

Plenary Session: Clear and Effective Decisions

Speaker: Hon. James Carnwath, Q.C., Ontario Securities Commission

The Hon. James Carnwath spoke about ways adjudicators can improve their decision-writing to produce clear, concise, and coherent decisions. He provided the audience with a number of suggestions to make their writing more accessible including:

- Checking for gender neutrality, e.g., avoiding words such as fireman;
- Using the phrase “themselves” instead of repeating the phrase “his or her” over and over again;
- Editing and revising decisions many times keeping in mind that the writer is writing for a diverse audience;
- Avoiding unnecessary jargon: trying not to write like a conventional lawyer. Instead, writing as though we are explaining something to our mother or neighbour. We do not say things like “Mom, thanks for the pie. The said pie was the best that I’ve ever had” or “After work, I took my dog, hereinafter called Woody, for a walk”;
- Avoiding the use of Latin, such as *supra* since the readers might not know what it means;
- Avoiding superfluous language, such as null and void, cease and desist;
- Avoiding poor organization and bad sentence structures;
- Summarizing all the important details of the case in the first paragraph (who did what to whom and what issues are to be decided);
- Helping the reader guess right by remembering that readers are engaged in a psycho-linguistic guessing game when they’re reading;
- Focusing on the four Cs: coherence, conciseness, correctness and clarity;
- Using transition words to help readers predict what is coming up next;
- Avoiding word-wasting idioms such as “at that point in time, I would venture to suggest”, “if I may be permitted to add”, “with deference to those who think otherwise” etc.;
- Using the active voice over the passive voice;
- For people who have trouble starting on the first draft, he suggested lowering expectations – this would help get all the information on paper first without worrying about making it perfect.
- Remembering that judicial humour is neither judicial nor humorous.

These and other tips are contained in L’honorable Louise Mailhot and the Honourable James D. Carnwath, *Decisions, Decisions . . . a Handbook for Judicial Writing* (Montreal: Les Éditions Yvon Blais Inc. (une société Thomson), 1998).