crisp. Only people with very clear mind can achieve it. He writes simply because he has thought.

I am not a lawyer, and my career has nothing to do with court or legal. But I recommend all this book to all knowledge worker who's main deliverable is their thought. Here are the reasons:

First, the book gives very practical guidance and principles of writing, presenting, and arguing your case. I think it applies to the business world as well.

Second, the book is very well structured for easy read and skim through. It is composed with 100+ mini chapters with highlights for each. You can easily skim through and focus on points that most relevant to you.

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### **Harshavardhan Ganesan says**

In the Notorious RBG, Ruth Bader Ginsburg says of Justice Scalia, "He might not be someone you like but is certainly someone you must respect". The quote represents the gist of this book. While some of the pieces of advice out of the co-authors 115 nuggets of wisdom seem counter-intuitive or downright hypocritical coming from Scalia's pen (Section 99 about usage of humor and Section 110 about dealing with difficult judges are shining examples). but overall as a guide on how to be a good Appellate lawyer, this book is truly invaluable. It's organization, clarity of thought and manner of teaching is spot on, easily understandable and even more easily implementable. The note about how Justice Roberts used to write arguments on index cards, shuffle them up and practice arguing them to increase flexibility was outstanding.

In an Indian context too, despite a widely varied system it is surprising how much knowledge can be supplanted and adapted.

A must read for any lawyer.

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