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Briefing Strategies: The Conclusion—An Underused Section

When preparing a brief, particularly an appellate brief, many lawyers do not use the Conclusion section to its full advantage. They simply write something like, “For the foregoing reasons, defendant requests that the Court reverse the trial court’s decision below,” or some similar phrase. In straightforward cases, perhaps that kind of Conclusion is all that’s needed.

But in complex cases demanding more energy and thought from the court, the Conclusion can and should be more. This is the lawyer’s last chance in the brief to persuade. The last chance to convince the court that your client, not his adversary, should prevail.

The Conclusion is a great place to bring the case together for the court, to synthesize all the facts and law you have detailed throughout your brief into one or two statements that capture the essence of your client’s cause. It’s here, in the Conclusion, that the lawyer can convey the appeal’s larger implications, what it means for the client or perhaps for something even larger (such as an entire industry, or a whole class of litigants).



Indeed, the body of the brief often explains *how* the court can rule in your client's favor, but you must also convince the court of *why*—why the court should care about the issues you've raised and grant the relief you're seeking. While some lawyers make these kinds of statements at oral argument, they're no less effective in the Conclusion. Consider the following passage from an appellate brief submitted on behalf of a criminal defendant whose conviction rested on a suggestive out-of-court identification—a one-man show up where the defendant was yanked from the back of a police car and paraded, handcuffed, before the victim in a dark parking lot:

This Court should not permit a man to spend 17 years in jail for robbery based on the identification that occurred below. The show-up that the police used was completely unnecessary and more than merely suggestive. It resulted in an identification in which our society can have little confidence.

When a man's freedom for so much of his life rests on the alleged victim's identification, with no objective evidence supporting the State's charge, we must demand identification procedures more reliable than the one the police used in this case. For these reasons, and those expressed throughout this Brief, the Court should vacate defendant's convictions and sentences below.

The law can be complicated. It's often difficult to understand and even harder to apply. But this cannot translate into equally obscure briefs that fail to convey simple, persuasive arguments. The effective advocate must be able to appeal to the basic, fundamental sensibilities which all human beings—



even judges—share. It's these sensibilities, these inherent feelings of what seems just or right in a case, that often govern a case's outcome and separate winning from losing on appeal. The Conclusion is a great place to convey these sensibilities. Use the section wisely.

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